

“LEGISLATIVE FRAMEWORK OF AVIATION LAW”

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South Africa is party to several international aviation treaties i.e. the Convention on International Civil Aviation (the Chicago Convention), the International Air Services Transit Agreement (the Transit Agreement) to name a few. Accordingly, several South African Acts have incorporated the contents of the conventions/agreements. Below is a list of the relevant laws that apply in the South African aviation industry as well as the applicable regulatory bodies and a discussion on what they're role is in the aviation industry.

1. **The Civil Aviation Act 13 of 2009 and Civil Aviation Regulations (Civil Aviation Act)**

This Act refers to the control and regulation of aviation within the Republic of South Africa. It gives effect to the **Chicago Convention** and the **Transit Agreement**.

The Act provides for the establishment of a South African Civil Aviation Authority with safety and security oversight functions. It includes amongst other things how to regulate and remedy material loss of individuals due to accidents or incidents in an aircraft and/or airport.

2. **The Carriage by Air Act 17 of 1946 (Carriage by Air Act)**

This Act gives effect to the **Warsaw Convention** its successor **The Carriage by Air Amendment Act 15 of 2006** which gave effect to **The International Convention for the Unification of Certain Rules For International Carriage by Air** – which was signed in Montreal on 28 May 1999 and came into operation on 19 June 2007.

The Carriage by Air Act provides for the unification of rights and responsibilities relating to carriers, passengers, consignors and other related persons.

The act applies to all international carriage of persons, luggage goods performed by aircraft for reward.

3. **The Convention on The International Recognition of Rights in Aircraft Act 59 of 1993**

This Act provides for the application of **The Convention on the International Recognition of Rights in Aircraft**.

The Act deals with mortgages i.e. the discharge of mortgages, rights of mortgage, transfer of mortgage, authority to mortgage outside of the Republic.

4. **The Mortgage of Aircraft Regulations 1997**

Is issued in terms of the Convention on The International Recognition of Rights in Aircraft Act 59 of 1993.

The regulations are means of implementing the contents of the Convention on The International Recognition of Rights in Aircraft Act 59 of 1993.

5. **Air Service Licensing Act 115 of 1990 (ASLA) and Regulations**

The above Act provides for the licensing and control of domestic air services and regulations. It provides for the establishment of an Air Service Licensing Council.

It also pertains to operation of air service, classes and types of air services and categories of aircraft, application for licences, conditions of licence, operating certificates etc.

6. **The International Air Service Act 60 of 1993 and Regulations**

Much like the ASLA, this Act provides for the licensing and control of international air services and establishes the International Air Service Licensing Council.

It similarly speaks to the operations of international air service, permits and the applications thereof, licenses etc.

7. **The Convention on International Interests in Mobile Equipment Act 4 of 2007**

This Act gives effect to the Convention on International Interests in Mobile Equipment Convention (**the Cape Town Convention**).

The Act applies in the acquisition and use of mobile equipment of high value and to facilitate the financing of the acquisition and use of such equipment in an efficient manner.

Regulatory bodies

The South African Civil Aviation Authority (SACAA) is mandated with controlling, regulating and enforcing levels of safety and security throughout the aviation industry.

The SACCA's main areas of oversight are aviation security, aviation infrastructure, aviation safety operations and accident and incident reports.

The Air Service Licensing Council (ASLC) is a juristic person that is regulated in terms of the **ASLA** and is accordingly responsible for regulating domestic air services.

It is also responsible for promoting trade with, and tourism to and from, the Republic, promoting competition between persons who operate international air services, promoting the development and interests of the local international air services industry, promoting the interests and needs of users or potential users of air services in the Republic.

The International Air Services Council is a juristic person that is regulated in terms of the **International Air Services Act**. The Council is responsible for regulating and promoting international trade and tourism, competition between persons who operate international air services, development and interests of the local international air services industry etc.

The Air Traffic and Navigation Services SOC Ltd (ATNS)
Air Traffic and Navigation Services SOC Limited (ATNS) provides air traffic, navigation, training and associated services within South Africa.