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**REPORT OF THE COMMITTEE ON ROADS
AND TRANSPORT**

ON

**THE GHANA CIVIL AVIATION (AMENDMENT)
BILL, 2019**

PARLIAMENT OF GHANA
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REPORT OF THE COMMITTEE ON ROADS AND TRANSPORT ON THE GHANA CIVIL AVIATION (AMENDMENT) BILL, 2019

1.0 INTRODUCTION

1.1 The Ghana Civil Aviation (Amendment) Bill, 2019 was presented to Parliament and read the First Time on Thursday, 28th February, 2019. In accordance with Article 106 (4) and (5) of the Constitution and Order 189 of the Standing Orders of the House, the Rt. Hon. Speaker referred the Bill to the Committee on Roads and Transport for consideration and report.

1.2 During the consideration of the Bill, the Committee was assisted by the Minister for Aviation, Hon. Joseph Kofi Adda, Deputy Minister for Aviation, Hon Kwabena Okyere Darko-Mensah, the Director General of Ghana Civil Aviation Authority (GCAA), Acting Chief Director and officials from the Ministry of Aviation, GCAA and the Office of the Attorney-General and Ministry of Justice who provided extensive information on aspects of the Bill under reference.

1.3 The Committee acknowledged the invaluable contributions of the officials who attended upon it, in particular, the Minister and Deputy Minister for Aviation, the Director General and Director of the Legal Department of the GCAA.

2.0 REFERENCE DOCUMENTS

2.1 In the course of the Committee's work, references were made to the following documents:

- i. The 1992 Constitution of Ghana,
- ii. The Standing Orders of Parliament of Ghana,
- iii. The Ghana Civil Aviation Act, 2004 (Act 678)
- iv. The Ghana Civil Aviation (Amendment) Act, 2016 (Act 906)
- v. The Airport Tax Act, 1963 (Act 209)
- vi. The Montreal Protocol 2014

3.0 BACKGROUND INFORMATION

3.1 The Ghana Civil Aviation Act, 2004 (Act 678) was passed in 2004 and after twelve years of the implementation of Act 678, international aviation standards were revised which resulted in the need for amendments to certain provisions in the Act. To this end, the Ghana Civil Aviation (Amendment) Act, 2016 (ACT 906) was passed by Parliament in 2016.

3.2 Following the outcome of an international Civil Aviation Organisation (ICAO) Universal Safety Oversight Audit Programme (USOAP) in 2006, deficiencies were raised in the provisions of both Act 678 and the Civil Aviation Regulations, requiring amendments to both Legislations. Subsequent to the USOAP, the GCAA submitted a Corrective Action Plan (CAP) to ICAO which has been revised continuously through ICAO's Online Platform. Ghana is to be subjected to an ICAO coordinated Validity Mission (ICVM) in March 2019.

3.3 In accordance with the International Civil Aviation Organisation's (ICAO) objective of assisting states attain high level of safety and security oversight in civil aviation, its Regional Office Safety Team (ROST) undertook two visits to the Ghana Civil Aviation Authority to assist the Authority in its preparation for the ICAO Coordinated Validation Mission (ICVM) scheduled originally for November 2018.

3.4 Owing to the various deficiencies raised in the GCAA Act, 2004 (ACT 678) and Amendment Act, 2016 (Act 906) during the recent visit by the ICAO ROST, the Authority has been required to revise provisions of the Acts to ensure adherence to international aviation requirements before ICAO conducts its validation mission by mid-March 2019.

4.0 OBJECTIVE OF THE BILL

4.1 The objective of the Bill is to amend the Ghana Civil Aviation Act, 2004 (Act 678) and the Airport Tax Act, 1963 (Act 209) and to make further provisions in respect of civil aviation matters, aviation accident investigation and for ancillary purposes.

5.0 HIGHLIGHTS OF THE GHANA CIVIL AVIATION (AMENDMENT) BILL, 2019

- 5.1 Clause 1** of the Bill amends section 3 (1) of Act 678 by the expansion and rearrangement of the functions of the Ghana Civil Aviation Authority (the “Authority”) in order to clearly indicate all aspects of the regulatory functions of the Authority in line with requirements of the ICAO. It also provides for the deletion of the provision of air navigation services as a function of the Authority to allow for a clear delineation of responsibilities of the Authority as a regulatory body and the air navigation service provider to ensure that the Authority as the regulator does not regulate itself.
- 5.2 Clause 2** of the Bill amends section 9 of the Act. It mandates the Director-General to be responsible for the establishment and implementation of the State Safety Programme. It also provides for the delegation of power to Aviation Safety Inspectors and Aviation Security Inspectors in accordance with requirements of the International Civil Aviation Organisation. The amendments further incorporates the requirement for unlimited, uninterrupted and unrestricted access to civil aviation facilities for the performance of the safety oversight functions of the Authority.
- 5.3 Clause 3** of the Bill amends section 13 of the Act. It provides that seven and half percent of the airport passenger service charge collected by the Ghana Airport Company Limited shall form part of the funds of the Authority.
- 5.4 Clause 4** of the Bill amends section 21 of the Act by the insertion of additional paragraphs in relation to the power of the Director-General, through the Aviation Safety Inspectors, to prevent aircraft from flying for safety reasons when justified either directly or by an establish process, and to prohibit persons from exercising privileges of their licences certificates or other aviation documents for just cause, either directly or through an established process.

- 5.5 **Clause 5** of the Bill amends section 25 of the Act by clearly providing that the Minister responsible for Aviation shall be responsible for the investigation of aircraft accidents and serious incidents arising out of or in the course of air navigation that occur in or over the republic, and additional provisions relating to the function of the accident investigation.
- 5.6 **Clause 6** of the Bill amends section 28 of the Act by incorporating provisions of the Protocol to amend the Convention on Offences and Certain other Acts Committed on Board Aircraft (Montreal Protocol 20140).
- 5.7 **Clause 7** of the Bill amends section 40A of the Act by substituting Regulations, Rules and Orders with Instructions and Circulars.
- 5.8 **Clause 8** of the Bill amends section 40D by limiting the matters in respect of which the Authority can compel witnesses to testify or produce books and documents.
- 5.9 **Clause 9** of the Bill amends the Act by the introduction of sections 40F, 40G and 40H. These provisions are on the right of access for inspections by the Director-General, the power of the Director-General to prevent a flight and the power by the Authority to request information from any person or institution in the performance of the regulatory functions of the Authority.
- 5.10 **Clause 10** of the Bill amends section 42 of the Act by substituting for the definitions of “accident”, “serious incident” and “aerodrome” updated definitions of “accident”, “serious incident” and “aerodrome” in accordance with the updated ICAO Annexes.
- 5.11 **Clause 11** of the Bill amends section 43 of the Act to ensure that any directives issued under Act 678 prior to the enactment of this Bill is deemed to the Instructions issued after the amendment of the Act.

5.12 **Clause 12** of the Bill amends section 44 of the Act which deals with transitional provisions by giving the Authority the mandate to provide air navigation services until an entity is set up separate from the Authority to provide air navigation functions leaving the Authority to focus on its regulatory functions.

5.13 **Clause 13** of the Bill inserts the Protocol that amends the Convention on Offences and Certain Other Acts Committed On-Board Aircraft.

6.0 OBSERVATIONS

6.1 CERTIFICATE OF URGENCY

The Committee in examining the Bill noted that the Bill has to be passed under a Certificate of Urgency. This will enable the Aviation Sector meet the deadline of an impending Audit of the sector by ICAO by mid-March 2019.

6.2 The Committee noted that the GCAA, as currently constituted, is to be decoupled, by the separation of the provision of Air Navigation service functions from the Safety Regulatory and Security Oversight function, with the creation of a new entity for the provision of air navigation services as part of Government Policy. To this end, the current functions of the Authority have been revised by the deletion of the provision on air Navigation Services and the introduction of a Transitional provision by which the Authority will continue with the provision of air navigation services, until the new entity is formed.

6.3 The Committee was informed that Ghana needs to enact the Amendment Bill to meet the deadline for the ICAO Review to enable Ghana climb up the list of African States with a high score of Effective Implementation of ICAO Standards and Recommended Practices (SARPS).

6.4 The Committee further noted that a successful ICVM would boost Ghana's quest to attain the United States of America Federal Aviation Administration

(FAA) Category 1 status that would permit Ghanaian registered aircrafts to fly into the United States of America.

6.5 The Committee noted that the proposed amendments are to provide for a primary aviation legislation that will be in harmony with the form ICAO has recommended to Member States which are consistent with the environment and responsive to the complexity of the aviation industry.

6.6 The Committee noted that the Schedule of the Bill has been incorporated with the Montreal Protocol 2014 which was ratified by Parliament in 2015 but was erroneously not included in the Ghana Civil Aviation (Amendment) Act 2016 (Act 906).

7.0 RECOMMENDATION AND CONCLUSION

7.1 The Ghana Civil Aviation Legislation needs to be amended to correct deficiencies identified by ICAO to ensure it is in compliance with international aviation standards. The passage of the Bill is expected among others, to boost Ghana's quest to attain the United States of America FAA Category 1 that would permit Ghanaian registered aircrafts to fly into the United States.

7.2 The Committee unanimously recommends to the House to approve its Report and pass the Ghana Civil Aviation (Amendment) Bill, 2019 subject to the attached Amendments in accordance with the requirements of ICAO for Member States as incorporated in the ICAO SARPs for the complexity of the aviation industry.

Respectfully submitted.


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HON. SAMUEL AYEH-PAYE
CHAIRMAN, COMMITTEE ON ROADS AND
TRANSPORT


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MR. ASANTE AMOAKO-ATTA
CLERK, COMMITTEE ON ROADS
AND TRANSPORT

APPENDIX A
COMMITTEE ON ROADS AND TRANSPORT
PROPOSED AMENDMENTS TO THE GHANA CIVIL AVIATION (AMENDMENT)
BILL, 2019

1. Clause 1 - Section 3 of Act 678 amended

- (a) (i) In paragraph (c), line 1, insert "for the" before "regulation".
- (ii) In paragraph (c) subsection (iii) insert "and" after "services"
- (iii) In paragraph (c) insert a new subsection "(iv)" as follows:
 - (iv) Aeronautical communications

- (b) In paragraph (e), renumber as follows:
 - (i) the second "(iv)" as "(v)";
 - (ii) "(vii)" as "(viii)"; and
 - (iii) "(viii)" as "(ix)".

2. Clause 2 - Section 9 of Act 678

In subsection (10),

- (a) insert "and" after "services" in paragraph (d);

- (b) delete "and" after "sites" in paragraph (e);

- (b) delete paragraph (f) and insert
"in the performance of their duties".

3. Clause 3 - Section 13 of Act 678 amended

In paragraph (f) line 2, delete "Regulations" and insert "Directives".

4. Clause 4 - Section 21 of Act 678 amended

- (a) Interchange paragraphs (a) and (b).

(b) In paragraph (d), subsection (4), paragraph (b), line 1, insert "and Aviation Security Inspectors" after "inspectors" and in line 2, insert "and security" after "safety".

(c) In paragraph (d), subsection (4), paragraph (d), line 3, insert "and security" after "safety".

5. Clause 5 - Section 25 of Act 678 amended

(a) In subsection (1) of section 25, line 3, insert "and the Accra Flight Information Region" after "Republic".

(b) In subsection (3) of section 25, line 4, delete all words after "Republic" and insert "and the Accra Flight Information Region" after "Republic".

6. Clause 9 - Sections 40F, 40G and 40H of Act 678 inserted

(a) In subsection (4) of section 40F, paragraph (c), delete "aircrafts" and insert "aircraft".

(b) In subsection (5) of section 40F, paragraph (a), delete "airport" and insert "aerodrome".

(c) In subsection (1) of section 40G, paragraph (a), line 1, insert "to" after "not".

7. Clause 10 - Section 42 of Act 678 amended

(a) In paragraph (c) of clause 10, insert the following before the definition of "National Civil Aviation Security Programme":

"Ministry" means the Ministry responsible for Aviation".

(b) In paragraph (d) of clause 10, in line 8 of the definition of "serious incident", delete "disembark" and insert "disembarked".

8. Clause 13 - First Schedule to Act 678 inserted

In the head note, delete "inserted" and insert "amended".