



COMMERCIAL AVIATION ASSOCIATION OF SOUTHERN AFRICA NPC

CAASA House, Gate 9, Lanseria International Airport, 1748
P.O. Box 658, Lanseria, 1748
Tel: +27 63 717 3460
Email: Sam@caasa.co.za
Web: www.caasa.co.za
VAT No: 4410107173
Reg No: 1979/002788/08

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The Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure
P.O. Box 15
Cape Town
8000

Dear Mr Hlupheka Mtileni

RE: Civil Aviation Bill Amendment

The Commercial Aviation Association of Southern Africa (CAASA) is grateful for the opportunity of addressing you. We submitted written comments on 30th November 2020 followed up with a verbal presentation to the portfolio committee on 16 February 2021. This written presentation covers our written and verbal address with certain additions.

This association was formed in 1944 and represents the majority of general aviation practitioners in South Africa comprising charter companies, non ACSA airport, maintenance companies and aviation training schools including RPAS operators.

CAASA is a longstanding and valued member of the Civil Aviation Regulations Committee (CARCom) and there for present this statement.

- 1 The Civil Aviation Regulations Committee is an important independent and free standing aid to the minister of transport. Its members represent the full range of aviation activities - this is prescribed in the current act. Its twenty two members include five South African Civil Aviation Authority (SACAA) employees and one from the Department of Transport. Other representatives of state enterprises also, by statute, serve on the Civil Aviation Regulations Committee.

The Commercial Aviation Association of Southern Africa has been a member of CARCom for thirty years.

Many hours are spent at the Civil Aviation Regulations Committee meeting debating Regulations and Technical Standards placed before this body. Meetings take place, on average, every three months (the act calls for twelve meetings per year).

Should the Civil Aviation Regulations Committee lose its present independent status, the temptation of allowing other bodies to override the existing functions of the Civil Aviation Regulations Committee (CARCom) will exist. Its very independence and make up is its strength.

Affiliated Associations: AAA-SA, AATOSA, AMOSA, ASAAT, ANSO, HASA, CUAASA and AADO

Directors: M.D. Clark (President), C. Blanchard, R.F. Botha, M. Buttle, J.A. Earle, T. Eloff, B.L. Frankel, N. Forrester, R.C.H. Garbett, F. Jordaan, G. Kiggen, S. Ledlie, L. Loosen, M. Mansfield, M.D. Moritz, J. Morrison, Z. Mkhize; S.F. Murphy, A. Phillips, D. Polley, S.M. Ramosa, R. Rammopo, J. Reeves, G.D. Sayce, M. Skenjana, S. Reitz, G. van Zyl, C.M. Visser

2 It is absolutely essential that the full cooperation and involvement of the general aviation and airline industry make itself available to the South African Civil Aviation Authority generally but, particularly in the regulation development process.

- The minister is assured, if there is a CARCom, of a sure level of independent wide ranging expertise covering a wide range of aviation having been incorporated into the regulations.
- The private enterprise members of the Civil Aviation Regulations Committee provide their time totally free of charge and do so due to the vital role that the Civil Aviation Regulations Committee plays in regulation development.
- The Civil Aviation Regulations Committee has achieved a healthy spirit of cooperation and goodwill with the South African Civil Aviation Authority and the Department of Transport. Only three times in the last fifteen years, as far as I can recall, has a matter been put to the vote.
- There is overwhelming and wide support of the Civil Aviation Regulations Committee in its present form from the aviation industry.
- We note that the role of the Civil Aviation Regulations Committee (CARCom) is proposed to be covered in the regulations rather than the act (refer amendment of section 155). These regulations, if this is done, may then more easily be able to be changed by the South African Civil Aviation Authority (SACAA), / or the Department of Transport, without reference to the aviation industry which will alter the reliability and independence of the present tested and tried system. The words “consultative structure” are used in the section 155 amendment without elaboration. The amendment explanatory notes to section 155 of the current act uses the words “... power to make regulations” and then mentions the Civil Aviation Regulations Committee but nowhere is the extent or nature of the power mentioned.
- Certain members of the committee, such as Air Traffic and Navigation Services (ATNS), Airports Company of South Africa, (ACSA), South African Police Service (SAPS), and South African National Defence Force (SANDF) are obliged to be members because of the provisions in the current act. They form an essential part of the Civil Aviation Regulations Committee. If this was not in the act, the legal requirement embodied in the act that forces attendance by these bodies will no longer apply.
- Do not allow the perception to arise, by removing the demand for CARCom in the act, that the South African Civil Aviation Authority (SACAA) or the Department of Transport wish to ring fence their authority. This would not be a healthy perception.
- The full cooperation and enthusiasm of private enterprise is vital to regulation development – this will be curtailed if the status of CARCom is changed as is proposed.

Striking sections 156, 157, 158, 159, 160, 161, 162 and amendment of 163 will undermine this very independence. These sections were carefully constructed to protect the integrity of regulation development and to prevent abuse of this process. Sans section 162 will allow the SACAA to introduce emergency safety and security regulations without the present subsequent consultation with the aviation industry represented by CARCom which provides essential checks and balances.

3 The amendment of section 73 (h) does not define the words “as prescribed”. We find it strange that the Civil Aviation Regulation Committee (CARCom) is not mentioned at all, either here or in the explanatory notes referring to clause 12 of the new bill, this is supposed to be a consultative process with industry.

- 4 The same principal, as mentioned in the last point, applies to section 163. Again, neither in the amendment nor in the explanatory notes referring to clause 62 of the new bill is CARCom mentioned, it simply says consult with the aviation industry.
- 5 The amendment of section 74 (c), it seems, allows the South African Civil Aviation Authority (SACAA) to obtain fees from sources other than directly from civil aviation. This is unreasonable and unacceptable to us. The addition of the words "shall endeavour to consult with relevant stakeholders" to determine charges and fees is most disturbing. The removal of the words "civil aviation" under (b) is simply not accurate.
- 6 The amendment of section 72 (g) allows the SACAA to exercise powers given to it under any law. This is impractical and almost draconian. Does this pass constitutional muster.
- 7 Section 99 needs to be checked against the constitution.
- 8 CAASA seems to be omitted in the list of consultative bodies/associations whom the Regulator and the DOT should be in regular consultation as CAASA represents the majority of non-Airline operators and organisations including the vast majority of independent aerodromes that form the back bone of aviation in the South African economy

Please allow the Civil Aviation Regulations Committee (CARCom) to continue in its present form (or an amended form with its present status i.e., a body with a strong component of independent members advising the Minister), this functioned well, has enjoyed the co-operation and support of all the branches of aviation and is a model of a government private partnership.

We have also attached direct comment in the accompanying PDF act document for further attention.

Kind Regards

Kev Storie
COO

A handwritten signature in black ink, appearing to read 'Kev Storie', enclosed within a hand-drawn oval shape.

(CAASA)