

**NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY**

SPECIAL ISSUE

1563

Kenya Gazette Supplement No.126

13th July, 2020

(Legislative Supplement No. 79)

LEGAL NOTICE NO. 128

THE CIVIL AVIATION ACT

(No. 21 of 2013)

CIVIL AVIATION (SECURITY) REGULATIONS, 2020

ARRANGEMENT OF REGULATIONS

Regulation

PART I-PRELIMINARY PROVISIONS

- 1- Citation.
- 2-Interpretation.
- 3-Application of Regulations.
- 4- Purpose of Regulations.

PART II-ORGANIZATION

- 5-Functions of Authority in relation to aviation security.
- 6-Power to access and inspect airport, aircraft and operator's premises.
- 7-Power of Authority to issue orders, circulars and directives.
- 8-Authorized persons.

PART III- SECURITY PROGRAMMES AND COMMITTEES

- 9-National Civil Aviation Security Programme.
- 10-National Civil Aviation Security Committee.
- 11-National Civil Aviation Security Quality Control Programme.
- 12-Independence in implementation of programme.
- 13-Airport Operator Security programme.
- 14-Aircraft Operator Security programme.
- 15-Regulated Agent Security Programme.
- 16-Catering Operator Security Programme.
- 17-Air **Navigation** Service Provider Security Programme.
- 18-Application for approval of security programme.
- 19-Approval of security programme.
- 20-Changed conditions affecting security.

- 21-Power of Authority to direct amendment of security programme.
- 22-National Civil Aviation Security Training Programme.
- 23-Operator Aviation Security Training Programme.
- 24-Airport Security Committee.

PART IV-PREVENTIVE SECURITY MEASURES

- 25-Airport security controls.
- 26-Security restricted areas and airport security permits.
- 27-Airport boundary.
- 28-Carriage of firearms, explosives or inflammable materials in airport premises.
- 29-Control of access by tenants.
- 30-Obligation of airport operator in case of threat against facility or airport.
- 31-Persons authorized to screen to inform airport operator of threat against airport.
- 32-Airport operator to take measures in event of threat.
- 33-Discovery of weapons, incendiary devices or explosives at airport or security restricted area.
- 34-Airport operator to involve security stakeholders and submit plans before renovation and expansion works.
- 35-Operators to conduct security awareness training.
- 36-Operators to conduct internal quality control.
- 37-Operators to implement unpredictability.
- 38-Operators to keep records.
- 39-Responsibilities of aircraft operator.
- 40-Special protection for aircraft.
- 41-Control of prohibited items.
- 42-Control of access to flight crew compartment.
- 43-Control of special categories of passengers.
- 44-Authorized carriage of weapons on board aircraft.
- 45-Conditions for acceptance of cargo and/or mail for air transportation.
- 45-Conditions for acceptance of hold baggage for air transportation.
- 46-Security measures to be taken by aircraft operator.
- 48-Aviation security responsibilities of catering operator.

49-Conditions for acceptance of catering stores and supplies for air transportation.

50-Aviation security responsibilities of ground handling service providers.

51- Aviation security responsibilities of aviation security service providers.

PART V - MANAGEMENT OF RESPONSE TO ACTS OF UNLAWFUL INTERFERENCE

52- Prevention of acts of unlawful interference.

53- Authority's response to acts of unlawful interference.

54- Mandatory reporting.

55- Notification to the International Civil Aviation Organization.

PART VI-OFFENCES AND PENALTIES

56- Offences committed at airports.

57- Offences committed against crew on board aircraft.

58- Offences jeopardising good order and discipline on board aircraft.

59- Other offences committed on board aircraft.

60- Possession of prohibited items.

61- Entering security restricted areas.

62- Offences relating to airport security permits.

63- Failure to establish and **implement** security programmes.

64- Operating without valid certificate or authorization.

65- Utilizing services of unauthorized persons.

66- Failure to **take corrective action and to submit plans before** renovation or expansion works.

67- Obstructing authorised persons.

68- False declarations and falsified documents.

69- Offences by body corporate.

70- General penalty.

71- Jurisdiction.

PART VII-ENFORCEMENT OF REGULATIONS

72- Unidentified baggage.

73- Power to stop passengers traveling.

74- Powers and responsibilities of pilot in command.

75- Powers of Aviation Security Officers.

76- Power to exempt.

77-Power to enforce compliance.

78-Infringement Notice

79-Powers of Aviation Security Inspectors.

80-Protection from personal liability

PART VIII-REVOCATION, SAVINGS AND TRANSITIONAL
PROVISIONS

81- Revocation of LN. No. 190/2015.

THE CIVIL AVIATION ACT

(No. 21 o/2013)

IN EXERCISE of the powers conferred by section 82 of the Civil Aviation Act, 2013, the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works makes the following Regulations-

CIVIL AVIATION (SECURITY) REGULATIONS,

2020 PART I-PRELIMINARY

- | | |
|--|-----------------|
| 1. These Regulations may be cited as the Civil Aviation (Security) Regulations, 2020. | Citation. |
| 2. In these Regulations, unless the context requires otherwise- | Interpretation. |
| "Act" means the Civil Aviation Act, 2013; | No. 21 of 2013. |
| "act of unlawful interference" means an act or attempted act to jeopardise the safety of civil aviation and air transport, including - | |
| (a) unlawful seizure of an aircraft in flight or on the ground; | |
| (b) hostage taking on board an aircraft or at an airport; | |
| (c) forcible intrusion on board an aircraft at an airport or on the premises of an aeronautical facility; | |
| (d) introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes; | |
| (e) use of an aircraft in service for the purpose of causing death, serious bodily injury, or serious damage to property or the environment; | |
| (f) unauthorised possession, at an airport, or unauthorised introduction on board an aircraft, of a weapon or hazardous device or material; | |
| (g) destroying or damaging air navigation facilities or interfering with their operation, if any such act is likely to endanger the safety of aircraft in flight; | |
| (h) violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; | |
| (i) destroying an aircraft in service or causing damage to the aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; | |
| (j) communicating information which is known to be false, thereby endangering the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public at an airport or on the premises of a civil aviation facility; | |

- (k) cyber-attacks carried out against Air Traffic Management systems, aircraft systems or airport systems;
- (l) unlawfully and intentionally using any device, substance or weapon-
 - (i) to perform an act of violence against a person at an airport serving civil aviation which causes or is likely to cause serious injury or death;
 - (ii) to destroy or seriously damage the facilities of an airport serving civil aviation or an aircraft not in service located at the airport or disrupting the services of the airport,

if that act endangers or is likely to endanger safety at that airport;

"aerial work" means an aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying observation and patrol, search and rescue, aerial advertisement, etc;

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

"aircraft security check" means an inspection of the interior of an aircraft to which passengers may have had access and an inspection of the hold for the purposes of discovering suspicious objects, weapons, explosives or other dangerous devices, articles and substances;

"aircraft security search" means a thorough inspection of the interior and exterior of the aircraft for the purpose of discovering suspicious objects, weapons, explosives or other dangerous devices, articles or substances;

"airport" means any area in Kenya which is open for commercial aircraft operations;

"airport operator" includes an individual, organization or enterprise, however designated, for the time being responsible for the administration and operation of an airport;

"airport security permit" means a permit issued under regulation 26 (3);

"airside" means the movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is controlled;

"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 in the air, or the landing and take-off of an aircraft;

"air navigation service" means-

- (a) communication services, whether ground to air or ground to ground, provided for the safety of the 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) aeronautical information services;

"Air Navigation Service Provider" means a relevant authority designated by the State, responsibility for provision of air navigation services in its airspace;

"Air Traffic Management (ATM) Security" means the contribution of the ATM system to civil aviation security, national security and defence, and law enforcement; and the safeguarding of the ATM system from security threats and vulnerabilities;

"authorised person" means an aviation security inspector or person designated by the Authority under regulation 8 to be an authorised person for the purposes of these Regulations;

"Authority" means the Kenya Civil Aviation Authority established by the Civil Aviation Act;

"aviation security officer" means a person employed by an operator as defined in this regulation to carry out security controls and includes a Screener;

"aviation security service provider" means any entity or person who engages, either directly or indirectly, under an agreement, to carry out some of all aviation security duties on behalf of an operator and provides security controls to meet the requirements of the operator and/or the Authority;

"background check" means 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;

"behaviour detection" within an aviation security environment, means the application of techniques involving the recognition of behavioural characteristics, including but not limited to physiological or gestural signs indicative of anomalous behaviour, to identify persons who may pose a threat to civil aviation;

"baggage" means personal property of passengers or crew carried on an aircraft by agreement with the aircraft operator;

"bomb threat" means a communicated threat anonymous or otherwise, which suggests, or infers whether true or false, that the safety of an aircraft in flight or on the ground or any airport or civil aviation facility or any person may be in danger from an explosive or other item or device;

"cargo" means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage;

"catering stores" means all items, other than catering supplies, associated with passenger in - flight services, including newspapers,

magazines, headphones, audio and video tapes, pillows, blankets and amenity kits;

"catering supplies" means all food, beverages, other dry stores and associated equipment used in air transport;

"certification" means a formal evaluation and confirmation by or on behalf of the Authority that a person or organization possesses the necessary competencies to perform assigned functions to an acceptable level as defined by the Authority;

"civil aviation" includes-

- (a) commercial air transport operations; and
- (b) general aviation operations;

"COMAIL" means an abbreviation of commercial air transport operator company mail, shipped within its network of stations;

"COMAT" means an abbreviation of commercial air transport operator company materials, shipped within its network of stations;

"commercial air transport operations" means aircraft operations involving the transport of passengers, cargo or mail for remuneration or hire;

"contingency plan" means a proactive plan to include measures and procedures addressing various threat levels, risk assessments and the associated security measures to be implemented, designed to anticipate and mitigate events as well as prepare all concerned parties having roles and responsibilities in the event of an actual act of unlawful interference and sets forth incremental security measures that may be elevated as the threat increases and may be a stand-alone plan or included as part of a Crisis Management Plan;

"dangerous goods" means articles or substances which are capable of posing a hazard to health, safety, property or the environment and which are shown in the list of dangerous goods in the Technical Instructions or which are classified according to those Instructions;

"disruptive passenger" means a passenger who fails to comply with the rules of conduct at an airport or on board an aircraft or to follow the instructions of the airport staff or aircraft crew members and thereby disturbs the good order and discipline at an airport or on board an aircraft;

"facilitation" means the efficient management of the necessary control process, with the objective of expediting the clearance of persons or goods and preventing unnecessary operational delays;

"general aviation operation" means an aircraft operation other than a commercial air transport operation or an aerial work operation;

"goods" includes cargo and mail, airport merchandize and supplies, catering supplies and stores, hold baggage and personal effects;

"Ground Handling Service Provider" means a provider of services to airport users or aircraft operators that includes passenger and baggage handling, cargo and mail handling, whether incoming, outgoing or being transferred between the airport terminals and the aircraft, and ramp handling;

"High-risk cargo or mail." Cargo or mail shall be considered high risk if-

- (a) specific intelligence indicates that the cargo or mail poses a threat to civil aviation; or
- (b) the cargo or mail shows anomalies or signs of tampering which give rise to suspicion;

"human factors principles" means principles which apply to design, certification, training, operations and maintenance and which seek safe interface between the human and other system components by proper consideration to human performance;

"human performance" means human capabilities and limitations which have an impact on the safety, security and efficiency of aeronautical operations;

"in-flight security officer" means a person who is authorized by the government of the State of the Operator and the government of the State of Registration to be deployed on an aircraft with the purpose of protecting that aircraft and its occupants against acts of unlawful interference. This excludes persons employed to provide exclusive personal protection for one or more specific people travelling on the aircraft, such as personal bodyguards;

"infringement notice offence" means an offence committed under any of the regulations where a penalty of fine is stipulated;

"known consignor" means a consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow the carriage of cargo or mail on any aircraft;

"known stores" means catering supplies and stores delivered to an aircraft operator and that have been subjected to appropriate security controls;

"landside" means an area of an airport and buildings on it to which the non-traveling public has free access;

"MANPADS" means surface-to-air missile systems designed to be man-portable and carried and fired by a single individual;

Other surface-to-air missile systems designed to be operated and fired by more than one individual acting as a crew and portable by several individuals;

"mail" means dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union (UPU);

"mishandled baggage" means baggage involuntarily, or inadvertently separated from passengers or crew;

"national civil aviation security programme" means an integrated set of regulations and activities promulgated and performed by **the Republic of Kenya** aimed at safeguarding civil aviation against acts of unlawful interference;

"operator" includes an airport operator, an aircraft operator, a regulated agent, an air **navigation** service provider and a catering operator;

"prohibited item" means an item prescribed in regulation 41 and which can be used to commit an act of unlawful interference;

"regulated agent" means an agent, freight forwarder or other entity who conducts business with an operator and provides security controls that are accepted or required by the Authority **in respect of cargo and mail**;

"relevant national authorities" means agencies involved in conducting national aviation security threat and risk assessments and shall include, **but not limited to** the Authority, the Kenya Airports Authority, the National Intelligence Service and the Kenya Airports Police;

"sabotage" means an act or omission, intended to cause malicious or wanton destruction of property, endangering or resulting in unlawful interference with civil aviation and its facilities;

"screening" means the application of technical or other means which are intended to identify or detect weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference;

"security" means safeguarding civil aviation against acts of unlawful interference. **This objective is achieved by** a combination of measures and human and material resources;

"security audit" means an in-depth compliance examination of all aspects of the implementation of the National Civil Aviation Security Programme;

"security control" is a means by which the introduction of weapons explosives or other dangerous devices articles or substances which may be used to commit an act of unlawful interference can be prevented;

"security inspection" means an examination of the implementation of relevant National Civil Aviation Security Programme requirements by an airline, airport, or other entity involved in security;

"security programme" means measures and procedures adopted to safeguard civil aviation against acts of unlawful interference;

"security restricted area" means airside areas of an airport which are identified as priority risk areas where, in addition to access control,

other security controls are applied and includes, inter alia, all passenger departure areas between the screening checkpoint and the aircraft, the ramp, baggage make-up areas, including those where aircraft are being brought into service and screened baggage and cargo are present, cargo sheds, mail centres, airside catering and aircraft cleaning premises;

"security test" means a covert or overt trial of an aviation security measure which simulates an attempt to commit an unlawful act;

"sensitive aviation security information" means information that, if accessed by or disclosed to unauthorized persons, could create or be used to exploit a vulnerability or facilitate an act of unlawful interference against civil aviation;

"supply chain assets" means cargo and mail, facilities, equipment, information and personnel;

"technical instructions" means the ICAO Technical Instructions for the Safe Transportation of Dangerous Goods by Air, Doc.9284;

"transfer cargo and mail" means cargo and mail departing on an aircraft other than that on which it arrived;

"unidentified baggage" means baggage at an airport, with or without a baggage tag which is not picked by or identified with a passenger, and includes unattended baggage;

"unknown stores" means supplies and stores that have not have been subjected to appropriate security controls; and

"unpredictability" means the implementation of security controls in order to increase their deterrent effect and their efficiency, by applying them at irregular frequencies, different locations or with varying means, in accordance with a defined framework.

"unruly passengers" means persons who commit, on board a civil aircraft, from the moment when the aircraft door is closed prior to take-off to the moment when it is reopened after landing, an act of-

- (a) assault, intimidation, menace or willful recklessness which endangers good order or the safety of property or persons;
- (b) assault, intimidation, menace or interference with a crew member in the performance of duties or which lessens the ability to perform duties;
- (c) willful recklessness or damage to an aircraft, its equipment, or attendant structures and equipment such as to endanger good order and the safety of the aircraft or its occupants;
- (d) communication of information which is known to be false, thereby endangering the safety of an aircraft in flight; and
- (e) disobedience of lawful commands or instructions for safe, orderly or efficient operations.

3. (1) These Regulations shall, unless otherwise stipulated, apply to-

Application of
Regulations.

- (a) all airports in Kenya, which includes aerodromes in categories A, B and C as provided for under the Civil Aviation (Certification, Licensing and Registration of Aerodromes) Regulations;
- (b) passengers in civil aviation;
- (c) persons at airports;
- (d) persons working in the aviation industry;
- (e) persons who occupy land or buildings forming part of an airport; and
- (f) persons on land adjoining or adjacent to, or within the vicinity of airports or air navigation installations which do not form part of an airport.

(2) Despite the generality of sub-regulation (1), these Regulations apply to-

- (a) operators or owners of airports;
- (b) operators or owners of aircraft registered in Kenya or aircraft registered in another State and operating in Kenya;
- (c) air navigation service providers;
- (d) ground handling agencies and aviation security service providers, fuel suppliers, travel agents and any other entities conducting business with or at the airport;
- (e) persons permitted to have access to security restricted areas at an airport;
- (f) persons who offer stores and supplies for use in an aircraft and goods for transport by air; and
- (g) any person whose conduct amounts to an act of unlawful interference or endangers aviation safety.

(3) Nothing in these Regulations applies to or affects-

- (a) a State aircraft; or
- (b) military or police aviation operations in Kenya.

4. The purpose of these Regulations is-

- (a) for the safety and security of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation by providing for the protection of-
 - (i) aircraft used for civil aviation, and persons and property on board such aircraft;
 - (ii) airports, and persons and property at airports;
 - (iii) air navigation installations which are not part of airports; and

Purpose of Regulations.

- (b) to regulate the conduct of persons at airports and persons on board aircraft for the purposes of aviation security.

PART II-ORGANIZATION

5. (1) The Authority shall-

Functions of Authority in relation to aviation security.

- (a) be **the designated appropriate authority for civil aviation security** and responsible for the regulation of aviation security in Kenya;
- (b) **develop and implement regulations, practices and procedures that enable rapid response to meet any increased security threat for purposes of safeguarding civil aviation against acts of unlawful interference, taking into account the safety, regularity and efficiency of flights;**
- (c) regulate the security operations of airports, aircraft, regulated agents, air **navigation** service providers, catering operators and other related entities, as the case may be, for the purpose of-
- (i) protecting passengers, crew members, airport, the general public and other aviation facilities;
 - (ii) preventing unlawful interference against civil aviation; and
 - (iii) ensuring that appropriate action is taken when an act of unlawful interference occurs or is likely to occur;
- (d) define and allocate tasks and coordinate activities under the National Civil Aviation Security Programme, between the ministries, departments, **agencies**, airport, aircraft operators, air **navigation** service providers and other organisations responsible for the various aspects of aviation security;
- (e) **establish a supply chain security process, which includes the certification of regulated agents or known consignors and in-flight catering operators once every two years;**
- (f) **conduct certification of aviation security service providers and aviation security screeners, supervisors, instructors and inspectors once every two years.**
- (2) The Authority shall, in respect of each operator-
- (a) **schedule and conduct security audits, tests and inspections on a regular basis, to verify compliance with the National Civil Aviation Security Programme and to provide for the rapid and effective rectification of any deficiencies;**
 - (b) **ensure that the priorities and frequency of monitoring activities provided in paragraph (a) are determined on the basis of risk assessment carried out by the relevant authorities;**

- (c) evaluate and approve security programmes; and
 - (d) conduct investigations and enforcement to resolve any security concerns.
- (3) The Authority, in respect of other States-
- (a) shall ensure that requests from other Contracting States for additional security measures in respect of a specific flight(s) by operators of such other States are met, as far as may be practicable. The requesting State shall ensure appropriate consultation and give consideration to alternative measures of the Republic of Kenya that are equivalent to those requested;
 - (b) shall co-operate with other States in the development and exchange of information concerning National Civil Aviation Security Programme, **training programme and quality control programme** as necessary in accordance with the laws of Kenya;
 - (c) may, subject to paragraph (b), make available to other Contracting States on request a written version of the appropriate parts of the National Civil Aviation Security Programme;
 - (d) shall establish and implement suitable protection and handling procedures for security information shared by other States, or security information that affects the security interests of other States, in order to ensure that inappropriate use or disclosure of such information is avoided;
 - (e) shall share, as appropriate, and consistent with the State's sovereignty, the results of the audit carried out by ICAO and the corrective actions taken and notify ICAO where such information is shared.
- (4) The Authority-
- (a) shall keep under constant review the level and **nature of threat** to civil aviation within the **Republic of Kenya and the airspace for which it is responsible**, and establish and implement policies and procedures to adjust relevant elements of the national civil aviation security programme accordingly, based upon a security risk assessment carried out by the relevant national authorities;
 - (b) shall establish and implement procedures to share with other Contracting States threat information that applies to the aviation security interests of those States, to the extent practicable;
 - (c) shall establish and implement procedures to share, as appropriate, with relevant airport operators, aircraft operators, air navigation service providers or other entities concerned, in a practical and timely manner, relevant information to assist them to conduct effective security risk assessments relating to their operations;

- (d) shall, in accordance with the risk assessment carried out by the relevant national or local authorities, ensure that appropriate measures on the ground or operational procedures are established to mitigate possible attacks against aircraft using Man-Portable Air Defence Systems (MANPADS) and other weapons representing a similar threat to aircraft at or near an airport;
- (e) shall, where necessary, consider and engage in collaborative arrangements with other States in order to increase the sustainability of the aviation security system by avoiding unnecessary duplication of security controls and the arrangement shall be based on verification of equivalence of the security outcome ensured by the application of effective security controls at points of origin;
- (f) shall establish and implement appropriate mechanisms to confirm that transfer cargo and mail entering into Kenya has been subjected to appropriate security controls;
- (g) shall ensure appropriate protection of sensitive aviation security information;
- (h) shall ensure that a clause related to aviation security is included in each of the bilateral agreements on air transport, taking into account the model clause developed by ICAO;
- (i) shall give authorization to any entity or person desirous of undertaking any security validation, audit, inspection, tests or assessments within airports in Kenya.

6. The Authority shall have free and unobstructed access at all times to an airport, an aircraft operating from or within Kenya, or an aircraft registered in Kenya operating in any other State, and the premises of an operator within Kenya, for the purpose of carrying out security audits, inspections, tests and investigations.

Power to access and inspect airport, aircraft and operator's premises.

7. The Authority may make and issue orders, circulars and directives prescribing any aviation security matter which, under these Regulations, is to be prescribed, and generally for the better carrying out or enhancing of the objects and purposes of these Regulations.

Power of Authority to issue orders, circulars and directives.

8. The Authority may, in writing, designate qualified persons, whether by name or by title of office, to be authorised persons for the purposes of these Regulations and shall state the functions and limits of operation of the authorised persons.

Authorised persons.

PART III-SECURITY PROGRAMMES AND COMMITTEES

9. (1) The Authority shall-

National Civil Aviation Security Programme.

- (a) establish a written National Civil Aviation Security Programme and ensure its maintenance and implementation to safeguard civil aviation against acts of unlawful interference through regulations, practices and procedures which take into account the safety, regularity and efficiency of flights; and

- (b) make available to airports and aircraft operators operating in Kenya, air **navigation** service providers, and other operators and entities concerned, a written version of the appropriate parts of the National Civil Aviation Security Programme or **relevant information or guidelines enabling them to meet the requirements of the National Civil Aviation Security Programme.**

(2) Without limiting the generality of sub regulation (1) (a), the National Civil Aviation Security Programme shall include, **but not limited to** the following matters-

- (a) allocation of responsibilities for implementation of the programme;
- (b) co-ordination, facilitation and communications;
- (c) protection of airports, aircraft and navigation facilities;
- (d) co-ordination of landside security measures between relevant departments, agencies, other organizations of the State, and other entities, and identification of appropriate responsibilities;
- (e) security control of persons and items being placed on board aircraft;
- (f) security equipment;
- (g) personnel, including selection criteria and training;
- (h) management of response to acts of unlawful interference;
- (i) evaluation of effectiveness of the programme;
- (j) adjustment of the programme and contingency plans;
- (k) financing of security; and
- (l) protection and handling procedures for security information shared by other States.

(3) The National Civil Aviation Security Programme shall be reviewed and updated as the need may arise or **at least once every two years.**

10. (1) There shall be a National Civil Aviation Security Committee for the purpose of-

- (a) advising and coordinating security activities between ministries, departments, agencies and other organisations at Kenyan airports, aircraft operators, air **navigation** service providers and other entities concerned with or responsible for the implementation of various aspects of the National Civil Aviation Security Programme; and
- (b) recommending and reviewing the effectiveness of security measures and procedures.

National Civil
Aviation Security
Committee.

(2) The National Civil Aviation Security Committee shall be appointed by the Cabinet Secretary and shall consist of persons from ministries, departments, agencies, air navigation service providers and other organisations at Kenyan airports, aircraft operators and other related entities.

(3) Without limiting the generality of sub regulation (2) the Cabinet Secretary shall, in appointing members of the National Civil Aviation Security Committee, ensure that it comprises one member from each of the following departments, agencies or organisations -

- (a) the Authority;
- (b) the Ministry responsible for civil aviation;
- (c) the Chairperson of the National Air Transport Facilitation Committee;
- (d) the airports authority;
- (e) the Ministry responsible for security or internal affairs;
- (f) National Intelligence Service;
- (g) the Kenya airports police;
- (h) the Kenya Defence Forces;
- (i) the department of immigration services;
- (j) representative of the airlines;
- (k) the Communications Authority of Kenya;
- (l) the customs and border control;
- (m) the Ministry responsible for foreign affairs;
- (n) the Ministry responsible for health;
- (o) the national agency responsible for counter-terrorism; and
- (p) the Kenya Wildlife Service.

(4) The members of the National Civil Aviation Security Committee shall hold office on terms and conditions recommended by the Authority and specified in their instruments of appointment.

(5) The members of the National Civil Aviation Security Committee shall be paid such sitting and other allowances as the Authority may determine.

(6) The head of the Authority shall be the Chairperson of the Committee.

(7) The National Civil Aviation Security Committee may invite any person to attend and take part in the proceedings of the Committee and that person may participate in any discussion at the meeting but shall not have a right to vote at that meeting.

(8) The National Civil Aviation Security Committee shall meet for the discharge of its functions as often as is necessary, at a time and

place specified by the Chairperson, and in any case, shall meet at least once in every three months.

(9) Subject to this regulation, the National Civil Aviation Security Committee shall regulate the procedure for its meetings.

11. (1) The Authority shall develop, implement and maintain a National Civil Aviation Security Quality Control Programme for the purposes of-

National Civil
Aviation Security
Quality Control
Programme.

- (a) determining and monitoring compliance with and validating the effectiveness of the National Civil Aviation Security Programme;
- (b) determining the adequacy and effectiveness of the National Civil Aviation Security Programme through audits, tests, inspections and security exercises;
- (c) ensuring that all persons who are assigned aviation security duties or responsibilities are verifiably trained and instructed to carry out those duties;
- (d) ensuring that persons implementing security controls possess all competencies required to perform their duties and are appropriately **selected**, trained and certified **according to the requirements of the National Civil Aviation Security Programme and that appropriate records are maintained up to date**;
- (e) ensuring that all persons conducting aviation security training possess necessary competencies to perform their duties, are appropriately trained and certified and use training packages approved or recognized by the Authority;
- (f) ensuring that each entity responsible for the implementation of relevant elements of the National Civil Aviation Security Programme periodically verifies that the implementation of security measures outsourced to external service providers is in compliance with the entity's security programme;
- (g) ensuring that acts of unlawful interference **and other security incidents** are investigated; and
- (h) reviewing and re-evaluating security measures and controls immediately following an act of unlawful interference.

(2) The Authority shall, in developing the National Civil Aviation Security Quality Control Programme, ensure the incorporation of appropriate methods, means and procedures for-

- (a) ensuring that the personnel carrying out security audits, **tests and inspections** are trained to appropriate standards for these tasks in accordance with the National Civil Aviation Security Programme and are certified;
- (b) ensuring that the personnel carrying out security audits, **tests and inspections** are afforded the necessary authority to obtain information to carry out those tasks, and to enforce corrective actions;

- (c) supplementing the National Civil Aviation Security Quality Control Programme by establishing a confidential reporting system for analysis of security information provided by sources including passengers, crew and ground personnel; and
- (d) establishing a process to record and analyse the results of the National Civil Aviation Security Quality Control Programme, to contribute to the effective development and implementation of the National Civil Aviation Security Programme, including identifying the causes and patterns of non-compliance and verifying that corrective actions have been implemented and sustained.

(3) The National Civil Aviation Security Quality Control Programme shall-

- (a) provide for structures, responsibilities, processes and procedures that promote and establish an environment and culture of continuing improvement and enhancement of aviation security; and the means for ensuring that persons tasked with carrying out security duties do so effectively; and
- (b) provide all persons assigned aviation security duties or responsibilities with direction for the effective application of aviation security controls, to prevent acts of unlawful interference.

(4) Any entity or person desirous of undertaking any security validation, audit, inspection, test or assessments within any airport in Kenya shall seek authorization from the Authority giving at least thirty days' notice in advance. The entity or person so authorized shall furnish the Authority with a copy of the report upon conclusion of the exercise.

(5) The provisions of sub-regulation (4) above shall not apply to Kenyan registered operators who conduct validations, audits, inspections, tests or assessments as part of their internal quality control programmes. However, records of such activities shall be kept by the operators and made available to the Authority on request.

12. The Authority shall ensure that the management, setting of priorities and organisation of the National Civil Aviation Security Quality Control Programme is undertaken independently from the entities and persons responsible for the implementation of the measures taken under the National Civil Aviation Security Programme.

Independence in implementation of Programme.

13. (1) A person shall not operate an airport without an Airport Operator Security Programme approved by the Authority.

Airport Operator Security Programme.

(2) Every operator of an airport serving civil aviation in Kenya shall establish, implement and maintain a written Airport Operator Security Programme that meets the requirements of the National Civil Aviation Security Programme and these Regulations.

- (3) An Airport Operator Security Programme shall-
- (a) detail the specific security measures and procedures to be implemented at the airport that comply with the requirements of the National Civil Aviation Security Programme;
 - (b) provide for the appointment of a **qualified and appropriately trained person as per the requirements of the National Civil Aviation Security Training Programme** who shall coordinate the implementation of the approved Airport Security Programme
 - (c) provide for the establishment of an Airport Security Committee in conformity with the requirements stipulated in the National Civil Aviation Security Programme;
 - (d) **provide for background checks to be completed in respect of persons implementing security controls, persons with unescorted access to security restricted areas, and persons with access to sensitive aviation security information prior to their taking up these duties or accessing such areas or information;**
 - (e) **include recurrent background checks to be applied to such persons at least once every two years;**
 - (f) **require that persons found unsuitable following any background check are immediately denied the opportunity to implement security controls, unescorted access to security restricted areas, and access to sensitive aviation security information;**
 - (g) require the integration of the needs of aviation security into the design and construction of new facilities and alterations to existing facilities at the airport;
 - (h) **provide for recruitment, training, application of recurrent background checks every two years and certification of staff involved in the implementation of security controls;**
 - (i) provide security control measures for aircraft arriving from **airports** where security controls are in doubt or inadequate;
 - (j) contain a contingency plan **and resources for safeguarding civil aviation against acts of unlawful interference** and provide for matters including-
 - (i) measures and procedures in case of hijack of aircraft and hostage-taking at the airport and on board aircraft;
 - (ii) access and procedures in case of sabotage, including bomb threats to aircraft and to the airport;
 - (iii) access and procedures in case of terrorist attacks on aircraft and the airport, including attacks using Man-portable air defence systems (MANPADS) or chemical, biological, nuclear and other weapons;

- (iv) procedures when a prohibited item is found or is believed to be on board an aircraft;
- (v) evacuation and search of airport facilities and aircraft on the ground;
- (vi) special security measures to be enacted during periods of increased threat or for critical flights and routes;
- (k) provide measures to identify their critical information and communications technology systems and data used for civil aviation purposes and, in accordance with a risk assessment, develop and implement, as appropriate, measures to protect them from unlawful interference;
- (l) ensure that the measures implemented protect, as appropriate, the confidentiality, integrity and availability of the identified critical systems and/or data. The measures should include, inter alia, security by design, supply chain security, network separation, and the protection and/or limitation of any remote access capabilities, as appropriate and in accordance with the risk assessment carried out by its relevant national authorities;
- (m) contain any other matter prescribed by the Authority.

(4) An Airport Operator Security Programme shall be in accordance with the requirements prescribed in the National Civil Aviation Security Programme.

(5) The Airport Operator Security Programme shall be reviewed and updated as the need may arise and **at least once every two years in coordination with all relevant stake-holders.**

14. (1) A person shall not operate an aircraft serving civil aviation from or within Kenya without an Aircraft Operator Security Programme approved by the Authority.

(2) Every aircraft operator providing service in or from Kenya shall establish, implement **and maintain** a written Aircraft Operator Security programme that meets the requirements of the National Civil Aviation Security Programme and these Regulations.

(3) An Aircraft Operator Security Programme shall specify the measures, procedures and practices to be followed by the operator to protect passengers, crew, ground personnel, aircraft and facilities from acts of unlawful interference and shall include, at a minimum-

- (a) the objectives of the programme and responsibility for ensuring its implementation;
- (b) the organisation of the operator's security functions and responsibilities, including the designation of the operator in charge of aviation security;
- (c) **provide for the appointment of a qualified and appropriately trained person as per the requirements of the National Civil Aviation Security Training Programme who shall coordinate**

Aircraft Operator
Security
Programme.

the implementation of the approved Aircraft Operator Security Programme;

- (d) provide for recruitment, training, application of recurrent background checks every two years and certification of staff involved in the implementation of security controls;
- (e) specific security measures including-
 - (i) security checks or searches of **originating** aircraft and protection of the aircraft from unauthorized interference from the time the search or check has commenced until the aircraft departs;
 - (ii) procedures for the screening of passengers' cabin baggage and hold baggage if this function is not assigned to the airport operator;
 - (iii) procedures to ensure that any items left on board by disembarking passengers at transit stops are removed from the aircraft or otherwise dealt with appropriately before departure of the aircraft;
 - (iv) reconciliation of hold baggage with boarding **persons and authorization for carriage**, including **those baggage for transit and transfer persons**;
 - (v) measures and procedures to ensure safety on board the aircraft where passengers to be carried are obliged to travel **because they have been the subject** of judicial and administrative proceedings;
 - (vi) procedures for the carriage of weapons in the cabin compartment and the aircraft hold;
 - (vii) in-flight procedures when a prohibited item is found or is believed to be on board an aircraft;
 - (viii) security of, and control of access to, parked aircraft;
 - (ix) protection of **screened** hold baggage, cargo, mail and aircraft catering supplies and stores;
 - (x) response procedures for crew members and other staff to occurrences and threats;
 - (xi) protection of flight documents to include but not limited to bag tags, boarding pass stocks, passenger and cargo manifests and security tamper-evident seals;
 - (xii) procedures for screening, securing and control of known stores and unknown stores;
 - (xiii) procedures for application of security controls for COMAIL and COMAT;
 - (xiv) procedures to ensure that security controls are established to prevent acts of unlawful interference with aircraft when they are not in security restricted areas;

- (xv) background checks to be completed in respect of persons implementing security controls, persons with unescorted access to security restricted areas, and persons with access to sensitive aviation security information prior to their taking up these duties or accessing such areas or information;
 - (xvi) recurrent background checks to be applied to such persons at least once every two years;
 - (xvii) procedures to ensure that persons found unsuitable following any background check are immediately denied the opportunity to implement security controls, unescorted access to security restricted areas, and access to sensitive aviation security information;
 - (xviii) identifying their critical information and communications technology systems and data used for civil aviation purposes and, in accordance with a risk assessment, develop and implement, as appropriate, measures to protect them from unlawful interference;
 - (xix) ensuring that the measures implemented protect, as appropriate, the confidentiality, integrity and availability of the identified critical systems and/or data. The measures should include, inter alia, security by design, supply chain security, network separation, and the protection and/or limitation of any remote access capabilities, as appropriate and in accordance with the risk assessment carried out by its relevant national authorities;
- (f) measures to ensure the effectiveness of the programme, including adequate training of staff and the periodic testing and evaluation of the security programme;
 - (g) measures for the prevention of unauthorised persons from boarding aircraft;
 - (h) measures to ensure that persons, at points of embarkation, are in possession of valid documents prescribed by the State of transit and destination for control purposes; and
 - (i) any other matter prescribed by the Authority.

(4) An Aircraft Operator Security Programme shall be in accordance with the requirements prescribed in the National Civil Aviation Security Programme.

(5) The Aircraft Operator Security Programme shall be reviewed and updated as the need may arise and **at least once every two years**.

15.(1) A person shall not operate an enterprise or an organisation whose purpose is the movement of **cargo or mail, by air** within or from Kenya without a Regulated Agent Security Programme approved by the Authority and a certificate issued by the Authority-

Regulated Agent
Security
Programme.

- (l) A Regulated Agent Security Programme shall contain-
 - (a) provisions to meet the requirements of the National Civil Aviation Security Programme and these Regulations; and
 - (b) provisions to respond to orders, circulars and directives issued by the Authority under regulation 7;
 - (c) provide for the appointment of a qualified and appropriately trained person as per the requirements of the National Civil Aviation Security Training Programme who shall coordinate the implementation of the approved Regulated Agent Security Programme;
 - (d) details of how the regulated agent plans to meet and maintain the requirements set out in the Regulated Agent Security Programme;
 - (e) procedures for-
 - (i) ensuring that where screening of cargo and mail is conducted, screening is carried out using an appropriate method or methods, taking into account the nature of the consignment;
 - (ii) ensuring that screened air cargo or mail is protected from interference and accounted for at every stage of its journey;
 - (iii) ensuring that enhanced security measures are applied to high-risk cargo and mail to appropriately mitigate the threats associated with it;
 - (iv) ensuring the security of buildings, premises, transport facilities and access control to secure cargo or mail and implementing remedial action when integrity of the consignment is interfered with;
 - (v) air cargo or mail acceptance, secure storage, transportation and delivery as appropriate;
 - (vi) recruitment, training and certification of staff involved in the implementation of security controls;
 - (vii) background checks to be completed in respect of persons implementing security controls, persons with unescorted access to security restricted areas, and persons with access to sensitive aviation security information prior to their taking up these duties or accessing such areas or information;
 - (viii) recurrent background checks to be applied to such persons at least once every two years;
 - (ix) ensuring that persons found unsuitable following any background check are immediately denied the opportunity to implement security controls, unescorted access to security restricted areas, and access to sensitive aviation security information;

- (x) identifying their critical information and communications technology systems and data used for civil aviation purposes and, in accordance with a risk assessment, develop and implement, as appropriate, measures to protect them from unlawful interference;
 - (xi) ensuring that the measures implemented protect, as appropriate, the confidentiality, integrity and availability of the identified critical systems or data. The measures should include, inter alia, security by design, supply chain security, network separation, and the protection and/or limitation of any remote access capabilities, as appropriate and in accordance with the risk assessment carried out by its relevant national authorities;
 - (xii) incident reporting and maintenance of records;
- (f) any other matter prescribed by the Authority.

(2) Approval of Regulated Agent Security Programmes shall be based on the supply chain security process, which comprises management of applicable cargo and mail policies, procedures, and technology, as stipulated in the National Civil Aviation Security Programme to protect supply chain assets from acts of unlawful interference, theft, damage, or terrorism, and to prevent the introduction of prohibited items including explosive devices, contraband, or weapons of mass destruction into the supply chain.

(3) A Regulated Agent Security Programme shall be set out in the manner prescribed in the National Civil Aviation Security Programme.

(4) The Regulated Agent Security Programme shall be reviewed and updated as the need may arise and **at least once every two years**.

16. (1) A person shall not operate an enterprise or an organisation whose purpose is the direct provision of catering supplies and stores to commercial air transport operators within or from Kenya, without a Catering Operator Security Programme approved by the Authority and a certificate issued by the Authority.

Catering Operator
Security
Programme.

- (2) A Catering Operator Security Programme shall contain-
- (a) provisions to meet the requirements of the National Civil Aviation Security Programme and these Regulations;
 - (b) details of how the catering operator intends to comply with, and maintain the requirements set out in the Catering Operator Security Programme;
 - (c) **provide for the appointment of a qualified and appropriately trained person as per the requirements of the National Civil Aviation Security Training Programme who shall coordinate the implementation of the approved Catering Operator Security Programme;**

- (d) procedures for-
- (i) ensuring that screening or appropriate security controls are applied to catering supplies and stores **intended for carriage on commercial flights;**
 - (ii) ensuring that secure catering supplies and stores are protected from interference **until loaded onto aircraft** and remedial action taken when the integrity of the supplies and stores is interfered with;
 - (iii) ensuring the security of buildings, premises and transport facilities;
 - (iv) acceptance, storage, processing, transportation and delivery of catering supplies and stores;
 - (v) recruitment, **training and certification** of staff involved in the implementation of security controls;
 - (vi) **background checks to be completed in respect of persons implementing security controls, persons with unescorted access to security restricted areas, and persons with access to sensitive aviation security information prior to their taking up these duties or accessing such areas or information;**
 - (vii) **recurrent background checks to be applied to such persons at least once every two years;**
 - (viii) **ensuring that persons found unsuitable following any background check are immediately denied the opportunity to implement security controls, unescorted access to security restricted areas, and access to sensitive aviation security information;**
 - (ix) **identifying their critical information and communications technology systems and data used for civil aviation purposes and, in accordance with a risk assessment, develop and implement, as appropriate, measures to protect them from unlawful interference;**
 - (x) **ensuring that the measures implemented protect, as appropriate, the confidentiality, integrity and availability of the identified critical systems and/or data. The measures should include, inter alia, security by design, supply chain security, network separation, and the protection and/or limitation of any remote access capabilities, as appropriate and in accordance with the risk assessment carried out by its relevant national authorities;**
 - (xi) reporting of incidents and maintaining records;
- (e) any other matter prescribed by the Authority.

(3)A Catering Operator Security programme shall be set out in the manner prescribed in the National Civil Aviation Security Programme.

(4) The Catering Operator Security Programme shall be reviewed and updated as the need may arise and **at least once every two years**.

17. (1) A person shall not operate an enterprise or an organization whose purpose is the provision of air navigation services without a written **Air Navigation Service Provider Security Programme** approved by the Authority.

Air **Navigation**
Service Provider
Security
Programme.

(2) An **Air Navigation Service Provider Security Programme** shall contain -

- (a) provisions to meet the requirements of the National Civil Aviation Security Programme and these Regulations;
- (b) provisions to respond to orders, circulars and directives issued by the Authority under regulation 7;
- (c) provisions to comply with the relevant aspects of the Airport Security Programmes of the airport of operation;
- (d) **provisions for the appointment of a qualified and appropriately trained person as per the requirements of the National Civil Aviation Security Training Programme who shall coordinate the implementation of the approved Air Navigation Service Provider Security Programme;**
- (e) **specific measures to meet** and maintain the requirements set out in the **Air Navigation Service Provider Security Programme;**
- (f) procedures for-
 - (i) co-ordination and communication with stakeholders at airports on security of **ANS facilities;**
 - (ii) ensuring the security of air navigation service facilities, air navigational aids including access control measures for persons and vehicles;
 - (iii) personnel security to include background checks and security awareness training for all air navigation service staff who have unescorted access to the airside or security restricted areas;
 - (iv) **identifying their critical information and communications technology systems and data used for civil aviation purposes and, in accordance with a risk assessment, develop and implement, as appropriate, measures to protect them from unlawful interference;**
 - (v) **ensuring that the measures implemented protect, as appropriate, the confidentiality, integrity and availability of the identified critical systems and/or data. The measures should include, inter alia, security by design, supply chain security, network separation, and the protection and/or limitation of any remote access capabilities, as appropriate and in accordance**

with the risk assessment carried out by its relevant national authorities;

- (vi) training of air navigation service provider personnel in security-related aspects of their functions;
- (g) contingency planning and response for aviation security-related emergencies including-
 - (i) unlawful seizure of aircraft;
 - (ii) bomb threats on board an aircraft or air navigation facility;
 - (iii) sabotage of an air navigation facility;
 - (iv) threats of or attacks on aircraft using Man-Portable Air Defence Systems (MANPADS);
 - (v) cyber-attacks against Air Traffic Management systems;
- (h) Air Traffic Management (ATM) support for law enforcement;
- (i) Airspace management for Air Traffic Management Security;
- (j) incident reporting and maintenance of records;
- (k) any other matter prescribed by the Authority.

(3) An Air Navigation Service Provider Security Programme shall be set out in the manner prescribed in the National Civil Aviation Security Programme.

(4) The Air Navigation Service Provider Security Programme shall be reviewed and updated as need arises and at least once every two years.

18. (1) Where a security programme is required to be approved by the Authority under Regulations 13, 14, 15, 16 and 17 of these Regulations, the applicant shall-

- (a) submit the programme to the Authority, ensuring that it meets the requirements of the National Aviation Security Programme, these Regulations and any other relevant law; and
- (b) pay the fee prescribed by the Authority.

(2) A security programme submitted to the Authority for approval under this regulation shall be in duplicate and signed by the applicant or on behalf of the applicant.

19. (1) Where the Authority is satisfied that a security programme submitted under regulation 18, meets the requirements of these Regulations, the National Civil Aviation Security Programme and any other relevant law, the Authority shall, within thirty days after receipt of the programme, approve the security programme.

(2) Where the Authority determines that a security programme submitted under regulation 18 does not meet the requirements of these

Application for approval of security programme

Approval of security programme.

Regulations, the National Civil Aviation Security Programme or relevant law, the Authority shall, within thirty days after receipt of the programme, direct the applicant to modify and re-submit the security programme to the Authority within thirty days after receipt of the response from the Authority.

(3) Where the Authority is satisfied that a security programme re-submitted under sub regulation (2) meets the requirements of these Regulations, the National Civil Aviation Security Programme and any other relevant laws, the Authority shall, within fifteen days, after receipt of the programme, approve the security programme.

(4) A copy of the approved Operator Security Programme shall be kept by the Authority, the airport operator and the respective operator either in hard or electronic format.

20. (1) Where a security programme has been approved under regulation 19, the operator, where applicable, shall comply with the procedure prescribed by sub regulation (2), whenever the operator determines that-

Changed conditions affecting security.

- (a) any description of the area set out in the security programme is no longer accurate;
- (b) any description of the operations set out in the security programme is no longer accurate, or that the procedures included, and the facilities and equipment described in the security programme are no longer adequate.

(2) Whenever a situation described in sub regulation (1) occurs, the operator, where applicable shall-

- (a) immediately notify the Authority of the changed conditions, and identify each interim measure being taken to maintain adequate security until approval is granted for an appropriate amendment of the security programme; and
- (b) within thirty days after notifying the Authority in accordance with paragraph (a), submit for approval, in accordance with the procedure prescribed by regulation 18, an amendment to the security programme to bring it into compliance with these Regulations.

(3) The Authority shall, where an amendment to a security programme is submitted to it under sub regulation (2) (b), approve the amendment in accordance with the procedure prescribed by regulation 19.

21. (1) Where the Authority determines that an operator's security programme requires amendment, the Authority may direct the respective operator to amend the security programme and submit it to the Authority for approval.

Power of Authority to direct amendment of security programme.

(2) The Authority shall, where an amended security programme is submitted to it under sub regulation (1), approve the security programme in accordance with the procedure prescribed by regulation 19.

National Civil
Aviation
Security Training
Programme.

22. (1) The Authority shall develop a National Civil Aviation Security Training Programme for personnel of all entities involved with or responsible for the implementation of various aspects of the National Civil Aviation Security Programme **including security awareness training** for those authorized to have unescorted access to the airside.

(2) The Authority shall co-ordinate the implementation of the National Civil Aviation Security Training Programme developed under sub regulation (1).

(3) The Authority shall notify the entities concerned of the training requirements identified in the National Aviation Security Training Programme for their implementation.

(4) A person shall not operate an aviation security training center or offer aviation security courses **without a valid certificate or authorization issued by the Authority and in compliance** with the requirements of the National Civil Aviation Security Training Programme.

(5) The Authority shall ensure the development and implementation of training **programmes and a certification system** for aviation security screeners, supervisors, instructors and inspectors in accordance with the National Civil Aviation Security Programme.

(6) The certification system referred to under sub-regulation (5) above shall ensure that instructors are qualified in the applicable subject matters in accordance with the National Civil Aviation Security Training Programme.

23. (1) Every operator shall develop and implement an Aviation Security Training Programme to ensure the effective implementation of their respective security operations; and the training programme shall conform with the requirements of the National Civil Aviation Security Training Programme and these Regulations.

Operator Aviation
Security Training
Programme.

(2) A training programme referred to in sub regulation (1) shall include-

- (a) training of appropriate employees, taking into account human factors principles and human performance;
- (b) training to acquaint appropriate employees with preventive measures and techniques in relation to passengers, baggage, cargo, mail, equipment, stores and supplies intended for carriage on an aircraft to enable them to contribute to the prevention of acts of sabotage, unlawful seizure of aircraft or other forms of unlawful interference and to minimise the consequences of such events should they occur;
- (c) security awareness training at least once every two years for all staff or personnel **involved with or responsible for the implementation of various aspects of the National Civil Aviation Security Programme and those** authorized to have unescorted access to the airside; and
- (d) any other training matter prescribed by the Authority.

(3) A training programme referred to in sub regulation (1) shall be submitted to the Authority for approval in accordance with the procedure prescribed in Regulations 18 and 19.

(4) Operators shall ensure that persons implementing security controls possess all competencies required to perform their duties and are appropriately trained and certified according to the requirements of the National Civil Aviation Security Programme and that appropriate records are maintained up to date.

24. (1) Every airport serving civil aviation shall establish an Airport Security Committee.

Airport Security Committee.

(2) The functions of the Airport Security Committee are-

(a) to coordinate the implementation and maintenance of security controls and procedures as specified in the Airport Operator's Security programme referred to in regulation 13;

(b) to oversee the implementation of the decisions or directives of the National Civil Aviation Security Committee;

(c) to oversee and monitor the Airport Security Programme, including special measures introduced by the airport administration, operators and airport tenants;

(d) to coordinate the implementation of landside security measures;

(e) to draw up, maintain and review from time to time, a list of vulnerable points, and of essential equipment and facilities;

(f) to ensure that-

(i) basic minimum security measures and procedures are adequate to meet threats and are under constant review, providing for normal situations, periods of heightened tension and emergency situations;

(ii) recommendations that improve security measures and procedures are implemented;

(iii) security measures are incorporated in airport expansion or modification programmes;

(g) to prescribe and co-ordinate security education, awareness and training of airport and other staff and the general public.

(3) The Airport Security Committee shall refer to the National Civil Aviation Security Committee, any matter relating to aviation security and which is within its functions under sub regulation (2), which cannot be resolved at the airport level.

(4) The manager or person in charge of the airport shall be the chairperson of the Airport Security Committee.

(5) The Chairperson shall appoint the other members of the Airport Security Committee.

(6) The Airport Security Committee shall, where available, consist of members from all agencies engaged in the operation of the airport which contribute to the establishment and implementation of security measures including-

- (a) persons in charge of airport administration;
- (b) persons in charge of aviation security at the airport;
- (c) Kenya Civil Aviation Authority;
- (d) Kenya Defence Forces;
- (e) Kenya Airports Police;
- (f) Department of immigration services;
- (g) respective county government security committee;
- (h) Directorate of Criminal Investigations;
- (i) National Intelligence Service;
- (j) Port health services;
- (k) Postal Corporation of Kenya;
- (l) representative of fuel companies
- (m) representative of regulated agents;
- (n) in-flight caterers;
- (o) a representative of the airlines **and/or** handling agents;
- (p) a representative of the airport tenants;
- (q) air navigation services provider;
- (r) fire and rescue services;
- (s) customs and border control; and
- (t) **Kenya Wildlife Service.**

(7) The Airport Security Committee may invite any person to attend and take part in the proceedings of the Committee and that person may participate in any discussion at the meeting but shall not have a right to vote at that meeting.

(8) The Chairperson shall convene every meeting of the Airport Security Committee and the Committee shall meet for the discharge of business at least once in every month to ensure that the airport security programme is up to date and effective and that its provisions are being effectively implemented.

PART IV-PREVENTIVE SECURITY MEASURES

25. (1) An airport operator shall **be responsible for the maintenance, coordination and implementation of security controls** including; identification and resolution of suspicious activity that may pose a threat to civil aviation at the airport for the purpose of protecting passengers, crew members, aircraft, airports and aviation facilities and

Airport security controls.

preventing acts of unlawful interference and ensuring that appropriate action is taken when an act of unlawful interference occurs or is likely to occur.

(2) Every operator of an airport serving civil aviation shall be responsible for the security of facilities and employment of security equipment, where appropriate, to the extent operationally, technically and financially practicable, to achieve civil aviation security objectives and shall-

- (a) use randomness and unpredictability in the implementation of security measures, as appropriate;
- (b) ensure that-
 - (i) access to airside areas at the airport is controlled in order to prevent unauthorized entry;
 - (ii) security restricted areas are established at the airport, in accordance with regulation 26;
 - (iii) architectural and infrastructure related requirements necessary for the optimum implementation of security measures under the National Civil Aviation Security Programme are integrated into the design and construction of new facilities and alterations to existing facilities at airports;
 - (iv) persons engaged to implement security controls, subject to **initial and recurrent** background checks and selection procedures, are capable of fulfilling their duties and are adequately trained;
 - (v) originating passengers and crew, and their **cabin baggage** are screened before accessing **security restricted areas and protected from unauthorized interference until** boarding an aircraft engaged in commercial air transport operations.. If unauthorized interference does take place, the passengers or crew concerned and their cabin baggage shall be re-screened before boarding an aircraft;
 - (vi) **appropriate screening methods that are capable of detecting the presence of explosives and explosive devices carried by passengers on their persons or in cabin baggage are used. Where these methods are not applied continuously, they shall be used in an unpredictable manner;**
 - (vii) originating hold baggage is screened before being loaded onto an aircraft engaged in commercial air transport operations **departing from a security restricted area;**
 - (viii) all hold baggage to be carried on aircraft engaged in commercial air transport is protected from unauthorised interference from the point it is screened

- or accepted into the care of the carrier, whichever is earlier, until departure of the aircraft on which it is to be carried; and that where the integrity of hold baggage is jeopardized, the hold baggage is re-screened before being placed on board an aircraft;
- (ix) baggage which has been identified as unaccompanied is subjected to additional screening subsequent to it being established as unidentified;
 - (x) transfer hold baggage is screened before being loaded into an aircraft engaged in commercial air transport operations, unless the Authority has established a validation process and continuously implements procedures, in collaboration with the other Contracting States where appropriate, to ensure that such hold baggage has been screened at the point of origin and subsequently protected from unauthorised interference from the originating airport to the departing aircraft at the transfer airport;
 - (xi) **transfer passengers and their cabin baggage are screened prior to boarding an aircraft, unless the Authority has established a validation process and continuously implements procedures, in collaboration with the other Contracting State where appropriate, to ensure that such passengers and their cabin baggage have been screened to an appropriate level at the point of origin and subsequently protected from unauthorized interference from the point of screening at the originating airport to the departing aircraft at the transfer airport;**
 - (xii) **measures for transit operations are established to protect transit passengers' cabin baggage from unauthorized interference and protect the integrity of the security of the airport of transit;**
 - (xiii) there is no possibility of mixing or contact between passengers subjected to security control and other persons not subjected to such control after the security screening points at airports serving civil aviation have been passed; and that" where mixing or contact does take place, the passengers concerned and their cabin baggage are re-screened before boarding an aircraft;
 - (xiv) the persons carrying out security controls are certified according to the requirements of the National Civil Aviation Security Programme;
 - (xv) luggage or personal belongings that are unidentified or left unattended at an airport are subjected to appropriate security controls and disposal procedures in accordance with a security risk assessment carried out by the relevant national authorities;

- (xvi) measures are established and implemented to ensure that all persons other than passengers, together with items carried are screened prior to being granted access to airport security restricted areas;
 - (xvii) appropriate screening methods that are capable of detecting the presence of explosives and explosive devices carried by persons other than passengers on their persons or in their items carried are used. Where these methods are not applied continuously, they shall be used in an unpredictable manner;
 - (xviii) all vehicles being granted access to security restricted areas, together with items contained within them, are screened and subjected to other appropriate security controls in accordance with a risk assessment carried out by the relevant national authorities;
 - (xix) measures are established to ensure that merchandise and supplies introduced into security restricted areas are subjected to appropriate security controls, which may include a supply chain security process or screening;
 - (xx) landside areas are identified and designated;
 - (xxi) security measures in landside areas are established to mitigate the risk of and prevent possible acts of unlawful interference in accordance with risk assessments carried out by the relevant national authorities;
 - (xxii) where practicable, in order to improve efficiency, modern screening or examination techniques are used to facilitate the physical examination of cargo or mail to be imported or exported;
 - (xxiii) critical information and communications technology systems and data used for civil aviation purposes are identified, in accordance with a risk assessment, and develop and implement, as appropriate, measures to protect them from unlawful interference;
 - (xxiv) measures designed to safeguard against acts of unlawful interference are applied to domestic operations;
 - (xxv) whenever possible, arrange for the security controls and procedures to cause a minimum of interference with, or delay to the activities of civil aviation provided the effectiveness of these controls and procedures is not compromised;
- (c) establish-
- (i) storage areas where mishandled baggage may be held after screening until forwarded, claimed or disposed of;

- (ii) bomb disposal areas where detected explosives may be disposed of;
- (iii) person and vehicle identification systems;
- (d) institute and implement adequate security controls, including background checks **every two** years on a recurrent basis on persons other than passengers granted unescorted access to security restricted areas of the airport;
- (e) **in accordance with the risk assessment carried out by the relevant national or local authorities, ensure that appropriate measures on the ground or operational procedures are established to mitigate possible attacks against aircraft using Man-Portable Air Defence Systems (MANPADS) and other weapons representing a similar threat to aircraft at or near an airport;**
- (f) **employ behaviour detection techniques to identify any suspicious persons at airports;**
- (g) make arrangements to investigate, render safe or dispose of, if necessary, suspected sabotage devices or other potential hazards at the airport;
- (h) employ and deploy suitably trained personnel to assist in dealing with suspected or actual cases of unlawful interference with civil aviation;
- (i) conduct a full scale contingency exercise that incorporates security scenarios at least **once in every two years;**
- (j) conduct a table top contingency exercise at least once a year.

26. (1) The Authority, in conjunction with the airport operator and other responsible persons concerned, shall identify areas where, based on a security risk assessment carried out by the relevant national authorities, operations vital to the continued safe operation of civil aviation in Kenya are carried out, and designate those areas as security restricted areas.

Security restricted areas and airport security permits.

- (2) An area designated as a security restricted area shall-
 - (a) be marked and protected through physical or personnel protective measures or through a combination of these measures to prevent unauthorised access to it;
 - (b) be separated from public or non-security restricted areas by an appropriate physical barrier; and
 - (c) be inspected at regular intervals.

(3) Authorised access to a security restricted area at every airport and designated off-airport facilities serving commercial air transport operations shall be controlled through the issuance of airport security permits **for persons and vehicles**.

(4) The airport operator shall establish and implement identification systems in respect of persons and vehicles in order to prevent unauthorized access to airside areas and security restricted areas. Access shall be granted only to those with an operational need or other legitimate reason to be there. Identity and authorization shall be verified at designated checkpoints before access is allowed to airside areas and security restricted areas.

(5) A person issued with an airport security permit under this regulation shall, while on duty, at all times properly display the security permit on the outermost garment above the waist.

(6) Designated authorities responsible for controlling access to security restricted areas shall specify the recognized places of entry through the security restricted area barrier and ensure that the area has adequate physical protection, of at least the same quality as the barrier itself, or is enough to prevent unauthorised access.

(7) All areas at an airport to which access is restricted shall bear signage indicating the type of restriction and penalty for non-compliance.

(8) An airport operator shall keep, at the airport, a current scale map of the airport identifying security restricted areas, and security barriers and security restricted area access points.

27.(1) An airport operator shall ensure that-

Airport boundary.

- (a) the airport has a conspicuous physical barrier or means of indicating the airport boundary with posted signs bearing a warning to prevent incursions and trespassing; and
- (b) measures are in place to ensure continuous protection and monitoring of the integrity of the perimeter to prevent incursions and trespassing.

28. (1) Except for law enforcement officers on duty, no person shall carry or possess, in airport premises, firearms, ammunitions, explosives or inflammable materials or weapons, unless authorised in writing as appropriate.

Carriage of fireanns, explosives or inflammable materials in airport premises.

(2) An airport operator shall ensure that no unauthorised person carries firearms, ammunitions, explosives or inflammable materials within the airport premises.

29. (1) The airport operator shall ensure that tenants whose premises or facilities form part of the landside or airside boundary through which access can be gained to the airside are responsible for control of access through their premises, and shall carry on business in compliance with the Airport Operator Security Programme.

Control of access by tenants.

(2) For the purposes of this regulation, "tenants" means -

- (a) individuals or businesses granted a licence or other permit by the airport operator to conduct business operations at the airport, including concessionaires, cargo handlers, caterers, tour operators, taxi and bus operators, porters, aircraft maintenance organisations and fuel companies; or

- (b) Government authorities and agencies at the airport, including customs, immigration, health, agriculture and meteorology.

30. (1) Where an airport operator is made aware of a threat against his or her facility or any part of the airport under the control of a person carrying on any activity at the airport other than the airport operator, the airport operator shall immediately-

Obligation of airport operator in case of threat against facility or airport.

- (a) notify the Authority and other entities concerned with the nature of the threat; and
- (b) determine whether the threat affects the security of the airport and coordinate the implementation of appropriate measures to counter any threat.

31. Where a person authorised to conduct any screening activity at an airport is made aware of a threat against the airport or an aircraft, that person shall-

Persons authorised to screen to inform airport operator of threat against airport or aircraft.

- (a) immediately notify the airport or aircraft operator of the nature of the threat; and
- (b) assist the airport or aircraft operator in determining whether the threat affects the security of the airport or aircraft.

32. (1) Where an airport operator determines that there is a threat that affects the security of the airport, the airport operator shall immediately take all measures necessary to ensure the safety of the airport and persons at the airport, including informing the relevant parties of the nature of the threat.

Airport operator to take measures in event of threat.

(2) Upon assessment and determination of a credible bomb threat, an airport operator shall immediately inform the Authority of the receipt of the bomb threat against an airport and its facilities, or an aircraft.

33. (1) An airport operator shall immediately notify the Police and the Authority when there is-

Discovery of weapons, incendiary devices or explosives at airport or security restricted area.

- (a) discovery, at the airport or other security restricted area, of a weapon other than a firearm allowed under regulation 28;
- (b) discovery, at an airport or other security restricted area, of ammunition other than ammunition allowed under regulation 28;
- (c) discovery, at the airport or other security restricted area, of an explosive substance or an incendiary device, other than an explosive substance or incendiary device allowed under regulation 28; or
- (d) an explosion at the airport, unless the explosion is known to be the result of an excavation, a demolition, construction or the use of fireworks displays.

34. (1) Despite regulation 25 (2) (b) (iii), an airport operator shall, before the implementation of any renovation, remodeling or expansion works at the airport, or the construction of new or additional airport facilities, involve security stakeholders and submit to the Authority for its approval, the plans for the renovation and expansion works.

Airport operator to involve security stakeholders and submit plans before renovation and expansion works.

(2) The Authority shall, in approving the plans submitted to it under sub regulation (1), assess the plans to ensure that security considerations are properly addressed and that the needs of aviation security are integrated in the configuration of the works.

35. Every operator shall ensure that personnel involved with or responsible for the implementation of security controls under the national civil aviation security programme and those authorized to have unescorted access to the airside **receive security awareness training at least once in every two years.**

Operators to conduct security awareness training.

36. Every operator shall conduct internal quality control to include verification of the implementation of security measures outsourced to external service providers to ensure compliance with the operator's security programme.

Operators to conduct internal quality control.

37. Every operator shall **use randomness and unpredictability in the implementation of security measures as appropriate.**

Operators to implement unpredictability.
Operators to keep records.

38. (1) Every operator shall keep a record of every security incident occurring in the course of their operations.

(2) A record required to be kept under sub regulation (1), shall-

- (a) be kept for a minimum of ninety days;
- (b) be submitted to the Authority within thirty days after the occurrence of the incident; and
- (c) where relevant, include-
 - (i) the number and type of weapons and incendiary devices discovered during any passenger screening process and the method of detection of each;
 - (ii) the number of acts and attempted acts of unlawful interference;
 - (iii) the number of bomb threats received, real and simulated bombs found and actual bombings or explosions at the airport; and
 - (iv) the number of detentions and arrests and the immediate disposition of each person detained or arrested.

39. (1) An aircraft operator registered in or providing service from Kenya and participating in code-sharing or other collaborative arrangements with other operators shall notify the Authority of the nature of these arrangements, including the identity of the other operators.

Responsibilities of aircraft operators.

(2) An aircraft operator registered in or providing service from Kenya shall not-

- (a) transport the baggage of a person who is not on board the aircraft unless that baggage is identified as unaccompanied and subjected to appropriate screening;
- (b) transport items of hold baggage which have not been individually identified as accompanied or unaccompanied, or screened to the appropriate standard and accepted for carriage on that flight by the air carrier. All such baggage shall be recorded as meeting these criteria and authorized for carriage on that flight;
- (c) accept consignments of cargo or mail, in-flight catering supplies and stores, company mail and materials for carriage on aircraft engaged in commercial air transport operations, unless the security of the consignments is confirmed and accounted for by an entity certified by the Authority, or the consignments are subjected to security controls to meet the appropriate security requirements.

(3) An aircraft operator providing service in or from Kenya shall-

- (a) carry out and maintain, at an airport, on an aircraft and at any aviation facility under the control of the operator, security measures including identification and resolution of suspicious activity that may pose a threat to civil aviation, and any other measures prescribed in the National Civil Aviation Security Programme and the Airport Security Programme;
- (b) provide adequate supervision over the movement of persons and vehicles to and from the aircraft in security restricted areas in order to prevent unauthorised access to aircraft;
- (c) ensure that-
 - (i) all its security personnel and security service providers are familiar with, and comply with the requirements of the Aircraft Operator Security Programme;
 - (ii) necessary precautions are taken at the point of embarkation to ensure that passengers are in possession of valid documents prescribed by the State of transit and destination for control purposes.
 - (iii) all its aircraft carry a checklist of the procedures to be complied with for that type of aircraft in searching for concealed weapons, explosives or other dangerous devices;
 - (iv) persons conducting screening functions are certified by the Authority.
- (d) be responsible for the security of his or her aircraft;

- (e) ensure that persons engaged to implement security controls are subject to **initial and recurrent background checks** and selection procedures, are capable of fulfilling their duties and are adequately trained;
- (f) institute and implement adequate security controls, including background checks **every two years** on a recurrent basis on persons other than passengers granted unescorted access to security restricted areas of the airport;
- (g) **employ behaviour detection techniques to identify any suspicious persons at airports;**
- (h) **where practicable, ensure that appropriate screening methods that are capable of detecting the presence of explosives and explosive devices carried by passengers on their persons or in cabin baggage are used, and that where these methods are not applied continuously, they shall be used in an unpredictable manner;**
- (i) institute measures to identify and remove any prohibited or unaccounted for items-
 - (i) before departure of an aircraft engaged in commercial flights;
 - (ii) after passengers have disembarked from an aircraft engaged in commercial flights;
 - (iii) left behind by passengers disembarking from transit flights;
- (j) **identify their critical information and communications technology systems and data used for civil aviation purposes and, in accordance with a risk assessment, develop and implement, as appropriate, measures to protect them from unlawful interference.**

40. (1) An aircraft operator may, notwithstanding regulation 39 (3) (d), request for special protection of an aircraft from an airport operator.

Special protection for aircraft.

(2) Where special protection is offered to an aircraft operator under sub regulation (1), the protection shall be on terms and conditions determined by the airport operator.

41. (1) No person shall, subject to regulation 28, possess or have with him or her a prohibited item while-

Control of prohibited items.

- (a) in a security restricted area;
- (b) on board an aircraft; or
- (c) in an air navigation installation.

(2) The prohibited items referred to in sub regulation (1) include-

- (a) firearms or articles appearing to be firearms, whether or not they can be discharged;
- (b) nuclear, chemical or biological agents adapted, or capable of being used for causing injury to or incapacitating persons or damaging or destroying property;
- (c) ammunition and explosives;
- (d) articles manufactured or adapted to have the appearance of explosives, whether in the form of a missile, bomb, grenade or otherwise;
- (e) articles made or adapted for causing injury to or incapacitating persons or damaging or destroying property; and
- (f) any other dangerous article or substance or other item prescribed by the Authority from time to time.

42. An aircraft operator engaged in commercial air transport shall-

Control of access to flight crew compartment.

- (a) where an aircraft is equipped with a flight crew compartment door, ensure that the door is lockable from the flight crew compartment only and remains locked during flight, except to permit access and exit by authorised persons; and
- (b) where an aircraft is not equipped with a flight crew compartment door, ensure the implementation of measures as appropriate to prevent unauthorised persons from entering the flight crew compartment during flight:

43. (1) Law enforcement officers shall inform the aircraft operator and the pilot in command, **not less than twenty four hours prior to departure** when passengers are obliged to travel because they have been the subject of judicial or administrative proceedings, in order that appropriate security controls can be applied.

Control of special categories of passengers.

(2) The aircraft operator shall inform the pilot in command of the number of armed or unarmed escort persons, the individuals whom they are escorting and their seat locations in the aircraft.

44. (1) The carriage of weapons on board aircraft by law enforcement officers and other authorised persons, acting in the performance of their duties, shall be in accordance with the laws of Kenya.

Authorised carriage of weapons on board aircraft.

- (2) Subject to sub regulation (3), the Authority may-
 - (a) approve, in writing, the carriage of weapons on board aircraft by law enforcement officers and other authorised persons acting in the performance of their duties;
 - (b) consider requests by any other State to allow the travel of armed personnel, **including inflight security officers on board aircraft of operators of the requesting State. Only after agreements by all States involved shall such travel be allowed.**

(3) Notwithstanding sub-regulation (2), an aircraft operator may allow or refuse the carriage of weapons on board an aircraft in accordance with conditions issued by the Authority.

(4) Where an aircraft operator accepts the carriage of weapons removed from passengers, the aircraft shall have provision for stowing the weapons so that they are inaccessible to any person during flight time and, in the case of a firearm, to ensure that it is not loaded, an authorized and duly qualified person has determined that it is not loaded.

(5) Where Kenya decides to deploy in-flight security officers-

- (a) the officers shall be government personnel who are especially selected and trained, taking into account the safety and security aspects on board an aircraft; and
- (b) the officers shall be deployed according to the threat assessment conducted by the relevant authority.

(6) The deployment under sub-regulation (5) shall be done in coordination with concerned States and shall be kept strictly confidential.

45. (1) A regulated agent shall, before accepting cargo or mail for transport in an aircraft-

Conditions for acceptance of cargo or mail for air transportation.

- (a) establish and register the name and address of the known consignor;
- (b) establish the credentials of the person who delivers the cargo or mail as an agent of the known consignor;
- (c) ensure, on the basis of appropriate security controls or security screening, that such cargo or mail do not contain any prohibited items;
- (d) ensure the safeguarding of such cargo or mail from unauthorised interference after acceptance;
- (e) ensure the cargo or mail are received by staff who are properly recruited and trained;
- (f) designate a person to implement and supervise the screening process and applicable security controls;
- (g) ensure that the following categories of cargo or mail are not carried by air unless they have been subjected to screening-
 - (i) unaccompanied baggage;
 - (ii) cargo or mail from unknown consignors; ,
 - (iii) cargo or mail for which the contents do not coincide with the description delivered;
 - (iv) high-risk cargo or mail; and

- (h) ensure that known cargo and mail that has been confirmed and accounted for is issued with a security status, either in an electronic format or in writing, which shall accompany the cargo and mail throughout the secure supply chain and in the event of unlawful interference, the consignment shall be re-screened or subjected to appropriate security control and a fresh security status issued.

(2) A regulated agent who offers **cargo or mail** to an aircraft operator for transport by aircraft shall produce and make available to the aircraft operator, and the Authority on demand, shipping documents, records of cargo or mail accepted and offered for air transport, employee training records and air waybills.

(3) A regulated agent shall make available to the Authority, a report of any incident where a shipping document did not provide an accurate record of the **cargo and/or mail** being offered for air transport.

(4) All cargo and mail intended for carriage on **an aircraft engaged in commercial air transport operations** shall be subjected to appropriate security controls **including screening where practicable by airport operators**, aircraft operators and regulated agents **as applicable**, before being placed on board an aircraft.

46. For the purpose of protecting passengers, crewmembers, aircraft and **airports from acts** of unlawful interference with civil aviation, every regulated agent shall establish measures to ensure that-

- (a) only screened and **secure cargo or mail** is loaded into aircraft engaged in civil aviation;
- (b) persons engaged to implement security controls are subject to **initial and recurrent background checks** and selection procedures, are capable of fulfilling their duties and are adequately trained;
- (c) persons conducting screening functions are certified by the Authority as appropriate;
- (d) the regulated agent institutes and implements adequate security controls, including recurrent background checks **every two years** on persons other than passengers granted unescorted access to security restricted areas;
- (e) all cargo and mail to be carried on a commercial aircraft is protected from unauthorized interference from the point of screening or other security controls are applied until tendered to another regulated agent, **aircraft operator until departure**. If there are grounds to suspect that the integrity of the cargo and mail may be jeopardized, the cargo is re-screened and secured as appropriate;
- (f) where screening of cargo and mail is conducted, the screening is carried out using an appropriate method or methods, taking into account the nature of the consignment;

Conditions for acceptance of **cargo or mail**, COMAT and COMAIL for transportation.

- (g) enhanced security measures are **identified and** applied to high-risk cargo and mail to appropriately mitigate the threats associated with it;
- (h) known cargo and mail that has been confirmed and accounted for is issued with a security status which shall accompany, either in an electronic format or in writing, the cargo and mail throughout the secure supply chain; and
- (i) where handled, transfer cargo **and mail is subjected** to appropriate security controls prior to being loaded on another aircraft engaged in commercial air transport operations.

47. (1) The aircraft operator is responsible for ensuring that appropriate security controls have been carried out, and in so doing, the aircraft operator shall-

Security measures to be taken by aircraft operators.

- (a) not accept cargo or mail for carriage on an aircraft engaged in commercial air transport operations unless the application of screening or other security controls is confirmed and accounted for by a regulated agent, **a known consignor, or an entity that is approved by the Authority. Cargo and mail which cannot be confirmed and accounted for by a regulated agent, a known consignor, or an entity that is approved by the Authority shall be subjected to screening;**
- (b) protect the consignment from unlawful interference while it is in the custody of the aircraft operator, and that if there are grounds to suspect that the integrity of the consignment may be jeopardised, the said consignment is re-screened before being placed on board an aircraft;
- (c) protect the consignment from unlawful interference while it is in the custody of the aircraft operator, and that if there are grounds to suspect that the integrity of the consignment may be jeopardised, the said consignment is re-screened before being placed on board an aircraft;
- (d) COMAT and COMAIL are subjected to appropriate security controls prior to placement on board an aircraft engaged in commercial air transport operation;
- (e) ensure that all consignments placed on board the aircraft are recorded on the aircraft manifest;
- (f) ensure that enhanced security measures apply to high-risk cargo and mail to appropriately mitigate the threats associated with it; and
- (g) ensure that transfer cargo and **mail is subjected** to appropriate security controls and protected from unauthorized access prior to being loaded onto another aircraft engaged in commercial air transport operations unless the Authority has established a validation process and continuously implements procedures, in collaboration with the other Contracting State where appropriate, to ensure that such consignment has been screened at the point of origin and subsequently protected

from unauthorized interference from the originating airport to the departing aircraft at the transfer point.

(2) The aircraft operator may delegate any of the functions under sub regulation (1) to a regulated agent.

(3) For the avoidance of doubt, notwithstanding the delegation of any functions to a regulated agent under sub regulation (2), the aircraft operator shall remain responsible for ensuring that the appropriate security controls have been carried out.

(4) The aircraft operator or the regulated agent shall ensure that all consignments due to be loaded into an aircraft are-

- (a) delivered by an established employee of a handling agent, aircraft operator or regulated agent;
- (b) covered by valid documentation that has been checked for inconsistencies and fully describes the contents;
- (c) covered by a valid consignment security declaration;
- (d) checked to establish that there is no evidence of having been tampered with;
- (e) kept secure at all times while in their custody; or
- (f) screened using an appropriate method or methods, taking into account the nature of the consignment.

(5) An aircraft operator shall make available to the Authority, a report of any incident where an airway bill or equivalent document did not provide an accurate record of the **cargo or mail** being offered for air transport.

(6) An aircraft operator shall require a regulated agent operator to comply with the ICAO Technical Instructions for the Safe Transportation of Dangerous Goods by Air, Doc. 9284 in all cases where such agent handles dangerous goods.

(7) Appropriate security controls referred to in this regulation shall be as prescribed by the Authority.

48. (1) A catering operator shall, before accepting **catering stores and supplies** for preparation as catering supplies for transport in an aircraft-

Aviation security responsibilities of catering operator.

- (a) establish and register the name and address of the supplier of the **catering stores and supplies**;
- (b) establish the credentials of the person who delivers the **catering stores and supplies as an agent of the supplier**;
- (c) ensure, on the basis of appropriate security controls or security screening, that the catering stores and supplies do not contain any prohibited items;
- (d) ensure the safeguarding of the **catering stores and supplies** from unauthorised interference after acceptance;

- (e) ensure the **catering stores and supplies** are received by staff who are properly recruited and trained by the operator;
- (f) designate a person to implement and supervise the screening process;
- (g) ensure that catering stores and supplies are not carried by air unless they have been subjected to screening and protected from unauthorized interference until loaded onto aircraft;
- (h) ensure that each shipment of catering stores and supplies is accompanied by documentation providing the statement of the security status of the shipment;
- (i) ensure that persons engaged to implement security controls are subject to recurrent background checks every two years and selection procedures, are capable of fulfilling their duties and are adequately trained;
- (j) ensure that persons conducting screening are certified by the Authority as appropriate;
- (k) institute and implement adequate security controls, including recurrent background checks **every two years** on persons other than passengers granted unescorted access to security restricted areas of the airport.

(2) A catering operator who offers catering stores and supplies to an aircraft operator for transport by aircraft shall produce and make available to the aircraft operator, and the Authority on demand, shipping documents, records of supplies and equipment accepted and catering stores and supplies offered for air transport, employee training records and other accountable catering documents.

(3) A catering operator shall identify their critical information and communications technology systems and data used for civil aviation purposes and, in accordance with a risk assessment, develop and implement, as appropriate, measures to protect them from unlawful interference.

49. (1) A catering operator or aircraft operator shall offer or accept catering stores and supplies for transport on an aircraft based on the provisions of sub regulation (2) of this regulation.

(2) A catering operator or aircraft operator shall, before offering or accepting catering stores and supplies for **carriage on commercial flights**, ensure-

- (a) that the catering stores and supplies have been subjected to appropriate security controls, which may include a supply chain security process or screening, and thereafter protected until loaded onto the aircraft;

Conditions for acceptance of catering stores and supplies for air transportation.

- (b) the safeguarding of the catering supplies and stores against unlawful interference from the time of reception until the catering supplies and stores have been placed in the aircraft;
- (c) that the shipments of catering supplies and stores are recorded; and
- (d) that whenever the catering supplies and stores are received, those catering supplies and stores are delivered by an authorised employee of the catering operator or aircraft operator.

(3) An aircraft operator shall not accept any catering supplies and stores for transport by aircraft unless the documentation for those catering supplies and stores is examined for inconsistencies and is accompanied by a valid security declaration.

(4) An aircraft operator shall require a catering operator to comply with the ICAO Technical Instructions for the Safe Transportation of Dangerous Goods by Air, Doc. 9284 whenever such goods are handled.

(5) An aircraft operator shall make available to the Authority, a report of any incident where a catering or equivalent document did not provide an accurate record of the catering supplies and stores being offered for air transport.

(6) An aircraft operator shall preserve, for **not less than ninety days**, a record of acceptance checklists and inspections carried out under this Part.

50.(1) A person shall not operate an enterprise or an organization whose purpose is the provision **of aviation security services as part of** ground handling services at an airport within Kenya without a written Ground Handling Service Provider Security Programme **and a certificate issued by the Authority**.

Aviation security responsibilities of ground handling service providers.

(2) Ground handling service providers shall develop written security **programmes** in accordance with the requirements of the National Civil Aviation Security Programme, the security programme of the airport of operation and the security programmes of the airlines they handle as appropriate.

(3) A ground handling service provider's security **programme** shall include, at a minimum-

- (a) the objectives of the procedures and responsibility for ensuring their implementation;
- (b) the organization of the ground handling service provider's security functions and responsibilities, including the designation of the person in charge of security;
- (c) all measures and procedures to ensure implementation of the relevant aspects of the national civil aviation security programme, the security programme of the airport of operation and customer airline's security programme;

- (d) provisions to respond to orders, circulars and directives issued by the Authority under regulation 7 of these regulations;
 - (e) recruitment and selection procedures including background checks for staff involved in the implementation of security controls;
 - (f) requirements for background checks to be completed in respect of persons implementing security controls, persons with unescorted access to security restricted areas, and persons with access to sensitive aviation security information prior to their taking up these duties or accessing such areas or information;
 - (g) procedures for recurrent background checks to be applied to such persons at least once every two years;
 - (h) procedures to ensure that persons found unsuitable following any background check are immediately denied the opportunity to implement security controls, unescorted access to security restricted areas, and access to sensitive aviation security information;
 - (i) measures to ensure that where screening is to be conducted by the ground handling service provider to any persons or goods for carriage on commercial flights, or for persons or goods accessing aircraft or security restricted areas at airports and for conducting aircraft security searches and checks, such service is carried out by screeners who have been appropriately trained pursuant to the requirements of the National Civil Aviation Security Training Programme and subsequently certified by the Authority;
 - (j) such other matter as the Authority may prescribe.
- (4) A ground handling service provider shall ensure that-
- (a) the requirements for handling of passengers, baggage, cargo, mail or aircraft security as stipulated in the customer airline's security programme, airport security programme or the National Civil Aviation Security Programme, are implemented as appropriate;
 - (b) only screened passengers, baggage, cargo or mail, catering supplies or stores, COMAT and COMAIL is loaded onto aircraft engaged in civil aviation as appropriate;
 - (c) baggage, cargo, mail and catering supplies or stores to be carried on aircraft is protected from unauthorized interference from the point it is screened or accepted into the care of the ground handler or customer air carrier, whichever is earlier, until departure of the aircraft on which it is to be carried, and that if there are grounds to suspect that the integrity of the baggage, cargo, mail, catering supplies or stores has been jeopardized, the baggage, cargo, mail, catering supplies or stores are re-screened before being placed on board an aircraft;

- (d) all consignments placed on board the aircraft are recorded on the aircraft manifest;
- (e) consignments are covered by valid documentation that has been checked for inconsistencies and fully describes the contents;
- (f) all catering supplies and stores, cargo and mail consignments are covered by a valid consignment security declaration in electronic or paper format before acceptance;
- (g) all incidents occurring during the handling of aircraft, baggage, catering supplies and stores, cargo or mail are reported and dealt with as appropriate.

(5) The ground handling service provider's security programme shall be subordinate to the security programme of the customer aircraft operator and of the airport of operation, and where there's conflict between the procedures of the ground handling service provider and that of the aircraft operator or airport, the provisions of the latter shall prevail.

(6) The ground handling agent's security programme shall be set out in the manner prescribed in the National Civil Aviation Security Programme.

(7) Security programmes for ground handling agents shall be submitted to the Authority for approval in accordance with the procedures prescribed in regulations 18 and 19 of these Regulations.

(8) A Ground Handling Service Provider Security Programme shall be reviewed and updated as often as need arises or at least once every two years.

51. (1) A person shall not operate an enterprise or an organization whose purpose is the provision of aviation security service at an airport within Kenya without a written Aviation Security Service Provider Programme approved by the Authority and a certificate issued by the Authority.

Responsibilities of aviation security service providers.

(2) An Aviation Security Service Provider shall develop a written security programme that implements the relevant provisions of the National Civil Aviation Security Programme, or client's security programme.

(3) A Security programme for an aviation security service provider shall include, at a minimum-

- (a) the objectives of the programme and responsibility for ensuring its implementation;
- (b) the organization of the aviation security service provider's security functions and responsibilities, including the designation of the person in charge of aviation security who is appropriately trained pursuant to the requirements of the National Civil Aviation Security Training Programme;

- (c) all measures and procedures to ensure implementation of the relevant aspects of the client operator's security programme as contracted out in order to safeguard civil aviation against acts of unlawful interference;
- (d) provisions to respond to orders, circulars and directives issued by the Authority under regulation 7 or the airport of operation, all other applicable laws and security service industry best practices;
- (e) provisions to comply with the relevant aspects of the Airport Security Programmes of the airports from which the aviation security service provider operates;
- (f) recruitment and selection procedures including recurrent background checks for staff involved in the implementation of security controls;
- (g) requirements for completion of initial and recurrent background checks every two years in respect of persons implementing aviation security controls, persons with unescorted access to security restricted areas, and persons with access to sensitive aviation security information prior to their taking up these duties or accessing such areas or information;
- (h) procedures to ensure that persons found unsuitable following any background check are immediately denied the opportunity to implement aviation security controls, unescorted access to security restricted areas, and access to sensitive aviation security information;
- (i) measures to ensure that where screening is to be conducted by the aviation security service provider to any persons or goods accessing security restricted areas at airports or for carriage on commercial flights, such service is carried out by screeners who have been appropriately trained pursuant to the requirements of the National Civil Aviation Security Training Programme and subsequently certified by the Authority;
- (j) such other matter as the client or the Authority may prescribe.

(4) The security programme for the aviation security service provider shall be subordinate to the security programme of the client operator and of the airport of operation, and where there's conflict between the provisions of the security programme of the aviation security service provider and that of the client operator or of the airport of operation, the provisions of the latter shall prevail.

(5) Security programmes for aviation security service providers shall be set out in a manner that meets the client's requirements with the objective of safeguarding civil aviation against acts of unlawful interference.

(6) Security programmes for aviation security service providers shall be reviewed and updated as often as need arises or as directed by the client or the Authority and **at least once every two years.**

PART V-MANAGEMENT OF RESPONSE TO ACTS OF
UNLAWFUL INTERFERENCE

52. (1) Adequate measures shall be taken, when reliable information exists that an aircraft may be subjected to an act of unlawful interference-

Prevention of acts of unlawful interference.

- (a) if the aircraft is on the ground, the Police shall safeguard the aircraft and **search it in coordination with the aircraft operator** for concealed weapons, explosives or other dangerous devices, articles or substances; and prior notification of the **search shall be provided to the aircraft operator concerned by the airport operator;**
- (b) if the aircraft is in flight, the Authority shall provide as much prior notification as possible of the arrival of that aircraft to relevant airport authorities and air traffic services **of the States concerned;**

(2) The airport operator shall ensure that arrangements are made to investigate, render safe or dispose of, if necessary, suspected dangerous devices or other potential hazards at airports.

(3) The airport operator shall ensure that authorized and suitably trained personnel are readily available for deployment at every airport serving civil aviation to assist in dealing with suspected or actual cases of unlawful interference.

53. The Authority shall-

Authority's response to acts of unlawful interference.

- (a) take adequate measures for the safety of passengers and crew of an aircraft which is subjected to an act of unlawful interference while on the ground until their journey can be continued;
- (b) collect all pertinent information on the flight which is the subject of an act of unlawful interference and transmit that information to all other States responsible or the Air Traffic Services units concerned, including those at the airport of known or presumed destination, so that timely and appropriate safeguarding action may be taken en-route and at the aircraft's known, likely or possible destination;
- (c) provide such assistance to an aircraft subjected to an act of unlawful seizure, including the provision of navigation aids, air traffic services and permission to land as may be necessitated by the circumstances;
- (d) to the extent practicable, **ensure that an aircraft subjected to an act of unlawful seizure which has landed in Kenya is detained on the ground unless its departure is necessitated by**

the overriding duty to protect human life. These measures shall recognize the grave hazard attending further flight and the importance of consultations, wherever practicable, with the State of the Operator of the aircraft, and notification to the States of assumed or stated destination;

- (e) notify the State of registry of an aircraft and the State of the operator of the landing aircraft subjected to an act of unlawful interference, and shall similarly transmit, by the most expeditious means, all other relevant information to-
 - (i) the State of registry and the State of the operator;
 - (ii) each State whose citizens suffered fatalities or injuries;
 - (iii) each State whose citizens were detained as hostages;
 - (iv) each State whose citizens are known to be on board the aircraft; and
 - (v) the International Civil Aviation Organisation.
- (f) re-evaluate security controls and procedures after an act of unlawful interference and in a timely manner, take action necessary to remedy weaknesses so as to prevent recurrence. These actions shall be shared with ICAO.

54. (1) Every operator shall, where an act of unlawful interference occurs, immediately notify the Authority.

Mandatory reporting.

(2) Every operator or service provider shall submit to the Authority-

- (a) a preliminary written report, within fifteen;
- (b) days after the occurrence of an act of unlawful interference, including threats, incidents, disruptive and unruly passengers; and
- (c) a final written report, upon completion of investigations, but within thirty days after the occurrence of an act of unlawful interference, including threats, incidents, disruptive and unruly passengers.

55. (1) The Authority shall, where an act of unlawful interference has occurred, provide the International Civil Aviation Organisation with a report on each act, whether successful or unsuccessful as follows-

Notification to the International Civil Aviation Organisation.

- (a) a preliminary report, within thirty days after the occurrence of the act, containing all pertinent information concerning the security aspects of the occurrence; and
- (b) a final report, within sixty days after completion of investigations.

(2) The Authority shall provide copies of reports submitted to the International Civil Aviation Organisation under this regulation to other States, which may have an interest.

(3) The Authority shall exchange information with other Contracting States as considered appropriate on the management of response to an act of unlawful interference, at the same time supplying such information to ICAO.

PART VI-OFFENCES AND PENALTIES

56. (1) Any person who engages in any of the following acts at an airport or its related facilities, commits an offence-

Offences committed at airports.

- (a) assault, intimidation or threat, whether physical or verbal, against an aviation security officer or authorised person if the act interferes with the performance of the duties of the aviation security officer or authorised person or lessens the ability of the aviation security officer or authorised person to perform those duties;
- (b) refusal to follow a lawful instruction given by the airport operator or on behalf of the Authority by an aviation security officer or authorised person for the purpose of ensuring order and safety at the airport or of any person or property at the airport or for the purpose of maintaining good order and discipline at the airport;
- (c) an act of physical violence against an aviation security officer, inspector or authorised person on duty;
- (d) intentionally causing damage to, or destruction of, property.
- (e) carriage or possession of firearms, ammunitions, explosives or inflammable materials or weapons, unless authorised as appropriate.

(2) A person who commits an offence under sub-regulation (1) is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment not exceeding one year, or to both.

(3) An airport operator who fails to notify the Authority or other party concerned of a threat under regulation 30 commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

57. (1) Any person who engages in any of the following acts on board a civil aircraft commits an offence-

Offences committed against crew on board aircraft

- (a) assault, intimidation or threat, whether physical or verbal, against a crew member if the act interferes with the performance of the duties of the crew member or lessens the ability of the crew member to perform his or her duties;
- (b) refusal to follow a lawful instruction given by the aircraft commander or on behalf of the aircraft commander by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board or for the purpose of maintaining good order and discipline on board.

(2) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment not exceeding one year, or to both.

58. (1) Any person who engages in an act of physical violence against a person or of sexual assault or child molestation on board a civil aircraft commits an offence.

Offences jeopardising good order and discipline on board aircraft.

(2) Any person who engages in any of the following acts that is likely to endanger the safety of the aircraft or of any person on board or if such an act jeopardises the good order and discipline on board the aircraft, on board a civil aircraft, commits an offence-

- (a) assault, intimidation or threat, whether physical or verbal, against another person;
- (b) intentionally causing damage to, or destruction of, property;
- (c) consuming alcoholic beverages or drugs resulting in intoxication.

(3) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment not exceeding one year, or to both.

59. (1) A person who engages in any of the following acts, on board a civil aircraft, commits an offence-

Other offences committed on board aircraft.

- (a) smoking in a lavatory, or elsewhere in an aircraft;
- (b) tampering with a smoke detector or any other safety-related device on board the aircraft; or
- (c) operating a portable electronic device when such act is prohibited.

(2) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment not exceeding six months, or to both.

60. A person who is in unlawful possession of a prohibited item at an airport, in a security restricted area, on board an aircraft or at an airport navigation installation or has with him or her a prohibited item contrary to regulation 41 commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

Possession of prohibited items.

61. A person who, without lawful authority, enters a security restricted area commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment not exceeding one year, or to both.

Entering security restricted areas.

62. (1) A person who-

Offences relating to airport security permits.

- (a) for the purpose of, or in connection with, an application for the issue of an airport security permit; or

- (b) in connection with continuing to hold an existing airport security permit,

makes a statement which he or she knows to be false, commits an offence.

(2) A person who uses an airport security permit to gain access to an aircraft, an area of an airport or an air navigation installation when he or she is not entitled to such access commits an offence.

(3) A person who uses a false or unauthorised airport security permit for the purpose of gaining access to a security restricted area or to an air navigation installation commits an offence.

(4) A person commits an offence when he or she-

- (a) fails to comply with any conditions applying to an airport security permit;
- (b) fails to display an airport security permit while within a security restricted area or upon being required to do so by an Aviation Security Officer or Authorized Person;
- (c) being a holder of a visitor's permit, accesses or operates from a security restricted area without escort by an authorized person or holder of a permanent airport security permit;
- (d) being an escort to a holder of a visitor's permit, aids the visitor to gain access to an aircraft, a security restricted area or an air navigation facility when he or she is not authorized to gain such access;
- (e) uses an airport security permit for purposes other than official duty or authorized functions;
- (f) fails to return an airport security permit promptly following its expiry or upon his or her becoming no longer authorised to possess it; or
- (g) continues using an airport security permit after it has expired, or uses--a valid permit after he or she is no longer authorised to possess it.

(5) A holder of a security permit who transfers, lends, gives or sells his or her permit to another person with the intention of enabling that other person to gain access to an aircraft, a security restricted area or an air navigation installation when he or she is not authorised to gain such access, commits an offence.

(6) A person who, being a person authorised by the airport operator to issue security permits, issues a security permit to a person who is not authorised to be issued with such a permit, with the intention of enabling that other person to gain access to an aircraft, a security restricted area or an air navigation installation commits an offence.

(7) A person who commits an offence under this regulation is liable, on conviction, to a fine not exceeding five hundred thousand

shillings or to imprisonment for a term not exceeding six months, or to both.

63. A person who operates without a security programme referred to in Regulations 13, 14, 15, 16, 17, 23, 50 and 51 or who fails to implement a security programme, or a training programme, commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to a term of imprisonment not exceeding one year, or to both.

Failure to establish and implement security programmes.

64. (1) A person commits an offence who operates without a valid authorization or certificate from the Authority referred to in Regulations 15 (1), 16 (1), 22 (4), 50 (1) and 51 (1), and shall be liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Operating without valid certificate or authorization.

(2) An aviation security screener, supervisor, instructor or inspector who operates without a valid authorization or certificate from the Authority commits an offence and shall be liable, upon conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months, or to both.

65. (1) An operator or organization who utilizes the services of an aviation security screener, supervisor, instructor or inspector without a valid certificate or authorization from the Authority, commits an offence, and shall be liable, upon conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Utilizing services of unauthorized persons or entities.

(2) An operator who utilizes the services of a regulated agent, catering operator, ground handling agent or aviation security service provider that does not possess a valid certificate or authorization from the Authority, 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;

(3) An operator or organization who utilizes the services of an aviation security officer without conducting necessary background checks including 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.

66. (1) An airport operator who fails to involve security stakeholders and submit plans before renovation or expansion works as provided under regulation 34, commits an offence and shall be liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to take corrective action and to submit plans before renovation or expansion works.

(2) An operator who fails to implement written directives, orders or recommendations issued by the Authority or fails to submit corrective action plans within the given timelines, commits an offence and shall be liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

67. (1) A person commits an offence when he or she-

- (a) intentionally obstructs a person acting under a power conferred by these Regulations;
- (b) falsely pretends to be a person acting under a power conferred by these Regulations; or
- (c) refuses to obey any order or a reasonable request made by a police officer, an aviation security officer or authorized person, acting in the execution of his or her duty.

Obstructing authorised persons.

(2) A person who commits an offence under sub-regulation (1) is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding six months, or to both.

68. (1) A person commits an offence who, in connection with handling or conveyance of any cargo and/or mail, catering supplies and stores, airport merchandize or any prohibited item to a security restricted area or for transportation by air-

False declarations and falsified documents.

- (a) makes a statement or declaration which he knows to be false;
- (b) uses falsified documents; or
- (c) provides wrong or misleading information as to the nature of the cargo or mail, catering supplies and stores, airport merchandize or item.

(2) A person who commits an offence prescribed under sub-regulation (1) shall be liable, upon conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months, or both.

69. Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of-

Offences by body corporate.

- (a) any director, manager, secretary or similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, commits the offence and is liable to be prosecuted and punished accordingly.

70. (1) Any person who contravenes any provision of any regulation, notice, circular or order made under it, commits an offence under these Regulations.

General penalty.

(2) Any person who commits an act of unlawful interference or other offence under these Regulations where no specific penalty is provided, shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

71. (1) Kenya shall have jurisdiction over any act constituting an offence under regulations 57, 58 and 59 if the act took place against or on board-

Jurisdiction.

- (a) any aircraft registered in Kenya;
- (b) any aircraft leased with or without crew to a lessee whose principal place of business is in Kenya or, if the lessee does not have a principal place of business, whose permanent residence is in Kenya;
- (c) any aircraft on or over the territory of Kenya; or
- (d) any other aircraft in flight outside Kenya, if the next landing of the aircraft is in Kenya, and the pilot in command has-
 - (i) delivered the suspected offender to the competent authorities in accordance with regulation 74(3);
 - (ii) requested Kenya to prosecute the suspected offender; and
 - (iii) affirmed that no similar request has been or will be made by the pilot in command or the aircraft operator to any other contracting State.

(2) For the purposes of this regulation, an aircraft is deemed to be "in flight" at any time from the moment when all its external doors 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 the responsibility for the aircraft and for persons and property on board.

(3) For the purposes of this regulation, an aircraft is considered to be "in service" from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in sub regulation 2.

PART VII-ENFORCEMENT OF REGULATIONS

72. Where a police officer or an aviation security officer has reasonable cause to suspect that an item of baggage or any other object may constitute a security risk, whether because it is unidentified, unattended or for any other reason, that officer may, after subjecting the baggage to security controls, including investigation and evaluation to ascertain explosives or other prohibited items, remove the item of baggage or object and destroy it or dispose it as appropriate.

Unidentified
baggage.

73. Where a police officer or an aviation security officer has reasonable cause to suspect that a person-

Power to stop
passengers
travelling.

- (a) is about to embark on an aircraft in Kenya; or
- (b) is on board an aircraft in Kenya,

and that that person **poses a serious threat** or intends to commit an offence that amounts to an act of unlawful interference, the police officer may, with the approval of the police officer in charge at the airport or in case of an aviation security officer, with the approval of

the officer in charge of the airport, prohibit that person **using all reasonable means** from travelling on board the aircraft by-

- (i) preventing him or her from embarking on the aircraft;
- (ii) removing him or her from the aircraft;
- (iii) in case of aviation security officer, arresting him or her without warrant and immediately handing him or her to police for appropriate action; or
- (iv) if the aircraft is in motion, recall the aircraft.**

74. (1) The pilot in command shall, while the aircraft is in flight, have the power and responsibility to-

Powers and responsibilities of pilot in command.

- (a) protect the safety of persons and property on board;
- (b) restrain persons on board who may be a threat to safety or security;**
- (c) disembark persons who may be a threat to safety **or security;**
- (d) search persons and baggage on an aircraft and take possession of items which could be used in connection with any act of unlawful interference;
- (e) notify authorities of Kenya as soon as practicable and, before landing in the territory of Kenya;-
- (f) provide the authorities of Kenya with evidence and information regarding the incident that necessitated the restraint or disembarkation of a passenger.

(2) In case of severe threat to safety by a disruptive **or unruly** passenger on board, the pilot in command shall have the mandate to land at the nearest suitable airport and disembark the passenger in consultation with the local authorities.

(3) The police or person in charge of the airport shall accept delivery of persons disembarked in accordance with sub-regulation (2) for appropriate action.

75. An aviation security officer shall have **powers** to-

Powers of Aviation Security Officers.

- (a) screen **cargo or mail**, persons and their personal effects, hold baggage, **cabin** baggage, vehicles, **airport merchandize, catering** supplies and stores;-
- (b) prevent unauthorised persons or vehicles from accessing a security restricted area or air navigation facility;
- (c) prevent unauthorised persons from accessing aircraft;
- (d) deny transportation by air to those persons or goods deemed to be a threat to the safety of any flight;
- (e) deny access to security restricted areas or to aircraft, any person who refuses to undergo screening;**

- (f) impound any vehicle or property at the airport that poses a threat to civil aviation or is suspected to be involved in or attempting to commit an act of unlawful interference; and
- (g) arrest any person who commits or attempts to commit an act of unlawful interference or offence under these Regulations.

76. (1) The Authority may exempt any person to whom these Regulations apply from the application of these Regulations or any provision of these Regulations, except that the exemption shall not violate the Standards prescribed by the International Civil Aviation Organisation or other civil aviation regulations issued under the Act.

Power to exempt.

(2) The Authority may exempt any airport or category of airports to which these Regulations apply from the application of these Regulations or any provision of these Regulations, and may impose conditions for such exemptions based on the merits of the application.

(3) An exemption granted under sub-regulation (1) or (2) shall be based on valid and proper reasons considering the circumstances of each case.

77. (1) The Authority or any authorised person may, for purposes of ensuring the implementation of the National Aviation Security Quality Control Programme, or the requirements of the National Civil Aviation Security Programme, or any other operator security programme, or requirements set out under these Regulations, and without prejudice to the provisions of this part, adopt procedures for aviation security monitoring and enforcement approved by the National Civil Aviation Security Committee.

Power to enforce compliance.

(2) The procedures referred to in sub-regulation (1) shall establish enforcement to ensure rectification of any matter, including the following-

- (a) failure to comply with any order, circular or directive issued under these Regulations;
- (b) failure to comply with any requirement set out under the National Civil Aviation Security Programme or the respective operator security programme;
- (c) failure to comply with an oversight recommendation made by the Authority;
- (d) failure to take into account unique or exceptional circumstances which, although not expressly provided under the National Civil Aviation Security Programme, or the respective operator security programme but may expose an airport, aircraft, air navigation facility, regulated agent or catering facility to risk.

(3) The Authority or any authorised person may, without limiting the generality of this regulation, issue infringement notices set out in the Act on serious or prolonged breaches of security or failure to rectify security lapses that may endanger the safety of civil aviation.

(4) An infringement notice may require that the operations of a particular operator be halted until the breach has been rectified.

78. Infringement notices shall be designed by the Authority and issued by authorized persons for infringement notice offences as provided in the Second Schedule of the Act.

Infringement
Notice.

79. Subject to the provisions of section 39 of the Act **as read together with sections 20, 21 and 22 thereof**, the Authority's aviation security inspectors shall have powers to-

Powers of
Aviation Security
Inspectors.

- (a) inspect any part of any airport in Kenya;
- (b) inspect any land or area outside the airport which is used by **an operator**, aviation service providers or businesses that operate at the airport or that are in security restricted areas;
- (c) inspect any aircraft registered or operating in Kenya for the purpose of assessing security procedures;
- (d) test the effectiveness of security practices and procedures applied by any operator or persons implementing aviation security measures;
- (e) take into an airport, airside area or any designated security restricted area, and use, any equipment necessary to carry out their duties and tests, including for example, radios, cameras, recording devices both audio and video, authorized weapons, **replicas of guns** or simulated explosive devices;
- (f) interview any person for the purpose of assessing the level of security or the implementation of security procedures;
- (g) issue infringement notices for any infringement notice offences under these regulations;
- (h) require rectification of any deficiencies or apply enforcement measures as appropriate; and
- (i) **access any records or information and require explanation on any matter that may assist them in assessing the standard of aviation security or the implementation of security procedures; and**
- (j) **undertake investigations for possible violations including collection of relevant information and evidence to support enforcement of these Regulations.**

80. An authorized person, aviation security officer or police officer charged with **the execution of their mandate** shall not be **personally** liable to be sued in a civil court, **claim or demand whatsoever arising from an action or thing done** or omitted to be done or ordered to be done by them in the discharge of their duties, **functions and powers** under **the Civil Aviation Act** and these Regulations, provided that they, at the time in **issue, acted** in good faith.

Protection from
personal liability

PART VIII-REVOCATION, SAVINGS AND TRANSITIONAL PROVISIONS

81. (1) The Civil Aviation (Security) Regulations, 2015 are revoked.

LN. No.
190/2015.

(2) Despite sub-regulation (1) -

- (a) every person who, immediately before the commencement of these Regulations, was operating as an airport operator, an aircraft operator, a regulated agent, a ground handling service provider, air navigation service provider, catering operator, or an aviation security service provider may, on the commencement of these Regulations, continue their operations but shall, within ninety days after the commencement of these Regulations, submit to the Authority a security programme for approval in accordance with regulation 18 or apply for certification as appropriate; and
- (b) an authorization or certificate issued by the Authority and an airport security permit in force at the commencement of these Regulations shall, until its expiry, have effect as if issued under these Regulations.

Dated the 8th July, 2020.

JAMES MACHARIA,
*Cabinet Secretary for Transport,
Infrastructure, Housing, Urban Development and Public Works.*