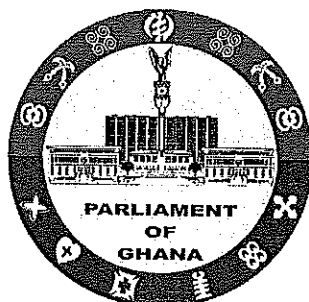


**IN THE THIRD SESSION OF THE SIXTH
PARLIAMENT OF THE FOURTH
REPUBLIC OF GHANA**



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

AND

**CONSTITUTIONAL, LEGAL AND
PARLIAMENTARY AFFAIRS**

**ON THE
GHANA CIVIL AVIATION (AMENDMENT)
BILL, 2015**

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1.0 INTRODUCTION

1.1 The **Ghana Civil Aviation (Amendment) Bill, 2015** was presented to Parliament and read the first time on **Wednesday, 22nd July, 2015**. In accordance with Article 106(4) and (5) of the Constitution and Order 179 and 189 of the Standing Orders of the House, Mr. Speaker referred the Bill to the Joint Committee on Roads and Transport & Constitutional, Legal and Parliamentary Affairs for consideration and report.

1.2 The Joint Committee during the consideration of the Bill, was assisted by the Chief Director for the Ministry of Transport, Mr. T.A. Selby and the Director of Legal Services of the Ghana Civil Aviation Authority, Mrs. Joyce A. Thompson. Also in attendance were Officials from the Ministry of Justice and Attorney-General's Department and other Officials from the Ministry of Transport and the Civil Aviation Authority.

2.0 REFERENCE

2.1 The Committee referred to the following documents during its deliberations.

- i. The 1992 Constitution
- ii. The Standing Orders of Parliament

- iii. The Ghana Civil Aviation Authority Law, 1986 (PNDC Law 151)
- iv. The Ghana Civil Aviation Act, 2004 (Act 678)

3.0 BACKGROUND

3.1 The Civil Aviation Authority (CAA) is currently the national aviation authority and the regulatory agency for air transportation in the Country. It was established in 1930 as a Unit within the Public Works Department (PWD) and granted a Departmental status in 1953. It became an Authority in May 1986 under PNDC Law 151.

3.2 The Ghana Civil Aviation Act, 2004 (Act 678) which repealed the PNDC Law 151 was enacted to amend and consolidate the Law relating to civil aviation. The functions of CAA under the Act included the following:

- i. Licensing and certification of air transport operators
- ii. Licensing and certification of aerodromes and the construction, operation, maintenance and management of navigation sites.
- iii. Provision of air navigation services within the Accra Flight Information Region (FIR).
- iv. Regulation of air transport services.

- v. Promoting the development of civil air transport industry in Ghana.
- vi. Advising Government on all matters concerning civil aviation, among other functions.
- vii. Provision of oversight for all activities related to civil aviation.

3.3 Current developments in the aviation industry the world over have necessitated a change in the existing Law. Again, the International Civil Aviation Organisation (ICAO) and the United States Federation Aviation Administration (USFAA) in their security and safety audits, conducted on Ghana indicated some legal lacunae in the legal regime of the aviation industry in Ghana.

3.4 ICAO sets standards and recommends practices which civil aviation authorities worldwide would have to adhere to. Ghana being a Member of ICAO, would have to necessarily comply with the safety standards.

3.5 In the last Security and Safety Audit conducted on Ghana, ICAO and USFAA identified certain deficiencies in the operations of the CAA arising from the inadequacy of Act 678 to address current issues in the aviation industry. The

deficiencies had to do with matters of administration, functions of CAA, funding of the Authority, Regulatory Directives by CAA, power to make Accident Investigation Regulations (AIR) and compliance with International Conventions among others.

3.6 For instance, the nature of operations of CAA has changed since 2005 as a result of the re-structuring that was done but this has not been incorporated in Act 678. The new Ghana Civil Aviation Authority since the re-structuring, focuses on core functions of airspace management and safety regulations whilst the Ghana Airports Company Limited (GACL) now handles airport development and operations. Consequently, all the provisions relating to the operations and management of Airports in the Country must be expunged from the Act.

3.7 It has become necessary to amend Act 678 to re-define the functions of CAA, domesticate the provisions contained in the various International Conventions relating to aviation and also provide for new safety management system requirements and other modern trends in the aviation industry the world over.

4.0 OBJECT OF THE BILL

- 4.1 The object of the Bill is to amend the Ghana Civil Aviation Act, 2004 (Act 678) to incorporate the changes that have taken place as regards the operations of CAA due to the restructuring. It also seeks to address the deficiencies identified by ICAO and USFAA in their Audits.
- 4.2 The Bill further seeks to update Act 678 to fall in line with modern trends and also to ensure that International Conventions relating to the aviation industry are incorporated in the existing Law, for compliance.

5.0 OBSERVATIONS

- 5.1 The Committee observed that, with the passage of the Bill, the functions of the Authority would be expanded in the areas of regulation of air navigation services, regulation of aviation security, regulation of airports and aerodromes. For example, Clause 3 of the Bill amends Section 9 of the existing Act by giving the Director-General the mandate to enforce the Conventions, Protocols, Standards and Recommended Practices of ICAO as well as CAA's technical instructions for the transport of dangerous goods by air. However, any Order, Instruction or Directive made by the Director-General must

be published in the Gazette and on the website of the Authority for the information of interested parties.

5.2 The Committee again observed that Section 21 of the existing Act makes provision for the Director-General to consult with the Minister responsible for Transport to make regulations for certain technical details noted under the Provision. The nature of the activities of the aviation industry is so dynamic that these regulations would have to be reviewed from time to time at short intervals. Since the procedure for the issuance or review of Legislative Instruments (L.Is) may be long and cumbersome, a provision has been introduced in Clause 5 of the Bill to amend Section 21 of Act 678 to address the difficulty. The amendment introduced would give the Director-General the power to make "Regulatory Directives" for the effective performance of his functions.

5.3 The Committee was informed that CAA no longer provides air navigation services to Togo and Benin because the two (2) Countries have decided to manage their own navigation control to save the money they would have otherwise paid to CAA. The implication of this decision is that, CAA will no longer get those monies it used to receive to enhance its operations. CAA will therefore find it difficult to operate if other means are

not found to sustain the Authority. The Bill therefore provides for a safety charge on all air tickets and freights to make resources available to CAA to partially address the shortfall.

5.4 The Committee noted with serious concern, the issue of encroachment on lands within the operational area of the CAA. The phenomenon adversely affects the operations of the Authority. The Committee was of the strong view that the CAA should as a matter of urgency take the necessary steps to secure lands within its operational area to curb the phenomenon. Clause 23 of the Bill however seeks to address the phenomenon of encroachment by giving the CAA the power to demolish any structure built close to communication, navigation and surveillance aviation equipment that impedes the operations of the Authority. The Clause also prohibits persons from building within a 1000meter radius from any aviation installation in the Country.

6.0 CONCLUSION

6.1 The Civil Aviation Authority being a Member of ICAO and other international bodies is bound to comply with decisions made by those bodies regarding safety standards and practices in the aviation industry. Hence the need to bring the legal regime in line with current international best practices. The

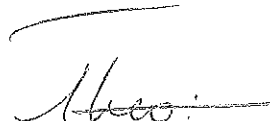
passage of the Bill is expected to enhance the operations of the Civil Aviation Authority for effective performance.

6.2 The Joint Committee therefore recommends to the House to adopt its Report and pass the Bill subject to the attached Amendments.

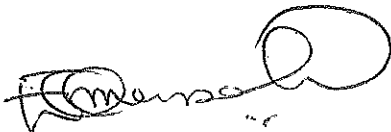
Respectfully submitted.



MATTHEW A. TAWIAH
Clerk, Committee on
Roads and Transport



HON. THEOPHILUS TETTEH CHAIE
Chairman, Committee on
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ERIC OWUSU-MENSAH
Clerk, Committee on
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HON. MAGNUS K. AMOATEY
Chairman, Committee on
Constitutional, Legal and
Parliamentary Affairs

JULY, 2015

APPENDIX

AMENDMENTS PROPOSED TO THE GHANA CIVIL AVIATION (AMENDMENT) BILL, 2015

- i. **Clause 2** – Amendment proposed – Sub-clause (1), paragraph (a), sub-paragraph (v), line (1), after developing *insert* “guidelines and”
- ii. **Clause 2** – Amendment proposed – Sub-clause (1), paragraph (d), sub-paragraph (iv), line (1), *delete* “regulations” *insert* “regulatory directives”
- iii. **Clause 2** – Amendment proposed – Sub-clause (1), paragraph (d), sub-paragraph (v), line (1), *delete* “regulations” and *insert* “regulatory directives”
- iv. **Clause 17** – Amendment proposed – paragraph (a), add a new sub-paragraph (j) as follows;
“(j) a person who unlawfully obstructs, interferes with, damages, destroys, steals or causes damage to a communication, navigation, surveillance system, instrument, cables or part of such systems or instruments belonging to the Authority, commits an offence.”
- v. **Clause 21** – Amendment proposed – line (2) *delete* “40E” and *insert* “40C”
- vi. **Clause 22** – Amendment proposed – Sub-clause (1), paragraph (b), *delete* and *substitute* the following;

“(b) a person to produce books, papers or documents required by the investigations Committee or for the purpose of investigating of accidents.”

- vii. **Clause 23** – Amendment proposed – sub-clause (1), delete and insert the following;
“**unauthorised structures**
40E (1) The Authority shall have the power to cause the demolition at cost to the owner of any mast built close to any communication, navigation or surveillance equipment or that impedes the safety of air navigation.”
- viii. **Clause 23** – Amendment proposed – sub-clause (2), line 2, delete “aorizantal” and insert “horizontal”.
- ix. **Clause 23** – Amendment proposed – sub-clause (2), line 3, delete “cear” and insert “clear”.
- x. **Clause 23** – Amendment proposed – add a new sub-clause (4) as follows;
“(4) A person who contravenes sub-sections (2) and (3) commits an offence and is liable to a fine of not less than five thousand penalty units and in addition the structure shall be demolished at the cost of the offender.”