



**MOTIVATION STATEMENT DURING THE OCCASION OF THE
INTRODUCTION OF THE CIVIL AVIATION BILL
in the National Assembly BY THE MINISTER OF WORKS
AND TRANSPORT ALPHEUS G. INARUSEB, MP ON THE
10TH JUNE 2015, WINDHOEK**

Honourable Speaker and Honourable Members,

1. It is my singular honour to present before you and introduce the Civil Aviation Bill for Namibia in this august House. This Bill is the culmination of many years of hard work by the Ministry following upon policy directives on the future direction and management of the civil aviation administration function by the Cabinet.
2. The Civil Aviation Bill of 2015 is, in my submission, a much needed development for the better governance and development of civil aviation safety and security in Namibia.
3. I would like to outline some of the main features of this Bill and to explain why it is so important that it be enacted at the earliest opportunity.

4. In the first place it will be understood that the current Aviation Act of 1962 is more than half a century old and is long overdue for Revision. The current Act was inherited from South Africa at the time of independence. The Bill which I propose to introduce has been drafted in Namibia and is specifically designed for the circumstances of Namibia as an independent sovereign state. Of course it draws on models used elsewhere in the world and is observant of the SADC model Act but it is first and foremost directed at serving the needs of the Namibian people.
6. Namibia, in common with almost all other countries, is a signatory to the Chicago Convention on Civil Aviation and is thereby a fully functioning member of the International Civil Aviation Organisation (ICAO) which is a specialist organisation of the United Nations. It is ICAO which sets the international standards for aviation safety and security. Namibia as a state signatory must comply with a set of not less than Nine thousand and Six hundred (9600) International Standards and Recommended Practices, given the complexity and scope of aviation activities. The current outdated, i.e., the 1962 Act fell very short of addressing how Namibia as a State should incorporate the aforementioned Standards and Recommended Practices and therefore we had the near disastrous ICAO audit of 2006, which highlighted 47 Findings that led to Namibia's referral on the Audit Result Review Board of ICAO. This is the board to which States considered to have serious deficiencies in their aviation system are usually referred to for remedial action which can have severe consequences for the affected ICAO member State.

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7. The new Civil Aviation Bill of 2015, which I am now introducing, is a central part of this country's response to incorporate the comprehensive Model Regulatory Framework required by the ICAO. Furthermore, it would enable us to ensure that our safety and security oversight capability complies with the Eight Critical Elements considered necessary for a State to demonstrate a mature aviation oversight system. This action will bring Namibia into alignment with its treaty obligations and with current best practice in civil aviation regulation.
8. In essence this Bill has the objective of modernizing Namibia's aviation legislation. In order to do this the Bill does a number of key things:

- 8.1 It establishes a standalone Civil Aviation Authority for Namibia (the “Namibia Civil Aviation Authority” or “NCAA”) in place of the current Directorate of Civil Aviation. The new NCAA will be autonomous which is in accordance with best international practice and in fact with express SADC regional protocols regarding the development of the transport sector.
- 8.2 The NCAA will eventually be largely self funding. The Bill that I am presenting contains a number of mechanisms which will enable the NCAA to do this. One of the mechanisms will be a power to obtain funds by the imposition of fees and levying of funds upon the users of the aviation services industry. As it happens the new Authority will be in a very good position as it starts operations because it will have the benefit of a sum in the region of N\$400 million which has been accruing over the years in a separate aviation navigation funds account from fees charged by Namibia to operators of aircraft that fly over Namibia. This is consistent with the ICAO policies on economic and airport charges which entitled a State to charge levies that are directly related to services rendered from investment in air navigational and regulatory infrastructure.
- 8.3 Namibia’s safety oversight capability suffered a number of severe set-backs which were directly attributed to the inability to attract suitably qualified and experienced technical personal. This was largely as a result of the current public service set-up that does not provide the scope to attract, adequately remunerate and retain aviation professionals comparably to the increasing high premium attached to aviation specialists across the industry worldwide.. This further limited the ability of the current Directorate to secure the wide range of aviation qualified inspectors to discharge the safety and security oversight functions. Under this new legislation the NCAA will have the ability to attract technical competencies consistent with scope and complexity of the aviation activities generated within its territory and invest in the human, technical and operational capability of current and future aviation professionals.
- 8.4 This Bill also provides for a Director to be appointed by the Board of the NCAA with the “concurrence of the Minister”. This Director will be given a comprehensive and up to date set of powers for the regulation of the industry and for the issue of “aviation documents” in the interests of public safety and security. It greatly enhances and updates critically important areas such as aviation security measures and aircraft accident and incident investigation. There are many other

improvements beyond those two examples that ensure our compliance with international developments to ensure the safe, efficient and regularity of every aircraft in-flight, crew, passengers, ground personnel and property within Namibia's airspace.

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- 8.5 The Bill makes express provision for the delivery of Air Navigation Services by a separate unit within the NCAA. This follows years of research conducted by ICAO on numerous deficiencies uncovered in the level of maturity to States to deal effectively with any potential conflict of interest as both a Service Providers of Air Traffic Services as well as the Regulator. These deficiencies are also a threat to to the general growth and well being of international air transport. Sufficient safeguards are now in place from precedents set by other ICAO member States of significant reputation including the United States of America (which has the best safety record in the world) and Singapore. Research undertaken suggests that there may in future years be a case for setting up a separate ANS service provider; however, based on a Cabinet decision Namibia will at this point use the proposed model for air navigation services set out in the Bill.
- 8.6 The Bill also introduces modern processes to ensure that key participants in the Namibian civil aviation system will not only comply with the Regulations which set safety standards but will in addition introduce management processes directed at instilling what is known as a "safety culture" in the various civil aviation organizations, such as air operators and aerodromes.
- 8.7 This Bill ensures the continued application the current Civil Aviation Regulations but also promotes the development of new regulations and the improvement and update of existing technical regulations in a fast changing industry. I can report to the Honourable Members that a revision process of these regulations is at an advanced stage and is awaiting the enactment of this Bill. At the same time, this process is part of the transition phase envisioned for the setting up of the NCAA as the regulator.
9. There are many other benefits in the introduction of this Bill which will be apparent from a reading of the Bill itself and also the comprehensive Explanatory Memorandum which has been prepared and circulated to Honourable Members.

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10. I wish to give this august House the assurance that a related objective throughout the drafting of this Bill was the need to ensure that all the regulatory provisions and directives, whether to be issued by the Minister, the Board or the Director, as the case may be, are clear to users and legally robust – that is to say, they do not have holes or gaps which might cause doubt or confusion or by which safety standards may be easily circumvented. This has unfortunately been the case of the current Act, which lacked and still lacks the required comprehensive legal framework for Namibia to fully respond to the ever changing legal environment and the adoption of new Standards and ICAO Audit requirements. Further, where the Director needs to take enforcement steps against an offender, the intention is for the legal tests for each offence to be clear and able to stand up to legal scrutiny in a court of law.

11. Honourable Speaker and Honourable Members, with the presentation on this the second reading stage of the Civil Aviation Bill, I now submit to you the Bill for further debate and I count on your support to ensure that this law is passed so that a long cherished policy ideal of the Namibian Government is achieved to bring our civil aviation administration into the 21st century. It sets us on course towards Vision 2030 as a developed nation in this sector of our social and economic development as well.

I thank you for your attention.