

THE EAST AFRICAN COMMUNITY CIVIL AVIATION
SAFETY AND SECURITY OVERSIGHT AGENCY ACT, 2009.

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Establishment of Agency
4. Objectives of Agency
5. Functions of Agency
6. Organs of Agency
7. The Board
8. Functions of Board
9. Meetings of Board
10. Technical committees
11. Secretariat
12. Executive Director
13. Other officers and staff
14. Council to delegate to Agency
15. Council to give directions
16. Seal of Agency
17. Funds of Agency
18. Accounts, records and audits
19. Annual report
20. Protection from liability
21. Privileges and immunities
22. Regulations

**THE EAST AFRICAN COMMUNITY CIVIL
AVIATION SAFETY AND SECURITY OVERSIGHT
AGENCY ACT, 2009.**

An Act of the Community to establish the East African Community Civil Aviation Safety and Security Oversight Agency and to provide for other related matters.

ENACTED by the East African Community and assented to by the Heads of State.

1. This Act may be cited as the East African Community Civil Aviation Safety and Security Oversight Agency Act, 2009. Short title

2. In this Act, unless the context otherwise requires— Inter-pretation

“Agency” means the East Africa Civil Aviation Safety and Security Oversight Agency established under Section 3;

“Audit Commission” means the Audit Commission established under Article 134 of the Treaty;

“Board” means the Board of Directors of the Agency established under Section 6;

“Chicago Convention” means the Convention on International Civil Aviation signed in Chicago on the 7th day of December 1944;

- “Civil Aviation Authority” means the civil aviation administration of a Partner State;
- “Community” means the East African Community;
- “Council” means the Council of Ministers of the Community established by Article 9 of the Treaty;
- “financial year” means a period of twelve consecutive months from 1st July to 30th June each year.
- “Head of Civil Aviation” means the Director General, Managing Director or Chief Executive Officer, howsoever designated, of the Civil Aviation Authority of a Partner State;
- “ICAO” means the International Civil Aviation Organisation;
- “ICAO SARPs” means international standards and recommended practices as contained in the Annexes to the Chicago Convention, 1944;
- “Partner States” means the parties to the Treaty;
- “Secretariat” means the Secretariat of the Agency established under Section 11(1);
- “Secretary General” means the Secretary General of the Community appointed under Article 67 of the Treaty; and
- “Treaty” means the Treaty for the Establishment of the East African Community.

Establish-
ment of
Agency

3. (1) There is established an Agency known as the East Africa Civil Aviation Safety and Security Oversight Agency.

(2) The Agency is a self accounting institution of the Community.

(3) The Agency is a body corporate with perpetual succession and a common seal and may in its corporate name—

- (a) acquire and dispose of property, both movable and immovable;
- (b) sue and be sued; and
- (c) do all other things a body corporate may lawfully do.

(4) The Headquarters of the Agency shall be in such place as the Council may determine.

4. The principal objectives of the Agency are to—

Objectives
of Agency

- (a) develop policies on the development of safe, reliable, efficient and economically viable civil aviation with a view to developing appropriate infrastructure, aeronautical skills and technology as well as the role of civil aviation in support of other economic activities;
- (b) assist the Partner States in meeting their safety and security oversight obligations and responsibilities under the Treaty and the Chicago Convention and its Annexes; and
- (c) provide the Partner States with an appropriate forum and structure to discuss, plan and implement common measures required for achieving the safe and orderly development of international civil aviation through the implementation of international standards and recommended practices relating to the safety and security of civil aviation.

5. The functions of the Agency are to—

Functions of
Agency

- (a) strengthen the institutional framework within the Partner States in aviation safety and security and assist in the development of a harmonised regulatory regime for the Partner States;
- (b) co-ordinate civil aviation safety and security oversight activities amongst Partner States;
- (c) harmonise the positions of civil aviation authorities of Partner States and co-ordinate their participation in ICAO;
- (d) foster agreements among the civil aviation authorities of the Partner States that will contribute to the timely implementation of ICAO regional (air navigation) plans and the adoption of ICAO SARPS;
- (e) liaise with ICAO to ensure that the Partner States' aviation safety and security oversight activities are in line with ICAO objectives and plans;
- (f) monitor and provide input to the formulation of ICAO SARPS;
- (g) evaluate the status of aviation safety and security in the Partner States, provide information to the Partner States and recommend necessary interventions or corrective measures for the resolution of constraints or deficiencies;
- (h) assist the Partner States to meet or comply with ICAO SARPs, national standards and regulations in force;
- (i) plan and facilitate the sharing between Partner States, of technical expertise and facilities in civil aviation;

- (j) provide policy direction, advisory services and such other assistance as the Partner States may require;
- (k) mobilise resources from development partners and other sources for the implementation of the projects of the Agency;
- (l) establish and maintain relations with other regional safety and security oversight organisations in all areas of civil aviation, to facilitate the transfer of knowledge and expertise and adoption of best industry practices; and
- (m) perform such other functions as may be necessary for the proper implementation of its civil aviation safety and security oversight functions under this Act.

6. The organs of the Agency are—

Organs of Agency.

- (a) the Board;
- (b) the Secretariat; and
- (c) such other organs and offices as the Board may consider necessary.

7. (1) The Agency shall have a Board which shall be the governing body of the Agency.

The Board

(2) Members of the Board shall be formally appointed by the Council for a term of three years and shall be published in the Gazette.

(3) The Board shall consist of—

- (a) the Chairperson;
- (b) the head the of civil aviation authority from each Partner State;
- (c) one aviation expert from each Partner State; and
- (d) one representative from the private sector appointed on rotation basis by the East African Business Council; and
- (e) the Executive Director.

(4) In the nomination of members of the Board, Partner States shall take into account gender balance.

(5) The aviation expert under paragraph (2) (c) shall be nominated by the Minister responsible for civil aviation in each Partner State for a term of three years and shall be eligible for reappointment.

(4) The aviation expert shall—

- (a) have experience at a senior position in the aviation industry; and
- (b) not be a person who is regulated by a civil aviation authority or has an interest in an entity regulated by a civil aviation authority.

(5) The Chairperson of the Board shall be one of the heads of civil aviation and the position of Chairperson shall be held in rotation among the heads of civil aviation from the Partner States for a term of one year.

(6) The Chairperson of the Board shall preside at all meetings of the Board and in his or her absence, the next head of civil aviation in the line of rotation shall act as Chairperson.

(7) If a member of the Board, other than an aviation expert, is unable to attend a meeting of the Board, that member may designate a representative to attend the meeting.

(8) The representative designated under subsection(7) shall, for the purpose of that meeting, have all powers, duties and responsibilities of the member of the Board for whom that person is acting, except the duty to act as Chairperson of the meeting.

(9) If a member of the Board—

- (a) dies;
- (b) resigns;
- (c) gets his or her appointment terminated; or
- (d) ceases to hold office for a reason other than the reasons specified under paragraphs (a), (b), and (c),

in case of the aviation expert, the respective Minister shall appoint another person to take the place of that member, and the person so appointed shall hold office until the expiration of the term of office of the previous member, and in case of a member who is a member by virtue of his or her office, the person appointed to replace such member shall become a member of the Board.

8. (1) The functions of the Board shall be to exercise general control of the performance and affairs of the Agency and to give general directions on the implementation and achievement of the objectives and functions of the Agency.

Functions of
Board

(2) Without limiting the generality of sub section (1), the Board shall—

- (a) consider reports submitted to it by the Executive Director;
- (b) propose staff terms and conditions of service for approval by the Council;
- (c) implement the decisions of the organs of the Community as may be addressed to it;
- (d) formulate civil aviation safety and security regulations for approval by the Partner States and use by the Partner States and the Agency;
- (e) approve civil aviation safety and security guidance materials and procedures for use by the Partner States and the Agency;
- (f) recommend to the Council the suitable candidate to be appointed as the Executive Director and appoint senior staff of the Agency and review their performance as well that of the Executive Director;
- (g) review the annual programme of activities and budget estimates of the Agency for submission to the Council;
- (h) review and make recommendations on the annual accounts of the Agency for submission to the Council;
- (i) review the annual report of the activities of the Agency for submission to the Council;
- (j) assess and approve applications by States other than the Partner States, seeking assistance for technical expertise from the Agency; and
- (k) recommend to the Council mechanisms for the comprehensive operationalisation of Article 92 of the Treaty;

- (1) exercise such other powers and perform such other functions as may be conferred on it or that may be necessary for the proper implementation of this Act.

9. (1) The Board shall meet at least once in every three calendar months and may hold extraordinary meetings as and when necessary. Meetings of Board

(2) Meetings of the Board shall be held at the headquarters of the Agency or such other place as the Board may determine.

(3) The quorum at any meeting of the Board shall be a simple majority of the members of the Board including at least three Heads of Civil Aviation or their designated representatives.

(4) Decisions of the Board shall be by consensus.

(5) Subject to this section, the Board shall determine its own procedure, including the convening of meetings and for the conduct of business at the meetings and the recording of its decisions.

10. (1) The Board may establish technical committees as may be necessary for specific areas of the functions of the Agency. Technical committees

(2) The composition and functions of the technical committees shall be specified by the Board.

(3) The technical committees shall meet as often as may be necessary for the proper discharge of their functions

11. (1) There shall be a Secretariat of the Agency which shall be under the authority of the Executive Director. Secretariat

- (2) The functions of the Secretariat shall be to—
- (a) coordinate all the activities within the scope of this Act;
 - (b) carry out the administrative and financial management of the Agency;
 - (c) prepare for the approval by the Board, an annual programme of activities and budget of the Agency, at least six months before the end of the financial year;
 - (d) prepare working papers and reports on the activities of the Agency for consideration by the Board;
 - (e) implement the programme of activities and budget approved by the Board;
 - (f) maintain current records pertaining to the civil aviation activities in the Partner States;
 - (g) exchange such information as may be necessary with the Partner States;
 - (h) coordinate with the Partner States in the designation of aviation inspectors and to assign such inspectors as required to conduct inspections;
 - (i) manage the delivery of technical support to Partner States through the pooling of specialist technical resources;
 - (j) carry out such other duties within the scope of this Act as may be directed by the Board or the Council from time to time.

12. (1) There shall be an Executive Director who shall be appointed by the Council on the recommendation of the Board and on such terms and conditions as the Council may determine. Executive Director

(2) The Executive Director shall—

- (a) be the chief executive officer of the Agency;
- (b) implement the work of the Agency in accordance with the policy and decisions of the Board;
- (c) submit reports on the work of the Secretariat as well as the audited accounts to the Board;
- (d) be the accounting officer of the Agency;
- (e) carry out such other functions as are conferred on him or her under this Act, or as may be directed by the Board from time to time.

(3) The office of the Executive Director shall be held on a competitive basis, under the principle of rotation among the partner states.

(4) The Executive Director shall serve for a period of five years, and is not eligible for re-appointment.

(5) The Executive Director shall be responsible to the Board

13. There shall be such other officers and staff in the service of the Agency as may be determined by the Board Other officers and staff

14. The Council may, by notice in the *Gazette*, delegate any of the powers conferred upon it under this Act to the Board. Council to delegate to Agency

East African Community
Civil Aviation Safety and Security Oversight Agency Act, 2009

Council to
give
directions

15. The Council may give to the Agency such general directions not inconsistent with the provisions of this Act, on the policy to be pursued in the administration of this Act, and the Agency shall take such steps as are necessary or expedient to give effect to the directions of the Council.

Seal of
Agency

16. (1) The seal of the Community shall be the seal of the Agency, unless otherwise determined to the contrary by the Council.

(2) The affixing of the seal shall be authenticated by the Executive Director or any other person authorised by the Council.

(3) Any document issued under the seal of the Agency shall be admissible in evidence and shall be deemed to be executed or issued as the case may be, without further proof, unless the contrary is proved.

Funds of
Agency

17. (1) The sources of funds for the Agency shall be—

- (a) contributions by the Partner States;
- (b) resources mobilised by the Community;
- (c) grants and loans from regional and international bodies;
- (d) revenue from the activities of the Agency; and
- (e) any other source approved by the Council.

(2) The income and property of the Agency shall be utilised for the promotion of the objectives of the Agency.

(3) The Agency may, with approval of the Council, borrow such funds as the Agency may require for the performance of its functions under this Act.

18. (1) The Agency shall keep proper accounts and records of its transactions and affairs and ensure that the monies received are properly accounted for and that all payments out of its funds are correctly made and properly authorised and that adequate control is maintained over its property. Accounts, records and audits

(2) The accounts of the Agency shall, in respect of each financial year, be audited by the Audit Commission.

(3) The Agency shall within four months after the end of each financial year submit the accounts to the Audit Commission for auditing.

(4) The Audit Commission shall within three months of submission of the accounts by the Agency—

- (a) audit the accounts of the Agency; and
- (b) deliver to the Agency and the Council the audited accounts and a report of the audit.

19. (1) The Agency shall, not later than six months after the end of each financial year, prepare and submit to the Council, an Annual Report in respect of that financial year containing— Annual report

- (a) the audited financial statement;
- (b) the report on the operations of the Agency; and
- (c) any other information the Council may deem appropriate.

(2) The Council shall cause the Annual Report to be laid before the East African Legislative Assembly within three months after receiving the Report.

East African Community
Civil Aviation Safety and Security Oversight Agency Act, 2009

Protection
from
liability

20. No civil action shall lie against any officer of the Agency or any other person appointed or authorised to perform any function under this Act, in respect of anything done or omitted to be done by that officer or person in good faith, in the exercise or performance of any power, authority or duty conferred or imposed on that officer or person under this Act.

Privileges
and
immunities

21. The Partner States shall grant the Agency the status, privileges and immunities pertaining to the Community in accordance with Article 138 of the Treaty.

Regulations

22. The Council may, by statutory instrument upon recommendation of the Board make regulations for the better carrying into effect the provisions of this Act.