

AREAS OF AMENDMENT

MODEL EA CIVIL AVIATION (SECURITY) REGULATIONS, 2007

A: COMMENTS FROM STAKE HOLDERS ON THE REGULATIONS

| S/N | REFERENCE | AVSEC ASPECT | AGREED POSITION | RECOMMENDED AMENDMENT |
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| 1 | Kenya Stake holders Recommendation | Clarify what will happen to the KAA security regulations. These duplicate the KCAA Regulations. | To be handled during Customization by Kenya | Nothing to amend |
| 2 | Kenya Stake holders Recommendation | Apply Security Regulations specifically to Category A and B airports. It is not possible to apply most of the proposed Security Regulations to the 600 + 'bush airstrips' where one or two aircraft per month might land and which are mostly on private property (farms, etc.). | The scope of Annex 17 covers all airports engaged on civil aviation operations. More so, airstrips in the region feed on the big airports. It is therefore imperative that security should start from these points. | Nothing to amend |
| 3 | General Comment by Kenya stake holders | Some of the proposed requirements of these regulations are impossible to meet. (E.g. NEMA approval, architectural approvals, etc.) Delete these requirements for C and D airports | It is a standard under the Annex 17. The objective is for the Authority to assess whether or not, security aspects have been incorporated prior to construction or remodeling of airports to avoid possible demolition orders after construction | Nothing to amend |
| 4 | General | The Regulations borrow | Eleventh | Nothing to |

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| | Comment by Kenya stake holders | heavily from ICAO SARP Annex 17. That document applies to 'International Airports and Civil Aviation'. It does not wish to address small Category C and D 'Bush Strips'. Domestic Flight Security is purely a local matter and has nothing to do with ICAO SARPS not wish to address small Category C and D 'Bush Strips'. Domestic Flight Security is purely a local matter and has nothing to do with ICAO SARPS. Delete requirements that do not apply to international airports | amendment of Annex 17 does not use the word 'international Civil Aviation' to implement the SARPs. SARPs apply to domestic airports serving civil aviation and commercial air transport indiscriminately. | amend |
| 5 | General Comment by Kenya stake holders | Many regulations apply a 'one-size-fits-all' approach to aviation security. Most aircraft in Kenya do not fit into the category of aircraft above 5700 kg AUW and the Regulations simply cannot be applied to small four-seater aircraft that have no baggage holds, cockpits. Specify to which category of aircraft many of the Regulations apply. Use the American 'Twelve-Five' Security Requirements. | Amount of security measures is not determined by size alone. Threat assessment is the key factor to determine the amount of security at the place. | Nothing to amend |
| 6 | General Comment by Kenya stake holders | Whilst the Aerodromes Regulations stated that the provisions of Security Regulations would only apply to aerodromes in the Categories A and B (international operations) some provisions of these Regulations are contradicting that premise: Some examples are:- Reg. 13 All Airport | The wording of the regulations was consciously made. Not AOC holders alone. | Amend either the Security or Aerodrome regulations to harmonize them in case of any inconsistency |

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| | | <p><u>Operators</u> require to have an Airport Security Programme.</p> <p>Reg. 14 <u>All Aircraft Operators</u> shall have an Aircraft Operators Security Programme (Should this not be AOC holders?)</p> <p>Reg. 23 <u>Every airport</u> shall have an Airport Security Committee.</p> <p>. This shows that these sets of Regulations including the proposed KCARs must be harmonized as not to contradict each other.</p> | | |
| 7 | Reg.5 (1) 'KCAA is the authority responsible for the regulation of aviation security in Kenya | Target the 'threat', i.e. mainly large aircraft. Do not senselessly paralyze ALL aviation with security rules that have questionable value when applied to small aircraft that weigh less than a small car. Synchronize this. | The focus is passenger aircraft operations. Threat does not discriminate sizes of aircrafts | Nothing to amend |
| 8 | Reg.9 (1) (a) and (b) 'Establish a written National Civil Aviation Security Programme' | Could we please see that document and review it. Please send or e-mail us a copy. | 9(1)(b) is adequate on the distribution of the Programme | Nothing to amend |
| 9 | Reg.9 (2) (j) The NCASP shall 'finance security at airports' | Private aircraft and aircraft operators would like to take advantage of this proposed scheme and seek financial assistance from the NCASP for fencing the airports and for funding other required security measures. | NCASP as a document is not meant to finance security as such, rather, it will provide how security will be financed to ensure its implementation | Nothing to amend |
| 10 | Reg.10 (6) | Who is the Head of the | The DG CAA may | Nothing to |

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| | Head of the KCAA will be Chairperson of the NCASP | Authority? The D-G or the Chairman? | be the chairperson of the NCASC by virtue of the title. | amend |
| 11 | Reg.13 (1).A person shall not operate an airport without an Airport Operator Security Programme approved by KCAA | A person shall not operate an airport without an Airport Operator Security Programme approved by KCAA. Please clarify how a 'security programme' can be implemented at the over 600 bush strips in Kenya that lie in remote areas, are not manned, and have no fence or any other formal facilities except a graded strip serving as a runway. | Each airport shall have a security programme relevant to that airport. Security measures available shall be assessed based on the level of threat at the particular airport by the Authority. | Nothing to amend |
| 12 | Reg.13 (c) Required Airport Security Committee | Most small bush strips are on private property in remote areas. It is simply not practical to require 'security committees' on remote and unmanned airstrips where maybe one or two aircraft land in a month. Apply this requirement only to Government airstrips. The Government has the available funding for Security Committees, fencing, soldiers and police guards at ALL its 150 + airstrips | Security committees are meant to coordinate implementation of security measures at the airport, much as security is a shared responsibility. The size or composition of the committee depends on individual airport peculiarities. | Nothing to amend |
| 13 | Reg.14 (1) and (2) 'All aircraft operators need a written Aircraft Operator Security Programme' | Is this realistic for private aircraft operators who carry only passengers well-known to them? Does this make sense for single-seat micro lights or balloons? Restrict this requirement to operators of scheduled services above 5700 kg AUW | A written security programme is meant that security measures implemented are reduced into writing to attain consistence and effective implementation/ evidence during | Nothing to amend |

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| | | | oversights. The volume of operations and the levels of threat will determine the amount of security relevant to the particular aircraft. | |
| 14 | Reg.14 (3) Requirements of Security Programme | How can a small private aircraft operator implement such security measures? These requirements are unrealistic for small 2 or 4 seat aircraft. Specify only for aircraft above 12,500 lbs (5700kg) AUW. Small aircraft are not a 'threat'. They are often smaller than saloon cars. | Security is dictated by levels of threat and not size alone. Any feeling of an operator to be over regulated is taken care by regulations 66-68 | Nothing to amend |
| 15 | Reg.22 (1) Mandatory Aviation Security Training Programme | This may be appropriate for airlines, but it is totally unrealistic for the owner of a small private sport aircraft. Specify that Aviation Security Training Programme is required from scheduled commercial aircraft operators. | Security training is mandatory for all personnel engaged in implementation of security controls | Nothing to amend |
| 16 | Reg.23 (1) Airport Security Committee | Again, this is not appropriate for small unmanned bush strips in remote areas. Specify that it applies to Category A and B airports only | No 12 above | Nothing to amend |
| 17 | Reg.23 (4) Airport Manager is Chairman of Security Committee | More than 600 airstrips in Kenya have no 'Airport Manager'. Apply only to airports that have a 'Manager' | The correct interpretation is 'in charge' of the airport, on behalf of the owner of the airport | Consider amending the regulation to supply a more correct name in charge'. |

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| 18 | Reg.23 (6) Composition of Security Committee | Obviously cannot apply to unmanned small bush strips. Specify application only to Category A and B airports | No 12 above | Nothing amend to |
| 19 | Reg.24 (2) Responsibility of operators of airports | These responsibilities cannot be met by operators of small private bush strips. Specify application to A and B airports only. | No 12 above | Nothing amend to |
| 20 | Reg.35 (2) Security Controls at airports | This cannot possibly be done at the more than 600 bush strips in Kenya. Apply only to A and B airports | No 14 above | Nothing amend to |
| 21 | Reg.50 (1) (b) Instructions by aviation security officers | It is a fact that many security officers in Kenya 'abuse' their 'Powers'. This Regulation is a ticket to harassment by officials. A 2 Million Shs. fine is much too severe and should be reduced. | The objective is to ensure enforcement of the requirements for the regulations to be effective. | Nothing amend to |
| 22 | Entering Security Restricted Area | A fine of Shs. 1 Million or a year in prison for entering a restricted area is too severe. Abolish this. | Criminal trespass is very grave and serious threat to life. Internal matter. | Nothing amend to |
| 23 | Failure to establish a security programme | A fine of Shs. 2 Million or 2 years in prison for not maintaining a security programme at a small airstrip or aircraft is too severe. Imagine an owner of a small bush strip who cannot implement something like this?? Abolish this | Failure of security jeopardizes or threatens life and property. It is a customization matter. | Nothing amend to |
| 24 | Reg.58 Infringement Notices | Infringement Notices Would this work in Kenya? Abolish this | It is an alternative enforcement mechanism. Other alternatives available in the regulations may | Nothing amend to |

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| | | | be resorted to. | |
| 25 | REG 13 (1) | This regulation requires that every aerodrome in Kenya develops an approved Security Programme which is not feasible or practicable. | No 14 above | Nothing to amend |
| 26 | Reg.52 (2) (c) Order and Discipline on aircraft | Is this applicable to all [crew & pax]?. What about a pax who is intoxicated but just sleeps?? A fine of Kshs. 2 Million or 1 year in jail, for being intoxicated in an aircraft is much too severe. | The objective is to ensure discipline on board, the failure of which may jeopardize safety. Intoxication on board alone is the offence. | Nothing to amend |
| 27 | Reg.53 (c) Use of Cell Phone | Is this applicable to all aircraft or commercial ops only?. A fine of Kshs. 2 Million or a jail sentence for using a cell phone in an aircraft is much too severe. Abolish this | Safety issue | Nothing to amend |
| 28 | REG 26 | Requires that every aerodrome has a conspicuous physical barrier which is not practicable. | The objective is to prevent criminal trespass thereby to jeopardize safety | Amend the regulation to accommodate the operational peculiarities in the region, in line with both the Annex 17 and 14 SARPs |
| 29 | General Comment | The draft security regulations are perhaps intended for Category A and B aerodromes but this is not stated. | They are intended for Civil aviation operations and Commercial air transport | Nothing to amend |

B: CURRENT ICAO AMENDMENTS AND RESOLUTIONS ON AVIATION SECURITY

| S/N | REFERENCE | AVSEC ASPECT | RECOMMENDED AMENDMENTS |
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| 1 | Annex 6: Chap 13.4 | Training required under this standard should be amended under regulation 22 | Regulation 22 of EAC's AVSEC Regulation should be amended to incorporate training elements required under standard 13.4.1 |
| 2 | Annex 6: Chap 13.2.2 | Security of the flight crew compartment should be captured under regulation 40 | Regulation 40 of EAC's AVSEC Regulation should be amended to include requirements under 13.2.2 |
| 3 | ANNEX 9: CHAP 3 | Facilitation aspects of Annex 9 should be taken account when establishing NASP | Regulation 9(1)(a) of EAC's AVSEC Regulation should be amended to require facilitation aspects to be taken to account when establishing a written NASP |
| 4 | Annex 9: chap 4.6 | Modern screening or examination techniques be included in application of appropriate security controls of cargo (goods) for air transportation | Amend regulation 42(1)(c) to include requirement of modern screening or examination techniques in line with STD 4.6 of Annex 9 |
| 5 | Annex 17: 4.7.2 | Require Aircraft Operator providing service from "State" to include in their security programmes measures and procedures to | Amend regulation 14 (3)(c)(v) to include this aspect adequately.. |

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| | | ensure safety on board the aircraft when passengers are subjected to judicial and administrative proceedings are obliged to travel | |
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C: EAC PARTNER STATE'S EXPERIENCE IN THE IMPLEMENTATION OF THE REGULATIONS

| S/N | REFERENCE | AVSEC ASPECT | PROPOSED AMENDMENT |
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| 1 | General experience in | Approval of the Aviation Security training centers. | <p>Amend the regulations to set a cross-reference that entities wishing to establish Aviation security Training Centers, shall comply with the requirements of the National Civil Aviation Security Training Programme , these regulations and shall be holders of ATO certificate issued under Civil Aviation(Approved Training Organization) Regulations, 2006</p> <p>ATO Regulations should be amended to effect that approval process should take into account the requirements of Security Regulations in case the applicant</p> |

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| | | | wishes Aviation security to be one of the areas in which training will be conducted. |
| 2 | Reg. 29 and 48 | Empowerment to request for incident reports from the airport operator in order to facilitate by the Authority. | Reg. 48 or reg 29. Should be amended to include mandatory reporting of security incidents by operators. |
| 3 | General experience in | Requirement for an assessment of an upstream screening point. | Adequately covered under reg. 24(2) (b) ix. Nothing to amend |
| 4 | General experience in | Requirement for the security inspectors to be incorporated in the initial airlines bilateral air services agreements and certification processes | It is a question of Coordination among departments Within the Authority. Nothing to amend |
| 5 | General experience in STD 3.33 Annex 9 | Requirements for airlines operator to return any passenger brought into the country on board their aircraft without proper documentation | Amend reg 35 to include a requirement for aircraft operators to take necessary precautions at the point of embarkation to ensure that passengers are in possession of documents prescribed by the state of transit and destination for control purposes.. Remedy for violation of this requirement may include taking the person back to the point of embarkation. |
| 6 | General experience in | An aircraft operator security programme | Regulation 39 is adequate. |

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| | | programme shall specify the measures, procedures and practices put in place to ensure that special situation passengers are not transported in an aircraft unless with the concurrence of the pilot in command. | |
| 7 | | The pilot in command to verify the particulars of all passengers and any prisoner/s or other person/s who may be subjects of judicial administration to ensure they are properly documented and the operator receives prior clearance from the country of destination or transit before ferrying prisoners or persons under judicial administration. (| Handled under section 5 above. |
| 8 | | Legal provision to actualize provisions of Regulation 9 (2) (j)- (NATIONAL CIVIL AVIATION SECURITY PROGRAMME) FOR FINANCING OF AVIATION SECURITY. HOW? e.g. The authority to establish a legal mechanism for financing of aviation security regulatory services. | Details to be put in the NCASP. Nothing to amend |
| 9 | | Legal authority for the | Covered under reg 6 of |

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| | | security inspectors to cause any airport worker show his Airport passes for adhoc verification while in the premises of a restricted area. | the regulations. Nothing to amend |
| 10 | | legal requirement for protection and monitoring of the integrity of the perimeter fence (as would be appropriate) | Amend the regulations to capture/enhance matters relating to perimeter fence/airport boundary |
| 11 | | The authority shall require Certification of cargo screeners who operate at the premises of the regulated agents | Amend regulation 11(1) (d) , 24(2) (b) (xiii) and 21 to read certification of all security personnel charged with implementation of security controls to accommodate STD of Annex 17 |
| 12 | | Regulation 2 APPLICATION review to add clause which clearly stipulate the People who should be applying but not only those that are not affected. | The model is adequate. More things may be added on customization |
| 14 | | (a) Definitions Regulation 4 of airport categories. (a,b,c,d.) – in harmony in harmony with Aerodromes Regulations. | Security does not depend on size of airports, rather security threat assessment. Exemptions may be sought by the operator, in case of overregulation under the regulations. |

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| | | | Nothing to amend |
| | | <p>(b) Create distinction between an authorized person and an aviation security Officer</p> <p>(c) Definition of goods to include cargo, mail, stores and baggage.</p> | Review /amend the definition section to clearly differentiate aviation security officer and Authorized persons(inspectors) |
| 15 | Regulation 5(2) | <p>(a)Surveys should have provision for as the need arises but not once a year.</p> <p>b)Regulation 9 (3) NCASP review should be conducted as often as the need may Arise.</p> | <p>The provision is not limiting. The requirement is to have “at least” one survey in a year.</p> <p>Nothing to amend</p> <p>Amend the regulation by supplying a phrase”atleast once a year”</p> |
| 16 | Regulation 13(4) (b) | <p>review should be conducted as often as the need may arise.</p> | Amend the regulations to put a requirement for all operator security programmes to be reviewed at least once a year |
| 17 | Regulation 14 , 115 and 16 | to indicate requirement for frequency of review | As above |
| 18 | Regulation 14 | Should clearly stipulate requirements for aircraft operators to incorporate in their AOSP measures to unsure that PAXs at points of embarkation possess necessary and | Handled under section 5 above |

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| | | valid travel documents required at their transit or destination points. | |
| 19 | Regulation 17(2) | Amend to require the operator to submit three copies instead of two copies - one copy should remain with the airport administrator where the air operator operates from. | Nothing to amend |
| 20 | Regulation 23 (6) (c) | amend to read Civil aviation authority or authority subsection h because explosive experts are covered in police (Need for umbrella body for tenants) | Nothing to amend |
| 21 | Regulation 33 | Enhance the provisions to cover Notification to Authority and Police of discovery of weapons , incendiary devices or explosives at an airport. | The objective is for the Authority to be informed after the incident |
| 22 | Regulation 35 | to require the operator to submit a preliminary report to the authority immediately or within seven days of occurrence of a security incident and final report within thirty days ----- harmonize or compare with Regulation 49(1) | Adequately covered. Nothing to amend |
| 23 | Regulation 36 | Enhanced to require aircraft operators ensure that passengers at points of destination/embarkation are in possession of necessary | Covered under section 5 above |

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| | | and valid travel documents at transit and destination points . Contravention of this requirement should be made punishable under PART IV of the regulations to curd prevalent incidences of illegal immigrants at airports | |
| 24 | Regulation 47(2) | To be enhanced to include coordination between the Authority, Airport Operator and Police to ensure arrangements to investigate and make safe and secure disposal of suspected dangerous devices or other potential hazards at airports. | It is adequate. Nothing to amend |
| 25 | Regulation 59(1) (c) | Be enhanced to include Authorized persons i.e. refuses to obey authorized person, police officer or aviation security officer. | Authorized persons are covered by (a) |
| 26 | Regulation 65 | (Powers of an aviation security officer) be further enhanced to cover subsections (a) and (c) seem to conflict. Their meaning is confusing. | Amend the regulation to include Hold Baggage, vehicles persons other than passengers and their personal effects |
| 27 | Regulation 70 (1) | | Discretion lies on the Authority |
| 28 | Part IX of the regulation | Should include a revocation clause for legal notice 231 of 1986. | Customization by Kenya |
| 29 | ANNEXES i.e. 2,6,8,9,11,13,14 and 18 | The security regulations did not cover the security regulations of other | Amend the regulations to accommodate these Annexes if not covered |

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| | | ANNEXES i.e. 2,6,8,9,11,13,14 and 18 which appear in green pages in annex 17. | by other relevant regulations |
| 30 | Regulation 24(2)(b)(xiii) | Should cover any entity delegated the authority of aviation security. | Amend the regulations to cover certification of all security personnel |
| 31 | General Experience | Legal provision to deter land encroachment and provision of a 50 meter clear zone on either side of the perimeter fence. | Covered elsewhere on the perimeter fence |
| 32 | Regulation 22 | Only applies to operators but not to training institutions who (may be required to develop (training manuals, training procedures manuals and quality systems) AVSEC. Training is a crucial component which requires to be regulated across the board. | Coordination by the relevant Authorities internally. |
| 33 | | Legal provision to deter illegal immigrants. | |

D: ICAO USAP AUDIT FINDINGS

| Reference | Aviation Security Aspects | Recommended Amendment |
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| Tanzania USAP CAP ASA 05 | Perimeter fence protection based upon prevailing threat assessment | <p>Amend Regulation 27 to include a requirement stating that, “where greater security is thought necessary at any airport, (based upon the prevailing threat assessment), an airport operator shall ensure that:</p> <ul style="list-style-type: none"> • the fence or barrier is deterrent enough to prevent unauthorized access; • a cleared area is provided on both sides of the fence or barrier to facilitate the work of patrols to make trespassing more difficult; and • a perimeter road inside the aerodrome fencing is available for the use of both maintenance personnel and security patrols. <p>This amendment should be cross referenced with relevant regulations in the Aerodrome Regulations to ensure harmoniousness.</p> |

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| Tanzania USAP CAP ASA 08 | Submission and approval of background check procedures | Amend Regulation 13 (3) to require an airport security programme submitted to the Authority for approval includes background procedures for security staff and staff granted unescorted access to SRAs. |
| Tanzania USAP CAP ASA 15 | Application of appropriate security controls for COMAT and COMAIL | <p>Amend Regulation 4 to include interpretation for COMAT and COMAIL.</p> <p>Amend Regulation 14 (3) (c) to include a provision for an aircraft operator security programme to include procedures for application of security controls on COMAT and COMAIL.</p> <p>Amend Regulation 42 to read “ Conditions for acceptance of goods, COMAT and COMAIL for air transportation” and introduce a new provision Sub-regulation (5) to require regulated agents and aircraft operators to subject COMAT and COMAIL to appropriate security controls prior to placement on board an aircraft engaged in passenger commercial flights.</p> |