

REPORT OF THE SUBSIDIARY LEGISLATION COMMITTEE ON THE CIVIL

AVIATION REGULATIONS, 2005, L.I. 1818



1.0 INTRODUCTION

In accordance with Article 11(7) of the 1992 Constitution, the Civil Aviation Regulations, 2005, L.I. 1818 was laid before Parliament on Tuesday 8th February 2006. The Speaker subsequently referred the Instrument to the Subsidiary Legislation Committee for consideration and report pursuant to Standing Order 166 of the House.

2.0 REFERENCE DOCUMENTS

The Committee in considering the Instrument availed itself of the:

- a) 1992 Constitution of the Republic of Ghana,
- b) Ghana Civil Aviation Act 2004, Act 678,
- c) Civil Aviation Regulations 1996, L.I. 1617; and
- d) Standing Orders of Parliament

and reports as follows:

3.0 BACKGROUND

Under section 21(1) and (4) of the Civil Aviation Act 2004, Act 678, the Director-General of the Authority is empowered to make in consultation with the Minister responsible for aviation, regulations to provide inter alia for:

- the adoption of operation directives, rules and regulations of the International Civil Aviation Organisation;
- the requirement that commercial air transport operations be conducted in accordance with regulations issued there under, in the interest of safety and in

accordance with the relevant international agreement ratified by Parliament under article 75 of the Constitution.

Article 75 of the Constitution authorises the President to execute or cause to be executed treaties, international agreements and conventions in the name of the Republic, and further provides for the incorporation of such international agreements to which Ghana is a party in the laws of the State, either through an Act of Parliament or by resolution of Parliament.

The Schedule to the L.I. 1818 was made pursuant to the Convention on International Civil Aviation adopted in Chicago on 7th December 1944, with Ghana as a contracting state party. Under articles 37 and 38 of the Chicago Convention, Ghana, being a Member of the International Aviation Organisation agreed to conform to standards and recommended practices presented by the International Civil Aviation Organisation (ICAO) in a series of ICAO Annexes. Article 12 of the Convention also enjoins Ghana to adopt measures to ensure safety through conformity with international standards in its safety oversight obligations.

Ghana is therefore required under article 75 of the Constitution to incorporate the safety standards and recommended practices of the International Civil Aviation Organisation in Regulations issued pursuant to the Civil Aviation Act 2004, Act 678 to govern the operations of the aviation industry in the country.

4.0 DELIBERATIONS

The Committee in accordance with its established practice for considering all referrals met with Officials of the Ghana Civil Aviation Authority led by the Deputy Director-General, Mr Simon Allotey to examine the Schedule to the Regulations. The Committee is grateful to the officials of the Authority for their attendance and valuable input in its deliberations on the regulations.

5.0 OBJECT OF THE INSTRUMENT

The L.I. 1818 seeks to provide for the adoption of international safety standards and recommended practices contained in the schedule as regulatory requirements for the effective and efficient operation of Ghana's aviation industry both locally and internationally.

6.0 OBSERVATIONS

The Committee observed that the adoption of the schedule to the Regulations has become necessary in view of complex situations confronting the aviation industry in modern times, which undoubtedly require consistent application of universally acceptable standards and recommended practices to ensure safety of lives and property in navigation.

The Committee further observed that the Schedule to the Regulations, which spells out in detail the safety requirements; standard and recommended practices to be adopted are presented in fourteen parts as stated below.

Part 1

This part deals with the general policies, procedures and definitions and also sets forth the basic rules of construction and application of the regulations as well as rules governing the administration of licenses and certification. The implementation standards in the regulations also allow the Authority flexibility to incorporate new practices or procedures as they become available without following rigorously the procedures required for promulgation of legally binding regulations.

Part 2

Part two of the schedule to the Instrument provides for the licensing of personnel. Article 32 of the Chicago Convention enjoins Ghana to issue certificates of competency including medical standard of certification and licenses or validate same issued by other contracting states to pilots and other members of the operating crew engaged in international navigation. The basis of this obligation the Committee observed is to ensure the promotion and conduct of safe and regular aircraft operations through the development and implementation of internationally acceptable certification and licensing processes.

The Committee took note of the fact that this part of the schedule also seeks to review upward the retiring age of pilots from sixty (60) to sixty-five (65) years to enable the aviation industry engage the experience and expertise of pilots who even though may be above sixty years have otherwise been declared medically fit to fly. This requirement is consistent with the provisions of clause 4 of article 199 of the Constitution as amended which provides that:

“Notwithstanding clause 1 of this article a public officer who has retired from the public service after attaining the age of sixty years may, where the exigencies of the service require be engaged for a limited period of not more than two years at a time but not exceeding five years in all and upon such other terms and conditions as the appointing authority shall determine”.

Parts 3 and 4

Part 3 addresses issues relating to certification and administration of Aviation Training Organisations (ATO) and relies on regulations presented in the United States Federal Aviation Regulations (14 CFR) and the European Joint Aviation Requirements (JAR). The ATO requirements apply to standards required for adequate training and qualification for

Ghana certification. Part four on the other hand sets forth the requirement for registration of an aircraft in Ghana and also governs the application of nationality and registration marks.

Part 5

Part 5 addresses the regulatory requirements governing the air worthiness of an aircraft registered in the country and or expected to operate in Ghana within the required ICAO Convention. This part also requires persons operating aircrafts registered in Ghana to notify the Authority of the occurrences of any eventualities. There are also maintenance requirements set out for persons who are neither employees of authorised maintenance organisations nor work for any airline operator, with the view to ensuring the airworthiness of an aircraft at all times.

Part 6

Regulations for the registration and monitoring of Approved Maintenance Organisations (AMO) are provided for in part 6. Section 6.2.1.1(a)(4) of the Chicago Convention imposes obligation on AMO applicants to disclose all certificates they may have obtained from other contracting states so as to ascertain and weigh the AMO requirements of those other contracting states.

Part 7

The regulatory requirements for Instruments and aircraft expected to operate in Ghana are provided for in this part. The requirements address three categories of aircraft operations namely; commercial air transport operations, passenger carrying operations, most particularly corporate aircrafts that may have performance and range capabilities matching the type of aircraft operated by commercial air transport entities; and aircrafts operating in Ghana whether on domestic or international flights.

Part 8

Part 8 addresses regulatory requirements for the operation of aircrafts in the country based on regulations specified in annexes 6 of the ICAO convention. This part also provides for operations conducted by airmen certified in Ghana who also operate aircrafts registered in Ghana, as well as operations of foreign registered aircrafts by Ghanaian Air Operator Certificate (AOC) holders and the operation of aircrafts within Ghana by airmen of AOC holders of foreign states.

Part 9

In this part, provisions are made for AOC certifications for persons or entities from Ghana, which includes regulations concerning such certificates, flight operation management, maintenance requirements and security and dangerous goods management. These regulations apply where the services of an AMO is not applicable.

Part 10

This part presents requirements applicable to foreign air carriers and provides for operational specifications, documentations aboard aircrafts as well as security and dangerous goods requirements on any foreign air carrier operating in and outside the country.

Part 11

Requirements for aerial work operations, including agricultural aviation, helicopter external load carrying, glider and banner towing, TV and movie operations, sight-seeing flights, fish spotting and traffic reporting are addressed in this Part.

Part 12

This part sets forth the requirements for the response to persons apparently in distress and in need of help. Internationally agreed standards and recommended practices for rescuing survivors of aircraft accidents have been provided for in this part. Provision is also made for dissemination of information on search and rescue services (SAR) of neighbouring states in order to ensure efficient conduct of such operations. States are accordingly enjoined to publish and disseminate all information needed for the expeditious entry into their territories of rescue units. Detailed plans of operation for the conduct of the SAR activities as well as preparatory measures required to be undertaken by rescue units including training requirements and removal of aircraft wreckage are also covered in this part.

Part 13

In this part, there are regulations for prevention and of accident and incident investigations relating to civil aircrafts. It further addresses objectives of such investigations, persons liable to give notification of accidents or incidents and written reports by the commander and or owner of the aircraft. It also gives authority for the appointment of an investigator-in-charge and defines the powers of such investigators, the conduct, nature and format of such investigations and further requires that appropriate conclusions and necessary safety recommendations be thereafter made.

Part 14

Part 14 of the schedule to the Regulations indicates the requirements for certification of aerodromes in Ghana and also specifies all applicable standards by which aerodromes should be maintained to ensure acceptable level of safety.

The Committee noted that currently the challenges confronting the aviation industry internationally are enormous especially in an era when the industry continues to expand globally and therefore require concerted efforts on the part of all countries with a stake in the industry to adopt the best forms of practices which can guarantee safety of lives and property. The Committee further noted with satisfaction that the Ghana Civil Aviation Authority has considered it expedient to harmonise its regulations with those of other contracting states, in line with the ICAO standards and recommended practices in furtherance of the development of the industry.

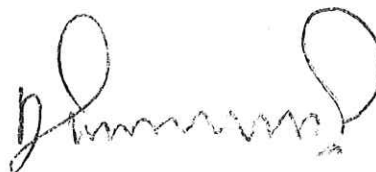
7.0 RECOMMENDATIONS AND CONCLUSIONS

The Committee has examined the object and provisions of the Regulations together with the Schedule and is of the considered view that they are in conformity with the Constitution, the Parent Act and the procedural requirements specified in Standing Order 166 of Parliament. The Committee accordingly recommends that this House allow the Civil Aviation Regulations, 2005 L.I. 1818 to come into force with the effluxion of time.

Respectfully submitted



HON. FRANCIS AGGREY AGBOTSE
CHAIRMAN,
SUBSIDIARY LEGISLATION COMMITTEE



MR. EBENEZER AHUMAH DJIETROR
CLERK,
SUBSIDIARY LEGISLATION COMMITTEE

MARCH 2006