COMMENTS ON THE CIVIL AVIATION AMENDMENT BILL

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| **Clause/ Section** | **Organisation** | **Comment** | **Reaction** |
| Clause 2 | BARSA | Insert definition of “aviation industry”. | Not necessary |
| Clause 2(b) (g) & (l), Clause 3(b) and (c), Clause 7(1) and (2), Clause 11(1), 11(1)(c) and (d) | BARSA | Grammatical changes | Effected |
| Section 11(1)(g) | BARSA | Question regarding the correctness of the word “findings | The word is correctly used |
| Section 15 | BARSA | Question regarding the mode of informing the public on the appointed members of ASIB | The names will be posted on the website (DOT and CAA). |
| Section 15(2)(e)(i) | BARSA | Technical competences to be added on the required skills. | Added |
| Section 21 | BARSA | Grammatical | Effected |
| Section 25(1) | BARSA | Whether a member should recuse himself/ herself in case of conflict of interest | Recusal added |
| Sections 29 and 41 | BARSA | Why Is the report not being submitted to the Minister? | The Bill provides for the report to be submitted to the Minister. |
| Sections 41(5)(b), 42, 46(2) and 63(2)(d) and Part 8 Chapter 4 | BARSA | Grammatical | Effected |
| Sections 54(2), 58 and 59 | BARSA | Incorrect cross referencing | Corrected |
| Section 69 | BARSA | Mistakes on the existing s 69 | Included in the Bill |
| Section 73 and other sections | BARSA | Replace environment with environmental protection | Done |
| Sections 85 (9) and 94 | BARSA | Performance Agreement | Restored to the current provision in the Act |
| Sections 99, 118, 119, Chapter 9, Section 140 (3) | BARSA | Missing words and grammatical errors | Rectified |
| Section 142 | BARSA | Incorporation of “explosives, radioactive or nuclear material, weapon of mass destruction” | Relevant sections reformulated to accommodate comments made in the meeting. |
| Section 143, 148, 155 (1)(oo) | BARSA | Grammatical | Effected |
| Section 155(5) | BARSA | All parties including the Minister should be consulted | The proposed amendment requires concurrence with the Minister of Finance as opposed to just consultation |
| Establishment of ASIB | AASA | How the practical difficulties were addressed | The ASIB in the Bill is taking a different form from that in the Act. The practical differences have been taken care of. |
| CEO | AASA | Necessity to clarify that the CEO carries the same authority as the Director-General in other countries? | The duties, functions and responsibilities given to the CEO in the Act address that |
| Section 3(1) | AASA | Deletion of “in consultation” | The meaning of “in consultation” clarified in the meeting and agreed that the Minister did not require concurrence of the CAA for her decisions. |
| Part 1 of Chapter 4 | AASA | Clear understanding of the full mandate of the ASIB and the way it will perform its functions. | Discussed in the meeting. |
| Section 15(e) | AASA | Replace “may” with “must”. | Done |
| Part 2 of Chapter 4 | AASA | Confirm that ASIB is accountable to the Minister | Confirmed |
| Section 25(2) | AASA | Guidelines and conditions for recusal of Members | Guidelines to be provided in the Rules |
| Part 3 | AASA | Powers given to ASIB and investigators – conflict with constitutional rights? | It is absolutely necessary to give these powers, which have to be exercised within that confines of the law and the constitution |
| Section 39 | AASA | Notification of Department and the level of management and detail to be disclosed | These are administrative aspects and can best be dealt with in the Regulations or Rules |
| Section 41(5)(a) | AASA | Written request by whom? Need to clarify by the Minister? | Addition of the words “by the Minister” not necessary as the main issue is providing the information to the Minister. |
| Part 5 | AASA | Appeals – need to clarify the Appeal Committee. | Added the words “established in terms of s 122”. |
| Part 6 | AASA | Correlation with Part 185 | Will determine the need to adjust Part 185 |
| Chapter 4 | AASA | No reference to Management, Supervisors or Employees – ASIB. Funding of ASIB | A provision has been included to the effect that the designated investigators shall report to the ASIB through a designated Executive.  The funding will primarily be from money appropriate by Government. It is not envisaged that there will be additional charges or levies to fund the ASIB. Since the CAA will be paying the salaries of investigators, that will be regarded as part of funding of ASIB throug the money the CAA is already collecting. |
| Section 72 | AASA | Adding environmental protection regulation as part of CAA functions – significant additional resources | The CAA is already doing the function, although not formally delegated to them by legislation. There will not be fundamental changes to the CAA structure and funding requirements because of this. |
| Section 74 | AASA | CAA to consult with users  Amendments to be published in the Gazette at least 4 months prior to the effective date | Replaced subsection (3) to mandating the CAA to consult with stakeholders.  Publication period will be in the regulations. |
| Section 76 | AASA | Replacing corporate governance pose many challenges. | Corporate governance restored |
| Section 94 | AASA | Performance Agreement | Restored to the current provision in the Act |
| Section 103 | AASA | Deletion of paragraphs (m)(n) and (o) need to clarify whose responsibility it is | Powers already conferred to the SACAA by section 73These are covered in the NASP |
| Section 104 | AASA | A designated Chair should be an appointee of DOT and should possess necessary expertise.  Propose an inclusion of representative from Airline industry | Included in the amendment.  The Director-General can designate a any person from time to time. The proposal to include AASA can be accommodated within this provision |
| Sections 111 and 112 | AASA | Adjustments have been made in the Bill to further provide for administrative fines | Regulations will be adjusted accordingly |
| Section 114 | AASA | Not satisfied with the reasons for repealing the section | Compliance notices have been found not to add value in the regulation process. Repealing the section will not take away the responsibilities of inspectors. |
| Section 118 | AASA | Any possible curtailment of right to appeal? | Verified that there is no curtailment of any right to appeal. |
| Section 144 | AASA | What happens when the fine is subject to appeal? | When the fine is subject to appeal means that the money is not due to the CAA |
| Sections 145, 146, 147 | AASA | Exposure of authorized persons to risks | Risk assessment has been done. Every authorized person is well aware of the risks associated with the authorization and there are processes to minimize the risk |
| Section 155(5) | AASA | Need to be confirmed if the Minister of Transport will still need to approve fees | Section 155 gives the Minister of Transport to make regulations regarding all the issues outlines in subsection (1) including fees, charges, levies, etc |
| Deletion of sections 156 to 162 | AASA | Need to provide for the establishment of Committees | The need for establishment of committees is covered in the bill. The procedures for the establishment will be covered in the regulations. |
| Schedule 1 | AASA | Amendment of International Air Services Act and the Air Services Licensing Act | The current Bill will be approved whilst the process is still on-going for the amendment of the two Acts. It is therefore necessary to rectify the mistakes contained in the schedule without getting to the essence of the need to amend the two Acts. |
| Act 4 of 2007 | AASA | Take into account the need to amend the Cape Town Convention Act | That is a separate process being undertaken by the Department. |
| Publication time | Aeroclub | Concerned with the extremely short time allowed for comments. | Not agreeing that the time is extremely short. The industry was provided with the Bill before it was even sent for publication. The Bill was published for standard time allowed |
| CARCOM | Aeroclub | Not understanding the need for change. | Discussed in a meeting with the industry. The operational procedures for CARCOM would be best placed in the regulations. The Bill provides for the establishment of CARCOM. |
| CAA Board | Aeroclub | The need for the changes in the functioning of the Board not clear | Explained |
| Time for comments | CAASA | Limited amount of time provided for comments | The industry was provided with the Bill before it was even sent for publication. The Bill was published for standard time allowed |
| CARCOM | CAASA | Concerned with the deletion of sections dealing with CARCOM | Discussed in a meeting with the industry. The operational procedures for CARCOM would be best placed in the regulations. The Bill provides for the establishment of CARCOM. |
| Section 73 | CAASA | Addition of the words “approving” – concerned that this will give SACAA authority to approve regulations and technical standards. | Discussed in the meeting with the industry. The word “approving” is with regard to technical standards, which are even currently approved by the DCA. The regulations will continue to be approved by the Minister. However, both regulations and technical standards shall still go through the CARCOM process. |
| Section 76 | CAASA | Concerned with extending the scope of functions of the CAA Board. This would increase the costs of running the Board and there is high possibility of conflict of interests. | The corporate governance will be maintained. |
| Clause 44 | CAASA | Erroneous provisions regarding “explosives and radioactive material”. | The Bill has been reformulated to cater for the suggestions and comments made in the consultative meeting. |
| Replacing “Director” with “Chief Executive Officer | CAASA | Concerned with the financial burden this may bring to the industry, since all the pages in the Regulations referring to the Director have to be changed. Proposes a gradual amendment | It is not practical to effect gradual changes regarding the title of the Accounting Person. |
| Section 2(5) | CAASA | It should be more precise as to which aircraft this may refer to and should be conducted in consultation with the industry. | Generally, this Act does not apply to State aircraft. What subsection (5) is bringing is the possibility of the Act applying to certain State aircraft. However, this should be agreed with the Ministers responsible for the state institutions that own the said aircraft. It is snot clear why the industry would like to be involved in making that decision. |
| Section 85 | CAASA | Want the names of applicants for CEO position published in the Gazette and the CV ‘s of potential candidates be made available to the industry | This is an executive decision that has to be made by the Department. |
| Section 33 | CAASA | Not understand the meaning of the words “in service”. | The definition has been included |
| Section 155 | RAASA | Add the words “inter alia”, so as not to limit the options. | It is felt that the identified areas are broad enough to accommodate reasonably the envisaged aspects. |