

CIVIL AVIATION (AMENDMENT) ACT, 2022

No. 21



of 2022

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An Act to amend the Civil Aviation Act.

Date of Assent: 06.06.2022

Date of Commencement: 06.06.2022

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Civil Aviation (Amendment) Act, 2022, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. The Civil Aviation Act, (hereinafter referred to as “the Act”), is amended by substituting for the word —

General amendment to Cap. 71:01

- (a) “incident” wherever it appears in the Act, the words “serious incident”; and
- (b) “incidents” wherever it appears in the Act, with the exception of section 84, the words “serious incidents”.

3. Section 2 of the Act is amended by —

- (a) substituting for the definitions of “accident”, “aerial work”, “aerodrome”, “Secretary” and “serious incident” the following new definitions —

““accident” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time the person has disembarked or, in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which —

- (a) a person is fatally or seriously injured as a result of —

- (i) being in the aircraft,
- (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
- (iii) direct exposure to jet blast,

except where the injuries are from natural causes, self-inflicted or inflicted by other person, or when the injuries are due to stowaways hiding outside the areas normally available to the passengers or crew;

- (b) the aircraft sustains damage or structural failure which —

- (i) adversely affects the structural strength, performance or flight characteristic of the aircraft, and
- (ii) would normally require major repair or replacement of the affected component; or

- (c) the aircraft is missing or is completely inaccessible;

“aerial work” means an aircraft operation in which an aircraft is used for specialised services such as agriculture, photography, sports, surveying, observations, patrol, advertising, construction, search and rescue, salvage, fire-fighting, wildlife operation, sight-seeing and any other related activity;

“aerodrome” means a defined area on land or water and includes any building, installation and equipment intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“Secretary” means the corporate secretary of the Authority appointed under section 29; and

“serious incident” means an incident involving circumstances indicating that there is a high probability of an accident associated with the operation of an aircraft which in the case of —

- (a) a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked; or
 - (b) an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down ;”;
- (b) inserting in their correct alphabetical order, the following new definitions —
- ““Article 83 bis” means an article appearing in an agreement between Botswana and a contracting State that has r a t i - fied the Article 83 bis of the Chicago Convention in terms of which the state of registry transfers all or some of its functions and duties to the State of the operator;
 - “civil aircraft” means an aircraft other than state aircraft;
 - “inappropriate use” means the use of safety information for a purpose different from the purpose for which it was collected, such as the use of the information for disciplinary, civil, administrative and criminal proceedings against operational personnel or disclosure of the information to the public; and
 - “surveillance” means an activity through which the State proactively verifies through inspections, audits and other activities that the holders of a licence, certificate, authorisation or approval issued by the Authority continue to meet the established requirements and functions and the required level of competency and safety required by the State;”.

4. Section 4 of the Act is amended in subsection (1), by inserting the words “perpetual succession and” immediately after the word “with” appearing therein.

Amendment
of section 4
of the Act

5. Section 8 of the Act is amended by —

- (a) substituting for subsection (3), the following new subsection —
 - “(3) In addition to its functions under subsection (1), the Authority shall be responsible for —
 - (a) advising the Government on policy matters concerning civil aviation;
 - (b) advising the Government with regard to international conventions relating to civil aviation and the adoption of measures necessary to give effect to the standards and recommended practices under those conventions;
 - (c) the licensing of air transport;

Amendment
of section 8
of the Act

- (d) the establishment, maintenance, development, operation and ownership of aerodromes;
 - (e) the provision of air navigation services;
 - (f) the provision of assistance and information, including aeronautical information services;
 - (g) the co-ordination and direction of search and rescue services;
 - (h) the registration of aircraft;
 - (i) the safety regulation of civil aviation;
 - (j) the control of air traffic;
 - (k) the certification of operators of aircraft;
 - (l) the licensing of civil aviation personnel;
 - (m) the provision of meteorological information to aircraft;
 - (n) the publication and dissemination of bye-laws, BARs, NOTAM or any other information pertaining to civil aviation;
 - (o) the establishment, development and management of training facilities for the purpose of training employees in subjects necessary for the proper performance of the Authority;
 - (p) the approval, certification and regulation of aircraft maintenance organisations, air operators and aviation training organisations in Botswana;
 - (q) the establishment, co-ordination and maintenance of the State Safety Program;
 - (r) performing economic oversight of air services;
 - (s) the licensing and certification of aerodromes, regulated agents and air navigation service providers;
 - (t) the surveillance of a holder of a licence, certificate, authorisation or approval issued by the Authority;
 - (u) the development of aviation policies;
 - (v) ensuring the protection of consumer rights in the aviation sector;
 - (w) ensuring environmental protection with respect to the aviation sector;
 - (x) ensuring fair trading practices with respect to the aviation sector; and
 - (y) any other functions that may be conferred on it by the Minister or any other enactment.”; and
- (b) by inserting immediately after subsection (3), the following new subsections —
- “(4) The Authority shall, where applicable, exercise the functions under subsection (3) in accordance with Critical Elements of the State Safety Oversight System set out under the Schedule.
- (5) The Authority shall ensure that aviation safety information obtained, gathered voluntarily or otherwise given under this Act or the regulations made under this Act shall not be put to inappropriate use:
- Provided that the Authority shall not be precluded from sharing aviation safety information with other civil aviation authorities in the contracting States subject to appropriate safeguards.”.

6. Section 28 of the Act is amended by —

- (a) substituting for subsection (1), the following new subsection —
- “(1) The Chief Executive Officer shall exercise such powers as are necessary for the performance of the functions of the Authority to enable the objectives, implementation and applications of the regulations made under this Act to be carried out, and in particular, but without prejudice to the generality of the foregoing, the Chief Executive Officer shall be responsible for —
- (a) the supervision of the day-to-day affairs of the Authority;
 - (b) ensuring that the Authority is carrying out the functions and duties placed upon it in terms of this Act including the enforcement of safety standards and implementation of safety oversight activities;
 - (c) running the Authority on sound commercial and financial principles in accordance with the policies and decisions made by the Board;
 - (d) the planning and implementation of the development of the civil aviation industry in Botswana, aiming at promoting efficient, safe and reliable aviation services;
 - (e) controlling the resources and operations of all the services under the Authority;
 - (f) submitting business plans and estimates of income and expenditure to the Board for its approval;
 - (g) implementing the decisions of the Board;
 - (h) inspecting, boarding, or detaining an aircraft if serious safety concerns are identified;
 - (i) recalling an aircraft in flight and searching such aircraft during routine inspections or where he or she has reasonable grounds to suspect that the aircraft is being used in contravention of this Act or any regulations made under this Act or that it contains any matter which may be used as evidence in respect of an offence under this Act or the regulations;
 - (k) ensuring that the provisions of this Act, rules and regulations made under this Act are complied with to the extent necessary in the interest of aviation;
 - (l) encouraging and fostering the safe development of civil aviation in Botswana;
 - (m) planning, developing and formulating safe, secure and efficient utilisation of Botswana airspace;
 - (n) acquiring, establishing and improving air navigation facilities where necessary, within the limits of available appropriation;
 - (o) promulgating rules and procedures governing the notification and reporting of accidents and serious incidents involving aircraft so as to facilitate investigations;

- (q) using, with their consent, the available services, equipment and facilities of other agencies and co-operating with those agencies in the establishment, and use of services, equipment and facilities of the Authority;
- (r) monitoring the deployment and utilisation of the movable and immovable property of the Authority;
- (s) preparing the annual report and financial statement of the Authority;
- (t) implementing, co-ordinating and supervising the defined activities related to the management of aviation safety as the accountable executive of the State Safety Programme;
- (u) assessing and auditing the performance standards of the State Safety Programme functions of other State aviation agencies identified by the Minister to ensure that the State Safety Programme is performing effectively as required; and
- (v) carrying out any duty that may be conferred on him or her by the Minister or the Board.”; and

(b) inserting immediately after subsection (1), the following new subsection —

“(1A) The Chief Executive Officer may, where he or she has reasonable grounds to believe that a violation of this Act, the regulations and any other rules made under this Act has occurred, make an order against such offending entity to detain, prohibit, suspend, revoke or vary the privileges of any licence, certificate, approvals or any other authorisation issued by the Authority.”.

Substitution of section 29 of the Act

7. The Act is amended by substituting for section 29, the following new section —

“Secretary 29. (1) There shall be a Secretary of the Authority who shall be appointed by the Board, on such terms and conditions as may be specified in the instrument of appointment.

(2) The Secretary shall, in addition to any function that may be assigned to him or her by the Board or the Chief Executive Officer, be responsible for —

- (a) taking the minutes of the meetings of the Board;
- (b) keeping the records of all decisions of the Board;
- (c) keeping records of legal transactions of the Authority; and
- (d) advising the Board and the Authority on all legal matters.

(3) The Secretary shall, unless under exceptional circumstances the Board otherwise directs, in writing, giving the circumstances leading to its decision, attend all meetings of the Board, but shall not have a right to vote on any matter before the Board.

(4) In the absence of the Secretary, the Board may appoint a legal officer of the Authority to perform the functions of the Secretary until the Secretary resumes office or the vacancy is filled, as the case may be.

(5) In the performance of his or her duties, the Secretary shall be administratively responsible to the Chief Executive Officer.

(6) The Board may terminate the appointment of the Secretary, on such grounds referred to in the instrument of appointment or on the same grounds specified in relation to the Chief Executive Officer under section 27 (6).”.

8. The Act is amended by substituting for section 40, the following new section —

“Air navigation services facilities and standard systems

40. (1) The Authority shall provide air navigation services in Botswana airspace, and for any area outside Botswana for which Botswana has, in accordance with international arrangements, undertaken to provide air navigation services and direct and coordinate search and rescue services.

(2) The Authority shall, so far as it may be practicable to do so —

- (a) provide in Botswana airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation;
- (b) adopt and put into operation appropriate standards systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules; and
- (c) collaborate with international partners to secure the publication of aeronautical maps and charts.”.

9. Section 41 of the Act is amended by deleting the words “, AIC” appearing in subsection (5).

10. The Act is amended in section 43 by substituting for subsection (1), the following new subsection —

“(1)The Authority shall provide, in a timely and orderly manner, information concerning weather conditions and forecasts to all aircraft in Botswana airspace.”.

11. The Act is amended by inserting immediately after section 44, the following new section —

“Documents to be carried on board aircraft

44A. Every aircraft engaged in international air navigation shall carry the following documents in accordance with the provisions of this Act —

- (a) a certificate of registration;
- (b) a certificate of airworthiness;
- (c) crew members’ licences;
- (d) a journey log book;
- (e) an aircraft radio station licence;

Substitution of section 40 of the Act

Amendment of section 41 of the Act

Amendment of section 43 of the Act

Insertion of section 44A in the Act

- (f) a passenger manifest if applicable;
- (g) a cargo manifest and detailed declarations of the cargo if applicable;
- (h) a certified copy of an air operator certificate and operating specifications; and
- (i) a document attesting to noise certification.”.

Amendment of section 45 of the Act

12. Section 45 of the Act is amended by inserting immediately after the word “aircraft” appearing therein, the words “as well as rights and interests on aircraft”.

Substitution of section 58 of the Act

13. The Act is amended by substituting for section 58, the following new section —

“Safety standards

58. (1) The Authority shall set and maintain safety standards related to personnel, aircraft, aerodromes and air navigation services which meet international standards under the Chicago Convention.

(2) The Chief Executive Officer shall, for the purposes of subsection (1), establish a Flight Safety Oversight Unit which shall be responsible for carrying out Authority’s functions in relation to —

- (a) aircraft airworthiness;
- (b) flight operations;
- (c) personnel licensing;
- (d) air navigation services; and
- (e) aerodromes and ground aids.”.

Substitution of section 60 of the Act

14. The Act is amended by substituting for section 60 the following new section —

“Right of access

60. (1) The Authority or any person authorised by the Authority shall have the right of access to —

- (a) an aircraft for the purpose of carrying out inspections on the aircraft and its operations in accordance with the functions of the Authority;
- (b) any aviation facility, including aerodromes, aircraft manufacturing organisations, aircraft maintenance organisations, aviation training organisations or other facilities in respect of which a certificate, permit or licence is issued under the Act, for carrying out any tests or inspections in order to determine that those operations are conducted in accordance with this Act; or
- (c) aircraft operators to conduct any tests or inspections in order to determine whether operations are conducted in accordance with this Act.

(2) The Authority or any person authorised by the Authority shall have unhindered access to any records and information belonging to or in relation to —

- (a) an aircraft;
- (b) an aerodrome;
- (c) an air operator;
- (d) an approved maintenance organisation;
- (e) an approved training organisation;
- (f) an air navigation service provider; or
- (g) any regulated agent or holder of any licence, certificate, authorisation or other approval document,

that may be required in the course of their inspections.”.

15. Section 62 of the Act is amended by inserting immediately after subsection (1), the following new subsection —

Amendment of section 62 of the Act

“(1A) Where the Authority enters into an agreement for the transfer of oversight functions and duties under subsection (1), the state of registry shall ensure that —

- (a) every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the state of registry’s rules and regulations relating to the flight and maneuver of aircraft;
- (b) every aircraft radio shall be licensed by the state of registry, if it is to be carried in or over the territory of other contracting States:

Provided that the use of radio apparatus shall be in accordance with the regulations of the State flown over;

- (c) every aircraft engaged in international navigation is provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered; and
- (d) the pilot and crew of aircraft engaged in international navigation are be provided with certificates of competency issued or rendered valid by the state of registry.”.

16. The Act is amended by inserting immediately after section 62, the following new section —

Insertion of section 62A in the Act

“Aircraft in distress 62A. (1) The Authority shall —

- (a) provide such measures of assistance to aircraft in distress in Botswana airspace as it may find practicable; and
 - (b) permit, subject to regulations and arrangements, the owners of the aircraft or the authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances.
- (2) The Authority shall, when undertaking a search for a missing aircraft, collaborate in coordinated measures as may be recommended from time to time pursuant to this Act by air navigation service providers or the National Search and Rescue Committee.”.

17. Section 64 of the Act is amended by substituting for the word “Minister”, the word “Authority” wherever it appears in the section.

Amendment of section 64 of the Act

18. Section 68(1) of the Act is amended by substituting for paragraph (a), the following new paragraph —

Amendment of section 68 of the Act

- “(a) the investigation of any civil aircraft accident or serious incident, arising out of, or in the course of, air navigation either occurring in Botswana airspace;”.

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Substitution of section 70 of the Act

19. The Act is amended by substituting for section 70, the following new section —

“Functions of Director of Accident Investigation

70. The Director shall be responsible for —

- (a) the direction, control and administration of the Directorate;
- (b) determining, in the event of an occurrence of an accident or serious incident, whether or not an investigation shall be carried out;
- (c) instituting and conducting investigations into an accident or serious incident;
- (d) submitting reports to the Minister of any accident or serious incident investigation;
- (e) issuing notices to the appropriate persons following the occurrence of an accident or serious incident; and
- (f) any other function conferred upon him or her by the Minister or under any other law.”.

Amendment of section 72 of the Act

20. Section 72 of the Act is amended —

- (a) in paragraph (a), by substituting for the words “have access to” appearing therein, the words “have immediate and unhampered access and control over”; and
- (b) in paragraph (b), by —
 - (i) substituting for subparagraph (v), the following new subparagraph —

“(v) require the persons involved in the operation of an aircraft to submit to medical examination tests, including pathological or toxicological tests,” , and
 - (ii) inserting immediately after subparagraph (vii), the following new subparagraph —

“(viii) protect aircraft wreckage as well as the accident site against unauthorised persons, pilfering or deterioration.”.

Substitution of section 74 of the Act

21. The Act is amended by substituting for section 74, the following new section —

“Publication of report

74. The Minister shall cause a report referred to under section 73 to be published in such form and manner as he or she may determine.”.

Substitution of section 75 of the Act

22. The Act is amended by substituting for section 75 the following new section —

“Privilege

75. (1) The sole objective of the investigation of an accident or serious incident shall be the prevention of accidents and serious incidents and not to apportion liability or blame.

(2) The report or any part of it shall be separate from, and shall not be admissible as evidence in any legal, disciplinary or other proceedings.

- (3) The following shall not be made available to any person unless the High Court determines that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigations —
- (a) statements taken from persons by the accident investigators in the course of their investigation;
 - (b) communications between persons having been involved in the operation of the aircraft;
 - (c) medical or private information regarding persons involved in the accident or serious incident;
 - (d) cockpit voice recordings and transcripts from such recordings;
 - (e) airborne image recordings;
 - (f) recordings and transcripts of recordings from air traffic control unit;
 - (g) the report of an accident or serious incident investigation; and
 - (h) opinions expressed in the analysis of information, including flight recorder information.
- (4) An Accident Investigator shall not be compelled to appear as a witness, and the opinion of the Accident Investigator shall not be admissible in any legal, disciplinary or other proceedings relating to an accident or serious incident investigation.”.

23. The Act is amended by inserting immediately after section 75, the following new section —

“Incident reporting system

- 75A. (1) The Authority shall establish a —
- (a) mandatory incident reporting system to facilitate the collection of information on actual or potential safety deficiencies; and
 - (b) voluntary incident reporting system to facilitate the collection of information that may not to be captured by a mandatory incident reporting system.
- (2) Any incident reporting system established under subsection (1), shall be non-punitive and shall afford protection to the information and to sources of the information:
- Provided that this section shall not apply in a case where there is evidence that the occurrence was caused by an act considered, in accordance with the law, to be conducted —
- (i) with an intent to cause damage,
 - (ii) with the knowledge that damage would probably result, or
 - (iii) in a manner equivalent to recklessness, gross negligence or wilful misconduct.
- (3) The information gathered through an incident reporting system shall not be put to inappropriate use.

Insertion of section 75A in the Act

(4) A person seeking public disclosure of the information referred to in subsection (3), shall apply to the court for an order for the release of the information and shall satisfy the court that the disclosure —

- (a) is necessary to correct conditions that compromise safety or to change policies and regulations;
- (b) does not inhibit its future availability in order to improve safety;
- (c) where relevant personal information included in the safety information, complies with applicable privacy laws; and
- (d) shall be made in a de-identified, summarised or aggregate form.”.

Amendment of section 80 of the Act

24. Section 80 of the Act is amended by substituting for subsection (1), the following new subsection —

“(1) Any person who is aggrieved by a decision of the Authority for anything relating —

- (a) to any general regulatory decision that is made by the Authority under this Act;
 - (b) specifically to the issue of a licence, permit certificate, registration, approval or any authorisation under this Act or regulations made under this Act;
 - (c) to any regulatory decisions made under any applicable enactment; or
 - (d) to consumer protection, compliance and enforcement activities related to areas such as —
 - (i) rights violations,
 - (ii) unfair and deceptive practices,
 - (iii) unfair competition by air carriers and travel agents, or
 - (iv) deceptive airline advertising, including —
 - (aa) air fare,
 - (bb) on-time performance schedule,
 - (cc) code sharing, and
 - (dd) violations of rules concerning denied boarding compensations, ticket refunds, baggage liability requirements, flight delays and charter flights,
- may appeal against that decision to the Appeals Tribunal.”.

Amendment of section 89 of the Act

25. Section 89 of the Act is amended in subsection (2) by —

- (a) deleting the word “private” appearing in subparagraph (ix) of paragraph (a); and
- (b) inserting immediately after subparagraph (xxxviii), of paragraph (a) the following new subparagraphs —

“(xxxix) the establishment and maintenance of the State Safety Program in accordance with Critical Elements of the State Safety Oversight System set out under the Schedule, and

(xxxx) the operation of remotely piloted aircraft;”.

26. The Act is amended by substituting for section 90, the following new section —

Substitution of section 90 of the Act

“Exemption 90. (1) The Minister may on the advice of the Authority and on such terms and conditions as he or she may consider necessary, exempt any person, aircraft, aerodrome, aviation facility or service from the application of any regulations, bye-laws, requirements, directives, notices or information made or issued under this Act, if the exemption is in the public interest and is not likely to affect aviation safety.

(2) Exemptions granted under subsection (1) shall be in writing and shall —

(a) specify the time when the aviation service provider is expected by the Authority to fully comply with the requirements of this Act and the regulations made under this Act; and

(b) specify the period within which the exemption shall cease to be effective:

Provided that the duration of any such exemption shall not exceed six months.

(3) Without limiting the provisions of subsection (1), exemptions shall be issued in accordance with the procedure for applications and approvals as may be prescribed.

(4) Any exemption granted under this section shall be published by notice in the *Gazette*.

(5) Notwithstanding subsection (4), the Authority may, on such terms and conditions as it may consider necessary, and without publication in the *Gazette*, exempt any person, aircraft, aerodrome, aviation facility or service from the application of any regulations, bye-laws, requirements, directives, notices or information made or issued under this Act, if it is impracticable or temporarily inappropriate for operational purposes to comply with a particular requirement, directive, notice or information.”.

27. The Act is amended by inserting immediately after section 91, the following new section —

Insertion of section 91A in the Act

“Use of weapons against aircraft 91A. (1) A person shall not use a weapon against an aircraft in flight and in case of interception of an aircraft in flight, the lives of persons on board and safety of aircraft shall not be endangered.

(2) Without prejudice to the provisions of subsection (1), where an authorised aircraft is flown in Botswana airspace, or if there are reasonable grounds to believe that the aircraft is being used for any purpose inconsistent with the provisions of this Act, or any convention to which Botswana is a party to, the Authority may require the aircraft to —

- (a) land at any airport within Botswana; or
- (b) comply with any instruction given for the purpose of bringing to an end such violation and for this purpose, the Authority may resort to an appropriate means consistent with relevant rules of international law, the provisions of this Act and the regulations made under this Act regarding the interception of the aircraft.

(3) Every aircraft, irrespective of the state of registry, shall comply with an order given pursuant to this section and to the provisions of any regulations made under this Act to effect the provisions of this section.

(4) An aircraft registered in Botswana or operated by an air operator registered in Botswana shall comply with the interception orders from other States.

(5) Any person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P5 000 000, or imprisonment for a term not exceeding 10 years, or to both.”

28. The Act is amended by inserting the following new Schedule —

Insertion of
the Schedule
in the Act

“SCHEDULE

Critical Elements (CEs) of the State Safety Oversight (SSO) System

(sections 8 and 89)

The Authority shall ensure that a State Safety Oversight (SSO) System is established in Botswana to ensure that the functions of the Authority are executed in compliance with the Chicago Convention. The following critical elements shall be the basis for the establishment and implementation of SSO —

- (1) Primary aviation legislation (CE-1)
 - (a) The Authority shall promulgate a comprehensive and effective aviation law, commensurate with the size and complexity of their aviation activity and consistent with the requirements contained in the Chicago Convention, to enable the oversight and management of civil aviation safety and the enforcement of regulations through the relevant authorities or agencies established for that purpose. The Authority shall also ensure that the aviation law remains relevant and appropriate to the State.
 - (b) The aviation law shall provide personnel performing safety oversight functions access to the aircraft, operations, facilities, personnel and associated records, as applicable, of individuals and organisations performing an aviation activity.
- (2) Specific operating regulations (CE-2)
 - (a) The Authority shall promulgate regulations to address, at a minimum, national requirements emanating from the primary aviation legislation, for standardised operational procedures, products, services, equipment and infrastructures in conformity with the Annexes to the Chicago Convention.
 - (b) The term “regulations” is used in a generic sense and includes but is not limited to instructions, rules, edicts, directives, set of laws, requirements, policies and orders.
- (3) State system and functions (CE-2)
 - (a) There shall be established relevant authorities or agencies, as appropriate, supported by sufficient and qualified personnel and provided with adequate financial resources for the management of safety.
 - (b) These State authorities or agencies shall have stated safety functions and objectives to fulfill their safety management responsibility. These includes the participation of the State aviation organisations in specific activities related to the management of safety in State, and the establishment of the roles, responsibilities and relationships of such organisations.
 - (c) The Authority shall take necessary measures, such as remuneration and conditions of service, to ensure that qualified personnel performing safety oversight functions are recruited and retained.
 - (d) The Authority shall ensure that personnel performing safety oversight functions are provided with guidance that addresses ethics, personal conduct and the avoidance of actual or perceived conflicts of interest in the performance of official duties.

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- (e) The Authority shall use a methodology to determine their staffing requirements for personnel performing safety oversight functions, taking into account the size and complexity of the aviation activities in their State.
- (4) Qualified technical personnel (CE-4)
 - (a) The Authority shall establish minimum qualification requirements for the technical personnel performing safety-related functions and provide for appropriate initial and recurrent training to maintain and enhance their competence the desired level.
 - (b) The Authority shall implement a system for the maintenance of training records for technical personnel.
- (5) Technical guidance, tools and provision of safety-critical information (CE-5)
 - (a) The Authority shall provide appropriate facilities, comprehensive and up-to-date technical guidance material and procedures, safety-critical information, tools and equipment, and transportation means, as applicable, to the technical personnel to enable them to perform their safety oversight functions effectively and in accordance with established procedures in a standardised manner.
 - (b) The Authority shall provide technical guidance to the aviation industry on the implementation of relevant regulations.
- (6) Licensing, certification, authorisation and approval obligations (CE-6)
 - (a) The Authority shall implement documented processes and procedures to ensure that individuals and organisations performing an aviation activity meet the established requirements before they are allowed to exercise the privileges of a licence, certificate, authorisation or approval to conduct the relevant aviation activity.
- (7) Surveillance obligations (CE-7)

The Authority shall implement documented surveillance processes by defining and planning inspections, audits and monitoring activities on a continuous basis, to proactively assure that aviation licence, certificate, authorisation and approval holders continue to meet the established requirements. This includes the surveillance of personnel designated by the Authority to perform safety oversight functions on its behalf.
- (8) Resolution of safety issues (CE-8)
 - (a) The Authority shall use a documented process to take appropriate actions, up to and including enforcement measures, to resolve identified safety issues.
 - (b) The Authority shall ensure that identified safety issues are resolved in a timely manner through a system which monitors and records progress, including actions taken by individuals.”.

PASSED by the National Assembly this 29th day of March, 2022.

BARBARA N. DITHAPO,
Clerk of the National Assembly.

Statutory Instrument No. 57 of 2022

CIVIL AVIATION (AMENDMENT) ACT
(Act No. 21 of 2022)

**CIVIL AVIATION (AMENDMENT) ACT (COMMENCEMENT
DATE) ORDER, 2022**
(Published on 6th June, 2022)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Commencement of Act No. 21 of 2022

IN EXERCISE of the powers conferred on the Minister of Transport and Public Works by section 1 of the Civil Aviation (Amendment) Act, 2022, the following Order is hereby made —

1. This Order may be cited as the Civil Aviation (Amendment) Act Citation
(Commencement Date) Order, 2022.
2. The Civil Aviation (Amendment) Act shall come into operation on 6th Commencement
June, 2022. of Act No. 21
of 2022

MADE this 6th day of June, 2022.

ERIC M. MOLALE,
Minister of Transport and Public Works.