THE AIRCRAFT REGISTRATION ACT

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CHAPTER 503

AIRCRAFT REGISTRATION ACT

To regulate the registration of aircraft and aircraft mortgages and to repeal and re-enact various existing laws relating to such matters; and to regulate the aircraft register, to introduce rules on aircraft mortgages, their registration and their enforcement, to introduce rules on special privileges on aircraft, and to implement the Convention on International Interests in Mobile Equipment and Protocol thereto on Matters Specific to Aircraft Equipment.

1st October, 2010*

ACT VIII of 2010, as amended by Acts LII of 2016 and XXXVII of 2021 and XL of 2023.

PART I

PRELIMINARY AND GENERAL

Short title.

1. The short title of this Act is the Aircraft Registration Act.

Interpretation. *Amended by: XXXVII.2021.2.*

2. (1) In this Act, unless the context otherwise requires:

"Consolidated Fund" has the same meaning assigned under article 124 of the Constitution;

"aircraft" means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface as may be illustrated or amplified by the Minister by regulations, including unmanned aircraft whose design is subject to certification under the EASA Basic Regulation and airframes with aircraft engines installed thereon, but excluding aircraft used in the military, customs or police services of any State;

"aircraft engines" means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto without prejudice to any other thresholds which may be applicable for the purposes of other parts of this Act;

"airframes" means airframes (other than those used in military, customs and police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport persons or cargo, together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto, without prejudice to any other thresholds which may be applicable for the purposes of other parts of this Act;

"the Aircraft Protocol" and "the Protocol" mean the Protocol to the Convention on International Interests in Mobile Equipment in Matters Specific to Aircraft Equipment that was opened for signature at Cape Town on 16 November 2001, the text of which is consolidated with the text of the Cape Town Convention and

*See article 1(2) of the Act as originally promulgated, and Legal Notice 446 of 2010.

substantively reproduced in the First Schedule reflecting the Implementing Law;

"air service" means a flight or a series of flights carrying passengers, cargo and, or mail for remuneration and, or hire as defined in Article 2(4) of Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September, 2008, on common rules for the operation of air services in the Community;

"air transport undertaking" has the same meaning as is given to it in the Civil Aviation Act; Cap. 232.

"approved jurisdiction" means any member country of the Organisation for Economic Co-operation and Development and any other country approved by the Minister by notice for the purposes of this Act;

"the Authority" means the Authority for Transport in Malta established under the Authority for Transport in Malta Act; Cap. 499.

"aviation undertaking" means a legal organisation established under the laws of Malta the objects of which are:

(*a*) to own aircraft; or

(*b*) to operate aircraft; or

(*c*) to manage aircraft; or

(*d*) to carry on business relating to the -

(i) financing;

(ii) insurance;

(iii) brokerage;

(iv) maintenance;

(v) repair and overhaul;

(vi) classification; or

(vii) surveying

of aircraft, and to carry on all, or any ancillary business related thereto;

"the Cape Town Convention" and "the Convention" mean the Convention on International Interests in Mobile Equipment that was opened for signature at Cape Town on 16 November 2001, the text of which is consolidated with the text of the Aircraft Protocol and substantively reproduced in the First Schedule reflecting the Implementing Law;

"Certificate of Registration" means the certificate of registration issued by the Director General in accordance with the provisions of this Act;

"Certified Designee" means any party designated as a certified designee by the named authorised party under an irrevocable de-registration and export request authorisation;

"credit institution" shall have the same meaning as assigned to it in article 2 of the Banking Act; Cap. 371.

"crew" means any person employed or engaged on an aircraft in flight on the business of the aircraft;

"Declaration" means a declaration made by a State acceding to the Cape Town Convention pursuant to a particular provision or provisions of the Convention or its Aircraft Protocol as the case may be;

"the Depositary" means the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome;

"the Diplomatic Conference" means the Diplomatic Conference held under the joint auspices of the International Civil Aviation Organisation and the International Institute of Private Law at Cape Town from 29 October to 16 November 2001;

"the Director General" means the Director General responsible for Civil Aviation in Malta, and to the extent of the authority given, any person authorised in that behalf by the Director General;

"EASA Basic Regulation" means Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No. 2111/2005, (EC) No. 1008/2008, (EU) No. 996/2010, (EU) No. 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No. 552/2004 and (EC) No. 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No. 3922/91, as amended from time to time;

"EEA State" means a State which is a party to the EEA Agreement;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on the 2 May, 1992 as adjusted by the Protocol signed at Brussels on the 17 March, 1993, as modified or supplemented from time to time;

"effective date" means the date established in accordance with article 56 of the First Schedule;

"Implementing Law" means the Model for National Implementing Legislation prepared by the Aviation Working Group to UNIDROIT, dated August, 2008 substantively reproduced in the First Schedule;

"lease agreement" means an agreement by which a person (the lessor) grants a right to possession or control for a stipulated period of time, of an aircraft or an aircraft engine (with or without the option to purchase) to another person (the lessee) in return for a rental or other payment, and the terms "lease", "sub-lease", "sub-lessor" and "sub-lessee" shall be construed accordingly and where the term "lease" is used, it shall include a "sub-lease", where the term "lessor" is used, it shall include a "sub-lessor", and where the term "lessee" is used, it shall include a "sub-lessee";

"Malta Aircraft Register" or "National Aircraft Register" or "register" means the register to be maintained by the Director General in terms of article 4;

"Minister" means the Minister responsible for civil aviation and, to

the extent of the authority given, any person authorised in that behalf by such Minister;

"mortgage" means a mortgage registered in terms of this Act and shall, where the context so requires, include an equivalent charge registered in the International Registry in terms of the First Schedule, and "mortgagee" shall be construed accordingly;

"operating agreement", for the purposes of Part II, means a lease agreement and any other agreement by virtue of which the operation of an aircraft is granted by an owner (or any person authorised to grant such powers, including a lessee), to another person and under which the possession or control of the aircraft is vested in the operator for such purpose, and shall include a sale agreement with reserved rights or conditions;

"operating licence" means a licence granted under article 7 of the Civil Aviation Act to an air transport undertaking for the provision of air service as stated in the operating licence; Cap. 232.

"operator" means the person entitled to operate the aircraft as owner, or under an operating agreement;

"registrant" means that person in whose name an aircraft is registered in the Malta Aircraft Register;

"resolution" means a resolution of the House of Representatives;

"security agreement" means an agreement by which a debtor grants or agrees to grant to a creditor an interest (including an ownership interest or a mortgage) in or over an aircraft to secure the performance of any existing or future obligation of the debtor or a third person;

"security interest" means an interest granted in terms of a security agreement drawn up to secure the rights of -

(*a*) a person who is a conditional seller under a title reservation agreement; or

(*b*) the rights of a person who is a lessor under a lease,

and which is recognised and regulated in terms of article 41;

"temporary title", for the purposes of Part II, means a lease agreement, an operating agreement, or similar agreement;

"undertaking" has the same meaning as assigned to it in article 2 of the Companies Act; Cap. 386.

"unmanned aircraft" means any aircraft operating or designed to operate autonomously or to be piloted remotely without a pilot on board.

(2) The definition of the words referred to in the preceding sub-article is supplemented by definitions in article 1 of the First Schedule for the purposes of the said Schedule. Where words used in this Act are defined in the First Schedule, they shall apply, as defined, also to the interpretation of the provisions of this Act, unless defined differently or the context requires otherwise.

(3) Where this Act refers to a matter which may be prescribed, unless this Act expressly designates the person authorised and the manner thereof, such matter may be prescribed by the Minister

through regulations, by the Authority through directives, or by the Director General through guidelines or any one or all of them as may be determined, provided that in the case of any conflict, a regulation by the Minister shall prevail over a directive, and a directive shall prevail over a guideline.

Prevalence of Implementing Law in case of conflict.

(4) When the Implementing Law applies, it shall prevail over any other part of this Act and over any other law, in case of conflict.

Application of Implementing Law in case of lacuna.

(5) To the extent that any matter provided for by the Implementing Law is not regulated by this Act, then the Implementing Law shall govern such matter and any other laws shall be construed so as to give effect to such provisions of the Implementing Law as may be applicable.

(6) Where this Act is silent on any matter, such matter shall be determined in accordance with the principles reflected in other provisions of other laws of Malta relating to aviation.

(7) This Act shall be construed consistently with Regulation EC No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community.

(8) In so far as the operation of air services is carried out outside the European Community, this Act shall be construed consistently with the International Treaties applicable to aviation to which Malta is a party.

PART II

REGISTRATION OF AIRCRAFT

Aircraft registered under this Act. *Amended by: LII.2016.5; Act XL of 2023.*

3. (1) An aircraft may be registered in Malta and be subject to the laws of Malta and have all the rights and privileges of a Maltese aircraft subject to the provisions of this Act and any regulations made hereunder and any other laws as may be applicable to it, including:

Cap. 232.

(*a*) the Civil Aviation Act;

Cap. 641.

(*b*) the Air Navigation Act, where relevant; and

(*c*) any other law applicable to the operation of aircraft and events occurring thereon or in relation thereto.

(2) The Authority shall be the authority for the registration of aircraft in Malta and shall cause such registration to be recorded in a register to be kept by the Director General, to whom all powers relating to registration are hereby delegated.

(3) It shall also be lawful to register any aircraft which is under construction as soon as it is uniquely identifiable, under such conditions as the Minister may prescribe by regulations. A description of an aircraft that contains its manufacturer serial number, the name of the manufacturer and its model designation shall be sufficient to render an aircraft uniquely identifiable.

For all purposes of this Act, the manufacturer of the aircraft shall, unless expressly agreed otherwise with a buyer, be considered to be the owner of such aircraft under construction and

shall, subject to satisfying the requirements of this Act, be entitled to register an aircraft accordingly.

(4) The interest in an aircraft registered in terms of this Act may be divided into shares or other interests as may be specified on registration and the interest in the aircraft shall be noted by the Director General pursuant to article 4(2)(*b*)(i).

An operator or a trustee who registers an aircraft may request that his position as registrant be recorded more than once so as to reflect underlying principals or beneficial interests.

The Malta Aircraft Register.
Amended by: LII.2016.6; XXXVII.2021.6.

4. (1) There shall be a National Aircraft Register which shall be maintained by the Director General in physical or electronic form as may be determined by the Minister.

(2) When an aircraft is registered in terms of this Act, the Director General shall record or note transactions or information in accordance with this article and other provisions of this Act and in such manner as may be prescribed from time to time. In accordance with this sub-article:

(*a*) the Director General shall record the following in the register:

(i) the physical details of the aircraft;

(ii) the physical details of the engines attached to the aircraft and any replacement engines owned by the registrant to the extent they are designated for use on the aircraft and, when the engines or replacement engines do not belong to the registrant, the same details shall be recorded in the Malta Aircraft Register with the consent of the owner of the said engines or replacement engines;

(iii) full name, address, email address and telephone number of the natural or legal persons under whose name the aircraft is registered, and in what capacity the registrant has registered the aircraft in terms of article 5;

(iv) the ownership rights in the aircraft or an engine including when:

1. held by a trustee, for a single interest or more;

2. held by one or more owners;

3. divided into fractional shares or otherwise; or

4. held under an agreement with reservation of ownership rights or under conditions affecting title in terms of article 31.

The information and documents which are to be provided to the Director General relating to the above may be prescribed from time to time;

(v) full name, address, email address and telephone number of the natural or legal persons having

ownership rights on the aircraft;

(vi) the details of any mortgages registered on the aircraft, and subsequently all transactions relating to mortgages registrable in terms of this Act;

(vii) the details of any irrevocable de-registration and export request authorisation, pursuant to article 2 of the Second Schedule, or any other power of attorney, irrevocable or otherwise, in a separate document or as part of an agreement between the parties granted to an owner or to a lessor of an aircraft or granted by way of security to the mortgagee, or to a third party for the benefit of any such person, granting powers relating to the exercise of rights relating to the aircraft, or to the closure of the register on behalf of the registrant and, in the event that a mandate or power of attorney is granted for a stated period of time after which it shall lapse, such date shall also be recorded in the register and the registration of the mandate shall have no effect after such date. Only one irrevocable de-registration and export request authorisation or only one power of attorney shall be recorded in the register and such irrevocable de-registration and export request authorisation or such power of attorney shall only be issued by the registrant of the aircraft. Furthermore, any Certified Designee under any irrevocable de-registration and export request authorisation or any delegate under any power of attorney shall also be recorded in the register. Provided that any irrevocable de-registration and export request authorisation or power of attorney issued by any person other than the registrant and recorded in the register prior to the coming into force of this proviso shall remain valid, binding and duly enforceable;

(viii) any other act which is to be registered in the Malta Aircraft Register under the provisions of article 31 or of any other law;

(ix) the details of any international interests registered on the aircraft in the International Registry, and subsequently all transactions relating to such international interests;

(*b*) the Director General shall note the following matters in the Malta Aircraft Register if required to do so under the applicable law or if requested to do so by the registrant or by any other person who demonstrate an interest in such information being entered in the Malta Aircraft Register:

(i) the lessor rights relating to the aircraft or an engine when the lessor is a person different from

the owner, although the same person may appear on the register as lessee in terms of the sub-paragraph (iii);

(ii) the lessee rights in relation to the aircraft or an engine and all matters relating thereto in terms of article 31;

(iii) the details of the resident agent where the registrant is an international registrant;

(iv) information on any international interest registered in the International Registry and the debtor thereof.

(3) It shall not be a condition for registration that a registrant of an aircraft shall have the ownership and, or the lessor rights in the aircraft or its engines noted in the Malta Aircraft Register.

(4) Registration in the Malta Aircraft Register, whether by means of a record or a notation, shall have the following legal effects in relation to the information and the acts to which it refers:

(*a*) it renders such information public and the information shall be considered to be within the knowledge of third parties;

(*b*) the acts shall be effective against third parties;

(*c*) it shall create priority, according to the provisions of this Act and applicable law, between different rights, provided that, except as stated in article 31 and in the First Schedule, the notation of ownership or lessee rights shall not imply any priority over those of the holder of a registered mortgage;

(*d*) where expressly conditional on registration, it shall create legal effects between the parties to certain transactions; and

(*e*) it shall have all other effects under the applicable law.

Registrants of aircraft to be operators of aircraft.
Amended by: XXXVII.2021.7.

5. (1) An aircraft may be registered in the Malta Aircraft Register by any person referred to in article 6, upon satisfying such requirements as are prescribed by this Act or as may be further prescribed by regulations, and who may be:

(*a*) an owner of the aircraft who operates the said aircraft; or

(*b*) an owner of an aircraft under construction or temporarily not being operated or managed; or

(*c*) an operator of an aircraft under a temporary title which satisfies the conditions which may be prescribed; or

(*d*) a buyer of an aircraft under a conditional sale or title reservation or similar agreement which satisfies the conditions which may be prescribed and who is authorised thereunder to operate the aircraft.

(2) For the purposes of sub-article (1)(*c*) and (*d*), the Director General shall exercise his discretion as to whether the operator's agreement qualifies to register an aircraft thereunder.

The information and documents which are to be provided to the Director General as evidence of the right to operate the aircraft may be prescribed from time to time.

(3) Where the applicant for registration of an aircraft is a person enjoying a temporary title, whether or not an unqualified person holds any interest therein by way of ownership, the aircraft may be registered in the name of that person upon the Director General being satisfied that the aircraft may otherwise be properly so registered, and, subject to the provisions of this article, the aircraft may remain so registered for the duration of the temporary title.

Qualified persons. *Amended by: XXXVII.2021.8.*

6. (1) The following persons shall be qualified to register any aircraft in the Malta Aircraft Register, whether that aircraft is used to provide air services or otherwise in a capacity referred to in article 5:

(*a*) the Government of Malta;

(*b*) a citizen of Malta or a citizen of a Member State of the European Union or of an EEA State, or Switzerland, having a place of residence or business in Malta, the European Union, the European Economic Area or Switzerland, including a person sharing in the ownership of such aircraft by virtue of the community of acquests subsisting between such person and a citizen as described above in whose name the aircraft is registered;

(*c*) an undertaking formed and existing in accordance with the laws of Malta, of a Member State of the European Union, of an EEA State or of Switzerland and having its registered office, central administration and principal place of business within Malta, or the European Union, or the European Economic Area or Switzerland, and if conducting air services then not less than fifty per cent (50%) of the undertaking must be owned and effectively controlled by the Government of Malta, or by any Member State of the European Union, or by persons referred to in paragraph (b), whether directly or indirectly through one or more intermediate undertakings;

(*d*) a natural person who is a citizen of, or an undertaking established in, an approved jurisdiction, other than those mentioned in paragraphs (b) or (c), shall be qualified to register aircraft in construction or one which is not used to provide air services if it:

(i) enjoys, to the satisfaction of the Director General, legal capacity to own or operate an aircraft in terms of the law under which it has been established or registered;

(ii) complies with the requirements established under this Act, and any regulations made or guidelines issued pursuant thereto;

(iii) satisfies the Director General that it can and will

ensure due observance of the laws of Malta relating to civil aviation; and

(iv) complies with the requirements applicable to an international registrant in terms of Part III.

(2) Where the applicant for registration is a trustee, the Director General shall pay regard to the beneficiaries of the relevant trust to determine the eligibility of the trustee to register an aircraft under this Act and no regard shall be paid to the nationality of the trustee himself:

Provided that the Director General shall implement procedures to ensure the confidentiality of the information he may obtain on the identity of the beneficiaries and shall not make any such information available to third parties without the prior written consent of the trustee, duly authenticated, or otherwise in accordance with the provisions of the Professional Secrecy Act. Cap. 377.

(3) In this Act, references to any interest in an aircraft do not include any references to an interest in an aircraft to which a person is entitled only by virtue of his membership of a flying club and the references in this Part to the registrant include, in the case of a deceased person, his heirs at law, and in the case of a body corporate which has been dissolved, its liquidator or, until a liquidator is appointed, each of the directors at the time of the dissolution, or equivalent in the applicable jurisdiction.

Conditions of eligibility to joint or fractional ownership.

7. (1) Where the application for registration of an aircraft is based on ownership and where interest in an aircraft is vested in more than one person, then at least fifty per cent of the owners of the shares in the aircraft must be eligible as qualified persons, provided that the Minister may by regulations establish different conditions, including different minimum thresholds on ownership participation by qualified persons for the eligibility to register an aircraft when owned by more than one person.

(2) The same rule shall apply when the applicant for registration is a trustee where reference shall be made to the beneficial interests *mutatis mutandis*.

(3) Where the application for registration of an aircraft is based on the operation of such aircraft and where such operation is being carried out by more than one person, then all the operators of the aircraft must be eligible as qualified persons:

Provided that in the case of an aircraft which is not used to provide air services, the Minister may by regulations establish different conditions for the eligibility to register an aircraft when operated by more than one person.

Applications for registration.

8. (1) Application for the registration of an aircraft shall be made in writing on the prescribed form to the Director General, and shall include or be accompanied by such particulars and evidence relating to the aircraft, the ownership, acquisition, chartering and operation thereof and qualifications of the registrant as may be prescribed to enable the Director General to determine whether the aircraft may properly be registered and to enable the Director General:

(*a*) to issue a Certificate of Registration; and

(*b*) to determine the classification of the aircraft for the purpose of application of this Act and any applicable rules and regulations.

(2) The Director General may from time to time issue guidelines in order to determine the applicability of rules when an aircraft is partly used for remuneration and, or hire, and partly not, subject to due observance of applicable international conventions and regulations.

Particulars of aircraft, engines, etc., to be entered in the Malta Aircraft Register. *Amended by: XXXVII.2021.9.*

9. Upon receiving an application for the registration of an aircraft and after being satisfied that the aircraft may be so registered, the Director General shall register the aircraft wherever it may be, and shall include in the register the following particulars relating to the aircraft:

(*a*) the number of the certificate of registration;

(*b*) the nationality marks of the aircraft, and the registration marks assigned to it by the Director General;

(*c*) the name of the constructor of the aircraft and its designation;

(*d*) the serial number of the aircraft; and

(*e*) the manufacturer, the serial numbers, and physical details of the engines attached to the aircraft and any replacement engines to the extent they are designated for use on the aircraft.

Certificate of Registration. *Amended by: LII.2016.7; XXXVII.2021.10.*

10. (1) The Director General shall furnish to the person in whose name the aircraft is registered a certificate of registration which is not transferable, and shall include the particulars referred to in article 9 (a), (b), (c) and (d), the name and address of the registrant, the name, address and ownership interests or title of the owner, if different, and the date of issue of such certificate.

(2) A certificate of registration may be issued when an aircraft is registered while it is still under construction, but it shall expressly state that the aircraft is not permitted to operate until such time as it complies with the provisions of the applicable law.

(3) The Director General may, at his sole discretion in order to facilitate the registration of aircraft in appropriate circumstances, proceed to issue a certificate of registration upon exempting the aircraft from bearing the registration marks and, or affixing the fire proof plate as outlined in Part B of the Fourth Schedule.

(4) The Director General may from time to time issue guidelines in order to determine any exemptions which may be granted in relation to the issue of a certificate of registration for any aircraft registered under this Act. Any such guidelines shall determine:

(*a*) the basis on which and under what conditions any such exemptions may be granted; and

(*b*) when any certificate of registration so issued shall be subject to the condition that the aircraft shall not be operated, generally or for a specific flight.

(5) Any conditions imposed for any exemption issued pursuant to sub-article (3) or any guidelines issued under sub-article (4) shall be recorded in the Malta Aircraft Register and once these conditions have been satisfied, they shall be removed accordingly.

(6) Notwithstanding the above:

(*a*) the Director General shall at all times before the issuance of the certificate of registration have received at least:

(i) evidence of title of the owner of the aircraft; and

(ii) evidence that the aircraft has been de-registered from the previous registry, showing the registered encumbrances, if any;

(*b*) in facilitating the registration of such an aircraft in appropriate circumstances, as outlined above, the Director General shall at all times ensure compliance with any regulations or directives or under acts adopted by the European Union or international conventions, relating to the safety of the operation or the airworthiness of that aircraft.

(7) The Director General may suspend or revoke any exemption issued and/or granted under this Act on sufficient ground or evidence of breach of any conditions subject to which the exemption is issued or granted and if ordered by the Minister the Director shall proceed accordingly.

(8) A certificate of registration purporting to be signed by the Director General or other authorized officer shall constitute *prima facie* evidence that it has been so issued, and of its contents.

Obligation of the registrant to notify the Director General of certain events. *Amended by: LII.2016.8.*

11. (1) Any registrant of an aircraft shall forthwith inform the Director General in writing of -

(*a*) any change in the particulars which were furnished to the Director General upon application being made for the registration of the aircraft or the title thereto;

(*b*) the destruction of the aircraft, or its permanent withdrawal from use;

(*c*) in the case of an aircraft registered pursuant to article 5(*c*), the termination of the temporary title and in case of an aircraft registered pursuant to article 5(d), any event which brings into force the reversion of title to the seller of the aircraft or the possession, control or operation of the aircraft to a person other than the registrant; and

(*d*) where an aircraft is subject to a registered mortgage, an international interest or other security interest, any event amounting to an enforcement thereof which has the effect of transferring the title or the possession,

control, or operation of the aircraft to a person other than the registrant.

(2) The registrant shall provide such information as may be requested relating to any such events within five working days of a demand in writing from the Director General.

Updating of the Malta Aircraft Register. *Amended by: XXXVII.2021.11.*

12. The Director General may, whenever it appears to him necessary or appropriate to do so for giving effect to this Part, or for bringing up to date, or otherwise correcting the particulars entered in the Malta Aircraft Register or the certificate of registration, amend the Malta Aircraft Register or the certificate of registration:

Provided that where there is registered in the Malta Aircraft Register an aircraft mortgage or an irrevocable de-registration and export request authorization the Director General shall provide the mortgagee or the authorized party or the Certified Designee with fifteen days' notice of his intent and receive representations from the mortgagee or the authorized party or the Certified Designee. The Director General shall act in such a manner as to protect the status of the mortgage or the irrevocable de-registration and export request authorization and the rights of the mortgagee or the authorized party or the Certified Designee:

Provided further that where there is a person recorded as owner or lessor of the aircraft in terms of article 4(2)(*b*), the Director General shall provide the owner or lessor with fifteen days' notice of his intent and receive any representations from the owner or lessor. The Director General shall act in such a manner as to protect their rights as owner or lessor as the case may be.

Cancellation of registration. *Amended by: LII.2016.9; XXXVII.2021.12.*

13. (1) Subject to the provisions of this article and article 14, an aircraft shall not be registered or continue to be registered in Malta, and the certificate of registration shall forthwith be returned by the registrant to the Director General for cancellation by the Director General if:

(*a*) it appears to the Director General that the aircraft is registered outside Malta and that such registration does not cease, or by other action on the part of the registrant, the owner of the aircraft or the authority administering the previous registration, upon the aircraft being registered in Malta;

(*b*) a person who is not qualified in terms of article 6 holds an interest above the applicable threshold by way of ownership in the aircraft or share therein:

Provided that where a registered registered mortgagee or the holder of an international interest or a security interest, takes such action as is considered necessary to protect his rights, including temporarily vesting the aircraft in his own name or that of a special purpose vehicle for himself for the purpose of protecting his interests, the Director General shall not cancel the registration of the aircraft on the basis that such person is not qualified to register such aircraft until such time

as such rights are enforced;

(*c*) the operator of the aircraft, being the registrant of the aircraft, is no longer a qualified person, or is no longer entitled to operate the aircraft under the temporary title or for any other reason:

Provided that if an unqualified person has been permitted to operate a registered aircraft together with qualified persons under specified conditions, the operation by such person under such conditions shall be disregarded for the purpose of this provision:

Provided further that where a registered mortgagee or a holder of a security interest takes such action as is considered necessary to protect his rights, including temporarily taking over the operation of the aircraft directly (if competent) or through a competent person, nothing in this sub-article shall require the Director General to cancel the registration of the aircraft until:

(i) such time as the aircraft has been transferred to a third party which is not a qualified person in terms of article 6, or

(ii) the holder of the international interest advises the Director General that the registration is no longer required to protect its interest;;

(*d*) in the opinion of the Director General, the aircraft could more suitably be registered elsewhere;

(*e*) in the opinion of the Minister, it would be inexpedient in the public interest for the aircraft to be or to continue to be registered in Malta;

(*f*) the registrant has made a written request to the Director General for cancellation of registration and closure of register;

(*g*) it appears to the Director General that any applicable requirements under the Civil Aviation Act or under regulations or directives thereunder or under EU regulations, relating to the safety of the operation or the airworthiness of that aircraft, are not being faithfully or cannot be complied with; Cap. 232.

(*h*) it is not compliant with any applicable statutory aircraft registration conditions in respect of aircraft noise or exhaust gas emissions; or

(*i*) it appears to the Director General that the aircraft is not compliant with any applicable requirements under this Act and/or under guidelines or exemptions as may be prescribed by the Director General and such non-compliance has not been remedied within the time-frames imposed by the Director General.

(2) Where a request for cancellation of the registration of an aircraft is made by an authorised person or his delegate in writing or his Certified Designee, pursuant to a registered irrevocable de-registration and export request authorisation or power of attorney,

registered in the Malta Aircraft Register or in the International Registry, in accordance with the forms and procedures outlined in the Second Schedule, such request shall be acted upon in all cases by the Director General unless any international interest registered in the International Registry, ranks in priority thereto in which case the provisions of sub-article (4) shall apply.

(3) The certificate of registration of an aircraft is in any case to be considered void if the registration of the aircraft to which it relates is cancelled.

(4) The registration of an aircraft which is the subject of an undischarged mortgage or an international interest or a registered irrevocable de-registration and export request authorisation or a registered power of attorney shall not be cancelled on the basis of any of the events referred to in sub-article (1) and, nor shall the Director General cancel the registration of such an aircraft pursuant to this article unless all holders of registered mortgages or a registered irrevocable de-registration and export request authorisation or registered international interests or registered power of attorney over that aircraft have consented to the cancellation:

Provided that the Director General shall cancel the registration of such an aircraft where such a request for cancellation is made by an authorised person or his delegate in writing or his Certified Designee, pursuant to a registered irrevocable de-registration and export request authorisation or power of attorney, registered in the Malta Aircraft Register or in the International Registry as long as the holder of such registered irrevocable de-registration and export request authorisation or his delegate or Certified Designee or power of attorney has certified in accordance with the Second Schedule, and has submitted supporting documents to the satisfaction of the Director General, that all registered international interests ranking in priority to that of the holder of a registered irrevocable de-registration and export request authorisation or his delegate or Certified Designee or power of attorney have been discharged or that the holders of such interests have consented to the de-registration and export of the aircraft or of any related engine as specified in the Second Schedule:

Provided further that should there be a registered mortgage registered prior to the effective date then the Director General shall cancel the registration of such an aircraft if the holder of such registered mortgage discharges the mortgage or else has so consented to the de-registration and export of the aircraft or of any related engine:

Provided further that in the case referred to in sub-article (1)(e), the Minister may order that an aircraft registration be cancelled even without the consent of any mortgagee or the holder of an international interest or the holder of a registered irrevocable de-registration and export request authorisation or his delegate or Certified Designee provided that the provisions of the following sub-articles shall apply prior to the cancellation taking place.

(5) In the case referred to in sub-article (1)(e) above, the Director General shall give all registrants, any mortgagees, any holders of any international interests and any authorised person or his delegate or Certified Designee under an irrevocable de-registration authorisation and export request authorisation at least fifteen working days' notice of any intent to close the register, in terms of this article, unless the cause for such closure is remedied within such time or such longer period expressly stated in the notice. The Director General shall specify in the notice the reason for the proposed closure and the expiry date for the issue to be addressed, failing which closure will be effected.

(6) The registrant, any mortgagees, any holders of any international interests and any authorised person or his delegate or Certified Designee under an irrevocable de-registration authorisation and export request authorisation may appeal to the Administrative Review Tribunal established under the Administrative Justice Act, within fifteen working days of receiving the relevant notice under sub-article (5) either: Cap. 490.

(*a*) on the basis that it is not justified; or

(*b*) on the basis that effective action has been taken to remedy the complaint and the Director General has failed to withdraw the order to cancel.

(7) Pending the determination of an appeal under the preceding sub-article, the Director General shall not proceed to close the register.

Register closed save unsatisfied mortgages and security interests. *Amended by: XXXVII.2021.13.*

14. In the case of cancellation of the registration of an aircraft in terms of the provisions of article 13, the aircraft shall cease to be registered and the register of the aircraft shall be considered as closed except in so far as relates to any unsatisfied mortgages and other holders of any security interest, including the holder of any international interest or any authorised persons or Certified Designees under any irrevocable de-registration and export request author

Provided that the Director General may, without prejudice to rights of the mortgagee or the rights of the holder of any international interest or any authorised persons or Certified Designees under any irrevocable de-registration and export request authorisation, communicate independently with the mortgagee or holder of any security interest or the holder of any international interest including any authorised persons or Certified Designees under any irrevocable de-registration and export request authorisation, to take all action as is necessary, including extending the validity of the registration beyond the stated deadline, for the orderly closure of the registry and enforcement of the mortgage or other security interest or international interest including enforcement of any irrevocable de-registration and export request authorisation as well as to ensure the safe operation of the aircraft.isation:

Provided that the Director General may, without prejudice to rights of the mortgagee, communicate independently with the mortgagee or holder of any security interest to take all action as is necessary, including extending the validity of the registration beyond the stated deadline, for the orderly closure of the registry

and enforcement of the mortgage or other security interest as well as to ensure the safe operation of the aircraft.

Inspection of the Malta Aircraft Register. *Amended by: XXXVII.2021.14.*

15. (1) The Malta Aircraft Register may, upon payment of the prescribed fee, be inspected by any person at the offices of the Director General subject to any conditions the Director General may specify.

(2) The Director General may make the information in the Malta Aircraft Register accessible on the internet or by any other suitable electronic means.

(3) A transcript of the Malta Aircraft Register shall be issued upon request and upon the payment of the prescribed fee.

Nationality and registration marks.

16. (1) The marks to be borne by aircraft registered in Malta shall comply with this Act and particularly with Part B of the Fourth Schedule and other regulations prescribed hereunder.

(2) An aircraft shall not bear any marks which purport to indicate -

(*a*) that the aircraft is registered in a country in which it is not in fact registered; or

(*b*) that the aircraft is an aircraft used in the military, customs or police services of a particular country if it is not in fact such an aircraft, unless the appropriate authority of that country has sanctioned the bearing of such marks.

Fees. *Substituted by: LII.2016.10. Amended by: Act XL of 2023.*

17. (1) There shall be charged for the registration of an aircraft, or of a mortgage over an aircraft and for any other purpose as may be determined by the Authority such fees as may be prescribed by the Authority.

(2) *Repealed by Act XL of 2023.*

PART III

INTERNATIONAL REGISTRANT

International registrants' eligibility to register aircraft.

18. The provisions of this Part shall apply limitedly to registrants of aircraft not engaged in air services.

International registrant.

19. A foreign national or undertaking, not being a person mentioned in article 6(1)(*b*) or (*c*) (in this Act referred to as an "international registrant") shall be deemed to satisfy the qualifying requirements of article 6(*d*) unless the Director General has made a declaration to the contrary; and the Director General may, before withdrawing such declaration, impose such conditions as he may deem fit in the circumstances that may include the provision of a guarantee or a bond.

Appointment of resident agent.

20. (1) The international registrant is required to appoint in writing prior to registration, a resident agent who -

(*a*) is habitually resident in Malta;

(*b*) is not interdicted or incapacitated or is an undischarged bankrupt;

(*c*) has not been convicted of any of the crimes affecting public trust or of theft or of fraud or money laundering or of knowingly receiving property obtained by theft or fraud; and

(*d*) has satisfied the Director General that he is a person capable of carrying out the functions stated under this Act.

(2) A resident agent shall be deemed to satisfy the Director General unless the Director General has made a declaration to the contrary; and the Director General may, before withdrawing such declaration, impose such conditions as he may deem fit in the circumstances.

(3) The international registrant shall ensure that it has a validly appointed resident agent at all times.

(4) Notices of the appointment, resignation or removal of the resident agent shall be filed with the Director General in the prescribed form, and where a notice of appointment is given it shall be accompanied by the acceptance in writing of the resident agent of such appointment.

(5) The Director General may at any time refuse or reject any notice of an appointment which he considers is not in compliance with this Act and in such case the international registrant shall immediately appoint another resident agent.

Jurisdiction of the Maltese courts.

21. An international registrant in whose name an aircraft is, or has been, registered under this Act, or in whose name a certificate of registration has been issued, shall be deemed to have submitted to the jurisdiction of the Maltese courts in terms of article 742(l)(g) of the Code of Organization and Civil Procedure for any action in connection with the aircraft while it is or was so registered.

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Functions of the resident agent.

22. (1) It shall be the function of the resident agent, on behalf of the international registrant, to -

(*a*) act as the channel of communication between the international registrant and the Director General and other Maltese government departments and authorities;

(*b*) sign and file with the Director General and other Maltese government departments and authorities all declarations and forms required in terms of Maltese law;

(*c*) act as the judicial representative of the international registrant for judicial proceedings in Malta, and any notice whether by the Director General, other authority, any mortgagee or any other holder of a security interest, is sent to the resident agent at his last registered address, shall be deemed to have been duly received by and notified to the international registrant.

(2) The resident agent shall not be personally liable for non-compliance by the international registrant with any law, unless the resident agent has personally undertaken liability in writing or has

willfully or recklessly made a false declaration.

Powers of resident agent.
Amended by: XXXVII.2021.15.

23. (1) Without prejudice to the express powers enjoyed by an international registrant in his engagement, the resident agent shall have the power, on behalf of the international registrant, to -

(*a*) sign and file applications, declarations, notices, returns and any other document required in terms of Maltese law;

(*b*) apply for the registration of an aircraft under this Act and for the closure of register of an aircraft, and to perform any ancillary act in relation thereto;

(*c*) pay all relative fees and taxes payable in terms of Maltese law;

(*d*) do all other things as may be considered conducive or ancillary for the registration of an aircraft under this Act or for the maintenance of such registration;

(*e*) do all other things as may be considered conducive or ancillary to the cancellation of the registration of an aircraft under this Act;

(*f*) authenticate documents issued by the international registrant; and

(*g*) receive formal notification on behalf of the international registrant when notifications are required in relation to the aircraft, under the provisions of this Act or any agreement.

(2) The resident agent shall be deemed to have all the necessary power to provide binding undertakings to the Director General on matters relating to the registration of the aircraft on behalf of the international registrant and the Director General is authorised to act accordingly; provided that nothing in this Act shall imply any power of a resident agent to execute any document relating to a mortgage or security interest unless expressly authorised to do so in writing.

(3) Except with regard to matters in relation to the registration of the aircraft under this Act and to the maintenance of such registration, the international registrant may restrict any of the above powers of the resident agent:

Provided that where the international registrant limits such powers he shall file with the Director General a declaration to that effect in the prescribed form and such limitation shall not have effect with regard to third parties until it is so filed and recorded in the Malta Aircraft Register.

(4) The resident agent may appoint in writing another person to act in specific matters on his behalf provided that in so doing the resident agent shall not be relinquishing the functions, powers and responsibilities conferred on him under this Part.

Resignation or removal of resident agent.

24. (1) A resident agent may resign by giving at least fifteen days' notice (or such other shorter period as the international registrant, the Director General and any registered mortgagee may

consent to) in writing to the international registrant, the Director General and to any registered mortgagee.

(2) The international registrant may remove the resident agent by giving at least fifteen days' notice (or such other shorter period as the Director General and any registered mortgagee may consent to) in writing to the Director General and to any registered mortgagee.

(3) A registered mortgagee shall be deemed to enjoy the power to appoint a resident agent on behalf of the international registrant in case of failure of the international registrant to appoint such an agent.

(4) Where the international registrant is in default of his obligations under this Act, the Director General may, without prejudice to any other action that can be taken under this Act, apply to the Civil Court, First Hall for the appointment of a curator to act as resident agent until such time as another resident agent is validly appointed or the aircraft ceases to be registered:

Provided that any expense incurred shall be considered as a charge due to the Director General under article 42.

PART IV

MORTGAGES ON AIRCRAFT

Aircraft as security for debts.
Amended by: LII.2016.11; XXXVII.2021.16.

25. (1) Aircraft constitute a particular class of movables whereby they form separate and distinct assets within the estate of their owners for the security of actions and claims to which the aircraft is subject. In case of bankruptcy and, or insolvency of the owner of an aircraft, all actions and claims, to which the aircraft may be subject, shall have preference, on the said aircraft, over all other debts of the estate.

(2) For the purposes of this Part, an aircraft shall comprise:

(*a*) all data, manuals and technical records; and

(*b*) the airframe, all equipment, machinery and other appurtenances as accessories belonging to the aircraft, which are on board or which have been temporarily removed therefrom; and

(c) any engines owned by the owner of the aircraft whether attached to the aircraft or not, as well as any replacement engines which are designated for use on the aircraft and owned by the owner of the aircraft but temporarily not attached to the aircraft.

(3) In this Part IV, the expression "claims to which the aircraft is subject" or "aircraft claims" shall be construed to refer to debts or other obligations secured by mortgages, international interests or security interests and claims which enjoy a special privilege under article 42.

Types of charges on aircraft. *Amended by: LII.2016.12; XXXVII.2021.17.*

26. (1) An aircraft may constitute security for a debt or other obligation either by agreement or by operation of the law as hereinafter provided.

(2) (*a*) Special privileges arise in virtue of law and no debt or other obligation other than those specified at law shall be secured by a special privilege.

(*b*) To the extent that a special privilege is subject to registration in the International Registry, such registration shall be an additional requirement for the continuing existence of such special privilege.

(3) Subject to the provisions of article 31 and the and notwithstanding the provisions of articles 566 to 584 of the Civil Code, engines and separate items on or in an aircraft may themselves be subject to special privileges in accordance with the provisions of the Civil Code, in security of the debts therein specified.

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(4) For the purposes of article 573 of the Civil Code, where an engine has been attached to an airframe, which is not also owned by the airframe owner, each of the owners shall retain the ownership of their thing and the engine shall not accede to the airframe.

Any security over the aircraft shall not extend to any engine attached to the airframe when such engine does not belong to the owner of the airframe who has granted the security, notwithstanding that the engines may be specifically referred to in the instrument of mortgage, the Malta Aircraft Register or elsewhere.

Priority of claims on aircraft over all other debts of owner. *Amended by: LII.2016.13.*

27. (1) All registered mortgages, any special privileges and all actions and claims to which an aircraft may be subject shall not be affected by the bankruptcy and, or insolvency of the mortgagor or owner, happening after the date on which the mortgage was created, or the special privilege, action or claim arose, notwithstanding that the owner at the commencement of the bankruptcy and, or insolvency had the aircraft in his possession, order or disposition, or was the reputed owner thereof, and such mortgage, privilege, action or claim shall have preference, on the said aircraft, over all other debts, claims or interests of any other creditor of the bankrupt or of any curator, liquidator, receiver or trustee, acting on behalf of any other creditors:

Provided that such mortgagee or claimant shall contribute to the costs of winding up, including the liquidator's fees and expenses in the event that he participates in the liquidation proceedings and either:

(*a*) is ordered to do so by the court, which shall determine the extent of his liability, or

(*b*) he expressly agrees to do so in writing.

(2) All owners, lessors, lessees, creditors, mortgagees, holders of security interests and any other persons having an interest in or in relation to an aircraft may enter into an inter-creditor agreement which shall govern the relevant relationship and shall be binding and effective in accordance with its terms. Article 1996A of the Civil Code shall apply to such agreements. Cap. 16.

(3) Any judicial sale proceedings instituted and any other enforcement actions initiated by any registered mortgagee or creditor enjoying a special privilege under article 42(1), shall not be interrupted or in any way hindered by any curator in bankruptcy and, or insolvency, whether voluntary or compulsory, or any liquidator, receiver or trustee of the owner for any cause other than a cause that could be set up by the owner of an aircraft.

(4) The provisions of the preceding sub-article shall apply *mutatis mutandis* to proceedings for the termination of any agreement or the taking of possession or control of an aircraft by the holder of a security interest instituted against a conditional buyer or lessee.

(5) This article shall also apply to any international interest and, or to any security interest registered in the International Registry.

(6) The provisions of article 329B of the Companies Act shall not apply to a Maltese company whose main object or function is to own, hold, operate, charter, manage or lease any aircraft or aircraft engine. Cap. 386.

Insolvency proceedings in case of aircraft companies. *Added by: LII.2016.14.*

27A. (1) The memorandum and articles of a company, whose centre of main interests is in Malta or is registered in Malta and the sole asset of which is an aircraft or aircraft engines and other related assets (in this article referred to as an "aircraft company"), can specify that the right to request any insolvency proceedings in relation to the aircraft company shall be exercised only by the holders of a mortgage, an international interest or a security interest, or trustees or agents for such persons (in this article referred to as "preferred creditors"), over such assets, singly or collectively, including as a class or classes of creditors, to the exclusion of any other persons for as long as the interest of the persons so indicated remains in force.

(2) Where, in the case of an aircraft company, the aircraft is subject to a registered mortgage, an international interest, a security interest or other aircraft claims, having priority under article 25(1), and

(*a*) sub-article (1) applies; or

(*b*) the sums due to the relevant preferred creditor or creditors under such rights appear *prima facie* to exceed the value of the aircraft,

the court shall, on the demand by application of the relevant preferred creditor or creditors as aforesaid:

(i) stay any insolvency proceedings which may have been instituted; and, or

(ii) desist from issuing any orders relating to insolvency proceedings,

until the court is satisfied that there exist excess funds due to the aircraft company from any enforcement proceedings, in relation to which orders relating to insolvency proceedings, including a winding up order, may usefully be made.

(3) In the event contemplated in sub-article (2), the preferred creditor making a demand under the said sub-article shall, on making the demand and at such times and in the manner ordered by the court, be bound to provide the court with all information available to him relating to any enforcement proceedings he is involved in or is otherwise aware of, and in case paragraph (*b*) of sub-article (2) applies, information relating to the value of aircraft and the claim. In such case the court shall await the outcome of such enforcement proceedings, whether private or public as the case may be, after which it shall issue such orders as it considers appropriate in the circumstances, including the summary dismissal of any applications on the basis of the absence of any assets available to meet any claims other than those of the preferred creditors.

The court shall not address or reopen issues already resolved, agreed between the parties or determined by any court pursuant to the provisions of this Act, or a foreign court otherwise having jurisdiction, prior to such orders being made.

(4) Any person appointed by a court in Malta or overseas in any insolvency proceedings shall not in any way interfere with the exercise of remedies of the mortgagee, the holder of an international interest, security interest or other aircraft claims and, to the extent that he has any powers under applicable law, he shall exercise them in support of the remedies of such creditors under this Act. Should any aircraft come under his control prior to any creditor having a right to take possession of an aircraft and, or aircraft engine, in the exercise of his remedies, then such person must preserve the aircraft and, or aircraft engine and maintain it and its value in accordance with the agreements between the creditor and the debtor and hand over possession of the aircraft to the person entitled thereto under the provisions of this Act or any other applicable law.

(5) Should it result to the court that:

(*a*) there are no excess funds resulting from any enforcement proceedings; or

(*b*) ranking of creditor proceedings have taken place, in Malta or overseas, over the proceeds of sale of the aircraft, the result of which is final and binding on all reditors, and there are no excess funds; and

(*c*) there is no other business of the aircraft company which needs to be wound up,

it shall not order the winding up of the aircraft company but shall instead declare the aircraft company dissolved and wound up for the above reasons.

The court shall order the aircraft company to be struck off the register without further procedures and this shall take place within

three months from the filing with the Registrar of Companies of authenticated evidence of the enforcement proceedings, including the sale of the aircraft or the closure of ranking of creditors, which evidence together with a copy of any decrees of the court, shall be filed at the Registry of Companies for public notice. In such event, any residual rights of the aircraft company shall be vested in the shareholders of the company by operation of law.

(6) Should it result that there are excess funds due to the company after enforcement proceedings as aforesaid where the claims of preferred creditors are dealt with in a final manner, the court may order the winding up of the company in accordance with the applicable law and the commencement among creditors who are not preferred as aforesaid of the relative competing claims procedure under Sub-Title III of Title VIII of Part I of Book Second of the Code of Organization and Civil Procedure. A Maltese company who is or was in possession of an Air Operator's Licence as issued by the Director General will be deemed to be a company whose main object or function is to own, hold, operate, charter, manage or lease any aircraft or aircraft engine and therefore the provisions of article 329B of the Companies Act shall automatically not apply to such company.

Cap. 12.

Cap. 386.

(7) Should the right to demand the winding up of the aircraft company not be vested under the memorandum and articles of the aircraft company in any of the persons referred to in sub-article (1), and any member of the aircraft company files such demand on the basis that there are grounds of sufficient gravity to warrant the dissolution and winding up of the aircraft company:

(*a*) the applicant shall, on making the demand and at such times and in the manner ordered by the court, be bound to provide the court with all information available to him relating to any aircraft claims over the aircraft and, or any enforcement proceedings involving the aircraft company or of which he is otherwise aware; and

(*b*) the court shall only issue such orders as will not hinder any enforcement proceedings by the said creditors under the provisions of this Act, unless otherwise agreed between all parties; and

(*c*) if a preferred creditor provides evidence that sub-article (2)(*b*) applies, the court shall act in accordance with sub-article (2).

(8) In this article:

"company" shall include any legal organisation of any form, whether constituted under the laws of Malta or of another state and shall include also a trust being administered by a trustee holding relevant assets;

"enforcement proceedings" shall include actions by any mortgagee, the holder of an international interest, a security interest and, or aircraft claimants, whether in Malta or overseas, under article 33, 33A, 33B and 33C of this Act or any judicial sale proceedings under applicable law;

"insolvency proceedings" means bankruptcy, liquidation, administration, winding up, company reconstruction or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court, a liquidator, an administrator or an insolvency practitioner for the purposes of reorganisation or liquidation;

"related assets" shall include any proceeds of sale or insurance or requisition compensation, and all property referred to in article 25(2).

Cap. 386.

(9) For the avoidance of doubt, the provisions of the Companies Act relating to insolvency shall not apply insofar as inconsistent with this article, the provisions of this Act and in particular with the First Schedule of this Act.

(10) Nothing in this article shall restrict or prejudice the right of any creditor to submit its claim to the court, in order to ensure that the claim is considered by the court at the appropriate time, paying regard to the provisions of this article.

Attachment and extinguishment of charges and other rights.

28. (1) A registered mortgage shall attach to the aircraft or share therein in respect of which it is registered until it is discharged.

(2) Where the aircraft has been forfeited under an applicable law, the interest of the mortgagee in the aircraft shall terminate if such person has authorised, consented to, or conspired, to the act, failure or omission in consequence of which the aircraft is forfeited.

(3) Where an aircraft has been sold pursuant to an order or with the approval of a competent court within whose jurisdiction the aircraft was at the time of the sale, the interest of the mortgagees as well as that of any other creditor in the aircraft shall pass on to the proceeds of the sale of the aircraft.

(4) Where an aircraft has been sold by a mortgagee in possession, in enforcement of such mortgage pursuant to his rights in terms of this Part and it is stated in the bill of sale that the aircraft is being sold free from such encumbrance, then -

(*a*) the rights arising from such registered mortgage shall no longer be exercisable in relation to that aircraft; and

(*b*) all rights of other creditors, including those of other registered mortgagees which rank after the said mortgage shall no longer attach to the aircraft; and

(*c*) all rights of other creditors which rank before the said mortgage shall be exerciseable against the proceeds of sale by whosoever held, but shall no longer attach to the aircraft.

(5) The creditor selling the aircraft to enforce his mortgage shall be bound to act in a commercially reasonable manner and shall be bound by fiduciary duties towards the debtor and other creditors when effecting a sale of the aircraft and shall be bound to:

(*a*) pay from the proceeds which he receives any creditor

who ranks prior to his rights as he may determine or as may be determined by the court in case of disagreement; and

(*b*) provide information to any creditor whose rights rank after his own rights and to the debtor for the conditions of sale, the expenses incurred, the prior rights settled and any other deductions from the price received.

(6) Any hypothec or privilege whether general or over particular movables to which an aircraft may be subject under the provisions of the Civil Code shall not continue to attach to it when the aircraft is transferred to third parties. Cap. 16.

Mortgage of aircraft or share. *Amended by: XXXVII.2021.19.*

29. (1) A registered aircraft or a share therein may be made a security for any debt or other obligation by means of an instrument creating a mortgage in accordance with this Part (in this Act called a "mortgage") executed by the mortgagor in favour of the mortgagee in the presence of, and attested by, a witness or witnesses, in the form specified in regulations.

(2) A mortgage is indivisible notwithstanding the divisibility of the underlying debt or other obligation which it may secure.

(3) A mortgage shall attach to any proceeds from any indemnity arising from any mishaps as well as any insurance proceeds; provided that this provision shall not apply in relation to an indemnity payable under a liability policy.

(4) It shall be lawful for a mortgage to be executed and registered in favour of a security trustee appointed or acting under a trust for the benefit of persons to whom a debt or other obligation is due. Such security trustee shall, in any such case, be recognised as the mortgagee of the particular mortgage and shall be entitled to exercise all the rights in relation to that mortgage as are accorded to mortgagees by this Act or any other enactment. Any such security trust shall be governed by the provisions of article 2095E of the Civil Code when the applicable law is the law of Malta. Cap. 16.

(5) A mortgage registered under this Part may be drawn up to secure the payment of a principal sum and interest, an account current, as well as the performance of any other obligation, including a future obligation due by the debtor to the creditor. It shall not be necessary to indicate the monetary value of the indebtedness in the mortgage unless it is intended to secure a future obligation in which case a maximum sum by way of principal for which the mortgage is granted must be expressly stated in the registered instrument and such sum shall be reflected in the register by the Director General.

A mortgage to secure a future obligation may only be granted in favour of a credit institution in an approved jurisdiction or such other organisation as may be permitted by means of a Notice issued by the Minister.

(6) For the purposes of this Act, the term "account current" means any indebtedness of a mortgagor in favour of a mortgagee arising and determinable in accordance with an underlying obligation and all the provisions of the Commercial Code relative Cap. 13.

to the contract of account current including the provisions of article 264 thereof shall not apply thereto unless expressly agreed to by the parties.

(7) When an international interest is registered in the International Registry it shall be enforceable even in the absence of the registration or notation in the Malta Aircraft Register and shall be regulated by the First Schedule and the law governing its terms.

Registration of mortgages. *Amended by: LII.2017.15; XXXVII.2021.20.*

30. (1) On the production of a mortgage for registration in the form prescribed, the Director General shall record it in the Malta Aircraft Register.

(2) Mortgages shall be recorded by the Director General in the order of time in which they are produced to him for that purpose, and the Director General shall by memorandum under his hand notify on each mortgage that it has been recorded by him, stating the day and hour of that record.

(3) Where it is stated in the instrument of the mortgage that it is prohibited to create further mortgages on an aircraft without the prior written consent of the mortgagee, the Director General shall make a note in the Malta Aircraft Register to such effect, and the Director General shall not record such further mortgage unless the consent in writing of the holder of a prior mortgage is produced to him, and any mortgage registered in violation of this provision shall be null and void:

Provided that where such further mortgage is executed in favour of an existing creditor, no such consent shall be required from such creditor:

Provided further that nothing in this article shall hinder the registration of a special privilege where this Act requires registration for its continuing validity and effect.

(4) When it is stated in the instrument of mortgage that it is prohibited to effect the transfer of the aircraft which is being mortgaged or charged, or of a share therein, without the previous written consent of the mortgagee, the Director General shall make a note in the Malta Aircraft Register to such effect, and the Director General, notwithstanding any other provision of this Act, shall not record any transfer of such aircraft or of a share therein unless the consent in writing of such mortgagee is produced to him, saving where the transfer is made pursuant to a court order in a sale by auction of such an aircraft or pursuant to any other court order, and any transfer registered in violation of this provision shall be null and void.

(5) Where a creditor has registered an international interest in the International Registry in accordance with the First Schedule, it shall be lawful for the debtor (being the registrant and, or the owner of the aircraft) to execute and file a prohibitory notice in favour of one or more creditors, in the form prescribed, which shall be entered in the Malta Aircraft Register by the Director General.

(6) When a prohibitory notice is entered in the Malta Aircraft Register in accordance with this article, the Director General shall not thereafter record any mortgage or other security interest in the

National Aircraft Register in accordance with this Part, until the prohibitory notice is withdrawn by the creditor, or unless the creditor enjoying the benefits of the prohibitory notice grants prior written consent.

Preservation of special privileges or reservation of title of aircraft on accessories of aircraft. *Amended by: LII.2017.16; XXXVII.2021.21.*

31. (1) Subject to article 32 and the terms of any inter-creditor agreement, upon the registration of any mortgage in the Malta Aircraft Register, the rights of any mortgagee shall not be affected by the following happening subsequently:

(*a*) the creation of any separate privilege or charge on an aircraft or on any part, appurtenance or accessory of an aircraft which may attach in virtue of any law except for the privileges listed in article 42(1); or

(*b*) the reservation of ownership rights by a seller on an aircraft or on any part, appurtenance or accessory sold to a buyer under a contract of sale, hire purchase or any similar contract;

(*c*) any lease:

Provided that provisions, fuel and other consumable goods shall not be considered as appurtenances:

Provided further that the provision of this article shall in no way prejudice or reduce the rights of any creditor enjoying a privilege or reserving ownership rights in relation to any creditor other than the mortgagee.

(2) Subject to article 32, at any time prior to the registration of a mortgage on an aircraft any creditor having a separate privilege or charge on any part, appurtenance or accessory of an aircraft may register such privilege or charge in the register of the aircraft by means of an instrument executed by the owner in the presence of a witness in the form prescribed, and on the production of such instrument, the Director General shall by memorandum under his hand notify on each charge that it has been recorded by him stating the day and hour of that record.

(3) Subject to article 32, a seller reserving ownership rights on an aircraft or on any part, appurtenance or accessory of an aircraft or enjoying the benefit of any conditions affecting title thereto may register his interest in the register of the aircraft at any time prior to the or at any time after the registration of a mortgage but only with the written consent of the mortgagee.

(4) A lessee having rights to an aircraft or any part, appurtenance or accessory of an aircraft may register his interest in the register of the aircraft at any time prior to the registration of a mortgage.

(5) The registration of such a special privilege, charge or reservation of ownership rights or of lessee rights prior to the registration of a mortgage shall preserve the rights of the person referred to in the preceding sub-articles, on the aircraft or that part, appurtenance or accessory in relation to any subsequent mortgage.

(6) A reservation of ownership rights registered on an aircraft or a part, appurtenance or accessory shall be cancelled upon

production by the owner of a receipt for the price and other charges relative to the transfer of an aircraft or such part, appurtenance or accessory, and the Director General, upon production of such receipt duly signed and attested to his satisfaction, shall make an entry in the Malta Aircraft Register to the effect that the reservation of ownership rights has been cancelled.

(7) When a lease which is noted in the Register is terminated for any reason, the record thereof shall be removed by the Director General upon production of such documents as may be prescribed which demonstrate such termination to his satisfaction.

(8) The transfer of the interest of any creditor enjoying a reservation of ownership or lessee rights registered in terms of this article may, on the production of proof to the satisfaction of the Director General, be recorded by the Director General who shall enter in the register the name of the transferee and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him.

Priority of mortgages. *Amended by: XXXVII.2021.22.*

32. (1) If there are more than one mortgage registered in respect of the same aircraft or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, be entitled in priority, one over the other, according to the date and the time at which each mortgage is recorded in the Malta Aircraft Register.

(2) Subject to the provisions of sub-article (3), after the effective date all mortgages registered in terms of this Part shall rank after any international interest, prospective international interest and other right or interest which is registered in the International Registry on such aircraft or share therein irrespective of the date and time of registration in the international registry.

(3) A mortgage registered in terms of this Part or any law (which this Act substitutes) before the effective date shall retain its priority over any international interest or prospective international interest as defined in the First Schedule which may be registered in the International Registry on such aircraft or share therein.

Rights of mortgagee. *Amended by: LII.2017.17; Amended by: XXXVII.2021.23.*

33. (1) Without prejudice to any default remedies as may be applicable by virtue of the First Schedule, the mortgagee shall, in the event of default of any term or condition of a registered mortgage or of any document or agreement referred to therein, and upon giving notice in writing to the debtor -

(*a*) be entitled to take possession of the aircraft or share therein in respect of which he is registered; but except so far as may be necessary for making a secured aircraft or share available as a security for the secured debt, the mortgagee shall not, by reason of the mortgage, be deemed to be the owner of the aircraft or share, nor shall the mortgagor be deemed to have ceased to be the owner thereof;

(b) have power absolutely to sell the aircraft or share in respect of which he is registered; but where there are more persons than one registered as mortgagees of the

same aircraft or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the aircraft or share without the concurrence of every prior mortgagee; and if the proceeds of sale, after discharging the secured debt, show a surplus in his hands, the mortgagee shall hold under trust or deposit the same for the benefit of other creditors and of the mortgagor debtor;

(*c*) have power to apply for any extensions, pay fees, receive certificates, and generally do all such things in the name of the owner or registrant as may be required in order to maintain the status and validity of the registration of the aircraft;

(*d*) have the power to lease the aircraft so as to generate income therefrom; and

(*e*) have the power to receive any payment of the price, lease payments, and any other income which may be generated from the management of the aircraft.

For the purposes of this sub-article, the requirement to give notice in writing to the debtor shall be considered to have been satisfied if the mortgagee or holder of any security interest gives the notice to the debtor by means of an electronic communication in accordance with the Electronic Commerce Act, or in such other manner as agreed between the parties, or if such notice is served at the registered office of the debtor, if the registered address of the owner is in Malta, or on a curator appointed by the court to represent the debtor and the aircraft, and in the case of an international registrant, on the resident agent in accordance with article 23(1)(*g*). Cap. 426.

(2) The powers referred to in sub-article (1) may be exercised by the mortgagee without the need of the leave of any court and to the extent that any mortgagee seeks the support of the court due to any hindrance of any person to the exercise of his rights, the court shall render full support to the mortgagee as expeditiously as possible.

(3) The said powers shall be exercisable in accordance with the terms of any agreement governing the mortgage.

(4) The mortgagee may alternatively apply to the court for an order authorising or directing any of the acts referred to in sub-article (1) and may apply to the court for the judicial sale of the aircraft or engine in which case sub-articles (5) to (8) shall apply.

(5) A registered mortgage shall be an executive title for the purposes of article 253 of the Code of Organization and Civil Procedure: Cap. 12.

(*a*) where the obligation it secures is a debt certain, liquidated and due; or

(*b*) where a maximum sum secured thereby is expressly stated in the instrument creating the security and such figure is recorded in the register for public notice.

(6) The provisions of this article shall also apply to all

registered mortgages which secure debts resulting from any account current or overdraft or other credit facility as well as mortgages which secure future obligations.

(7) In connection with the enforcement of any mortgage, for the purpose of determining -

(*a*) the amount certain, liquidated and due, or

(*b*) the mortgage secures a future obligation within an expressly stated maximum,

in connection with the enforcement of the security involving the sale of an aircraft, the creditor shall specify the sum due at the time of enforcement by means of a sworn affidavit notified or served on the debtor. This shall be without prejudice to the right of the debtor to pay such sum in settlement of the amount due to the secured creditor, or the right of any interested party to contest such amount according to law, even after payment of the sum claimed, but no person shall have the right to hinder the exercise of the rights of the secured creditor in any manner.

(8) Any judicial proceedings to enforce a mortgage shall be carried out in accordance with the procedure described in article 187(4), (5) and (6) of the Code of Organization and Civil Procedure, provided that in the case of an international registrant registered under Part III, service on the debtor shall be carried out by serving a copy of the proceedings on the resident agent in accordance with article 22(1)(*c*).

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(9) Subject to article 43, the debtor and the person in possession of the aircraft shall be obliged to co-operate fully with the mortgagee enforcing his rights under this article including, but not limited to, surrendering and submitting all data, manuals, technical records, parts, accessories and appurtenances belonging to the aircraft.

"Further remedies of mortgagee. *Added by: LII. 2016.18.*

33A. (1) Any sum collected or received by the mortgagee as a result of the exercise of any of the remedies set out in article 33 and including sums in reimbursement of any reasonable costs in the exercise of such remedies, shall be applied by the mortgagee towards discharge of the secured obligations, subject to the satisfaction of any prior rights of creditors under Part V or Part VII.

(2) Unless otherwise ordered by the court, in the event that there are excess funds after the exercise carried out by the mortgagee under sub-article (1) including any reasonable costs incurred for such purpose, the mortgagee shall pay the surplus as follows:

(*a*) to creditors with subsequently ranking rights or interests of which the mortgagee has been given notice, in order of priority according to applicable law; and

(*b*) thereafter, pay any remaining balance to the mortgagor.

(3) In the event of disagreement as to the ranking between the mortgagee and, or the creditors having claims against the aircraft or

engine, the mortgagee or any creditor satisfying the court of its claim on the aircraft or engine, or proceeds thereof, may apply to the court for the court to establish the ranking among themselves, or other preferred creditors who may join the proceedings within a period established by the court, for the purposes of this article. Persons who do not prove to the court that they have a preferred claim shall not be permitted to participate in the proceedings at this stage.

(4) The court may order sufficient security to be provided by the mortgagee over the proceeds held by the mortgagee, but not in excess of such proceeds, pending the determination of the application referred to in the preceding sub-article.

(5) This article does not apply to the case of an aircraft being sold through a judicial auction or a private sale authorised by the court on the enforcement of a mortgage, international interest or security interest, but may be applied with the consent of the court if (*a*) all the parties to the proceedings have agreed to its application or (*b*) the mortgagee acquires the aircraft in the judicial auction in set-off, in full or partially, of its claims.

(6) In carrying out its functions under this article the mortgagee shall, with respect to funds held by it, be subject to fiduciary duties in favour of other creditors participating in the process and this until the allocation of funds has been agreed or finally determined by the court, or the proceeds which are not allocated to its claim are deposited under authority of the court or such other person as may be agreed among the parties.

Vesting of aircraft object in satisfaction by way of set-off.
Added by: LII. 2016.18.

33B. (1)This article applies at any time after a default has occurred and notice in writing thereof has been given to the debtor.

(2) The mortgagee, other preferred creditors and the mortgagor may agree that ownership of (or any other interest of the mortgagor, including any lessor rights) any aircraft covered by the mortgage shall vest in the mortgagee in or towards satisfaction of the secured obligations.

(3) Irrespective of any agreement under the preceding sub-article, the court may, on the application of the mortgagee, order that ownership of (or any other interest of the mortgagor) any aircraft covered by the mortgage is to vest in the mortgagee in or towards satisfaction of the secured obligations.

(4) The court shall grant an application under the preceding sub-article only if the amount of the secured obligations, after taking into account any payment to be made by the mortgagee to any of the preferred creditors, to be satisfied by such vesting is more than the value of the aircraft.

(5) At any time before the sale of the mortgaged aircraft or the making of an order under sub-article (3), the mortgagor or any interested person may discharge the mortgage by paying in full the

amount secured, and any amount paid by the mortgagee to any of the preferred creditors, subject to any lease granted by the mortgagee pursuant to its powers under article 33(1)(*d*).

(6) Where, after such default, the payment of the amount secured, and any amount paid by the mortgagee to any of the preferred creditors, is made in full by an interested person other than the debtor, that person is subrogated to the rights of the mortgagee.

(7) Ownership or any other interest of the mortgagor passing on a sale to a third party under article 33(1)(*b*) or passing to the mortgagee under sub-article (2) or (3) of this article shall be free from any other interest over which the mortgage has priority under the provisions of this Act.

(8) The mortgagee may designate a fully owned subsidiary or a controlled entity in which the ownership of the aircraft (or any other interest of the mortgagor) may be vested for the purposes of this article.

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(9) The provisions of articles 358 to 364 of the Code of Organization and Civil Procedure shall apply to any applications to the court under sub-article (3), *mutatis mutandis*.

Meaning of default.
Added by: LII. 2016.18.

33C. (1)The mortgagor or the mortgagee may at any time agree in writing as to the events that constitute a default or otherwise give rise to the rights and remedies specified in articles 33 to 33B and other provisions of this Act.

(2) Where the mortgagor and the mortgagee have not so agreed, "default" for the purposes of this Act means:

(*a*) the fulfilment of a condition under which the dissolution of the agreement between the mortgagor and the mortgagee was expressly covenanted or a failure by a party to perform his obligations; or

(*b*) a change in the financial condition of the mortgagor as provided for in article 1079 of the Civil Code; or

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(*c*) a default which substantially deprives the mortgagee of what it is entitled to expect under the agreement between the mortgagor and the mortgagee.

(3) When a default has taken place and a notice thereof is given to the mortgagor and any guarantor, in accordance with this Act or the agreement between the parties, such notice shall be valid and binding and all effects at law and under any agreement between the parties shall arise without the need of any determination by any court as to whether a default has occurred or not, as to whether the benefit of time has been lost or not and as to whether any rights are immediately enforceable or not.

(4) Where a mortgagee exercises his rights in the preceding articles, and in any valuation for the purpose, he must exercise such

rights in accordance with any agreement between the parties and in any event in a commercially reasonable manner and in good faith so as to ensure fair treatment for the mortgagor.

Transfer of mortgage. *Amended by: XXXVII.2021.24.*

34. (1) A registered mortgage over an aircraft or share may be transferred to any person by an instrument of transfer executed by the transferor in the presence of, and attested by, a witness or witnesses; and on the production of such instrument for registration the Director General shall record it by entering in the register the name of the transferee as mortgagee, of the aircraft or share, and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him, stating the day and hour of the record.

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(2) For the purposes of article 1471 of the Civil Code, registration of the instrument of transfer of a registered mortgage of an aircraft or share made by the Director General in the Malta Aircraft Register in terms of the provisions of this article shall be deemed to constitute due notice of the assignment of such mortgage to the debtor.

Assignment of part of a debt or other obligation.

35. (1) It shall be lawful for the assignee of part of a debt or other obligation secured by a registered mortgage of an aircraft or share to demand that the assignment be entered in the register of the particular aircraft for the part so assigned and the Director General shall, upon the production to him of the relative instrument of transfer together with the mortgage to which it relates, forthwith proceed to record such partial assignment by entering in the register the name of the assignee as co-mortgagee of the aircraft or share, and shall by memorandum under his hand notify on the mortgage or security interest that such assignment has been recorded by him, stating the day and hour of the record.

(2) The provisions of article 34(2) shall be applicable *mutatis mutandis* to the assignments contemplated in sub-article (1).

Transmission of interest of mortgagee by death. *Amended by: XXXVII.2021.25.*

36. (1) Where the interest of the mortgagee in an aircraft or share is transmitted by death, the person to whom the interest is transmitted shall make and sign a declaration containing a statement of the manner in which and the person to whom the property has been transmitted and such declaration shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of an aircraft or share.

(2) On the receipt of the declaration and the production of the evidence aforesaid, the Director General shall enter the name of the person entitled upon the transmission in the Malta Aircraft Register as mortgagee in the aircraft or share therein.

Amendment of mortgage. *Amended by: XXXVII.2021.26.*

37. (1) Where a registered mortgage is amended, the Director General shall on the production of the instrument of mortgage executed in accordance with the provisions of article 29 containing the amendment, together with the written consent on the said instrument of the mortgagee whose mortgage has been amended, make a note thereof in the Malta Aircraft Register to the effect that

the mortgage has been amended, and any such amendment shall form an integral part of the registered mortgage which it amends and such mortgage, as amended, shall continue to have the same priority as it had before the amendment was noted.

(2) Subject to the provisions of this article, an amendment of a mortgage may be effected for any purpose.

(3) Without prejudice to the generality of the foregoing, and subject always to the provisions of sub-articles (4), (5) and (6), an amendment of a mortgage shall be effected for any one or more of the following purposes:

(*a*) to increase the amount of capital secured by such mortgage. An agreement to vary -

(i) the interest payable, the modalities for the calculation of interest including any rate, indices, margin, or market mechanism; or

(ii) the repayment schedule; or

(iii) the currency in which payment is to be made,

shall not be considered as an increase for the purposes of this article; and

(*b*) to extend such mortgage to secure any other obligation of the debtor, whether as principal or as surety for any other person, in favour of the creditor, except where the new obligation qualifies as a future obligation of the mortgagor to the mortgagee secured by the mortgage being within a maximum sum stated in the relative mortgage instrument and registered in the Malta Aircraft Register.

(4) An amendment of a mortgage may not be effected after the obligation secured by the registered mortgage has been unconditionally discharged.

(5) Where any mortgages other than the one that it is intended to amend, are entered in the Malta Aircraft Register of the aircraft an amendment shall not be noted unless the consent in writing of all the other mortgagees, whose interests may be prejudiced by the amendment, is produced to the Director General.

(6) The consent to an amendment to a mortgage shall be signified by means of a declaration executed by the creditor in the presence of, and attested by, a witness or witnesses.

Correction of a mortgage. *Added by: LII. 2016.19; Amended by: XXXVII.2021.27.*

37A. (1)A correction of an erroneous indication or omission in a registered mortgage, including an amendment mortgage, of any one or more of the particulars specified in sub-article (2) may be effected by the Director General by means of a corrective or additional entry in the Malta Aircraft Register, on the production of the following documents:

(*a*) a declaration signed by the mortgagee referring to the said mortgage and indicating the correction to be made; and

(*b*) such other evidence as the Director General may

require.

(2) The correction of an erroneous indication or addition of an omission as referred to in sub-article (1) may be effected with reference to the following particulars:

(*a*) details of the aircraft or aircraft engine;

(*b*) the date of any agreement or document referred to in the said mortgage;

(*c*) the name and, or address of any person or organisation referred to in the said mortgage; or

(*d*) any other typographical error in the said mortgage.

(3) The correction of any of the above particulars in a registered mortgage or the addition of any omission shall not affect the validity or priority of the mortgage, or any of the rights or powers of the mortgagee.

Modification of the registered details relating to a mortgage. *Added by: LII. 2016.19. Amended by: XXXVII.2021.28.*

37B. It shall be lawful to modify the registered details relating to a mortgage in the event of a change in the name or the address of any of the mortgagor or the mortgagee, resulting from corporate events, including shareholder or director resolutions, amalgamations, divisions or similar events. This shall be made by means of a note submitted by the mortgagee to the Director General together with any evidence of the change of name or address. The Director General shall thereupon make an annotation in the Malta Aircraft Register reflecting such modifications.".

Entry of discharge of mortgage. *Amended by: XXXVII.2021.29.*

38. Where a registered mortgage is discharged, the Director General shall, on the production of the mortgage deed, with a receipt for the secured money endorsed thereon, duly signed and attested, make an entry in the Malta Aircraft Register to the effect that the mortgage has been discharged.

Transfers and mortgages not to have effect unless registered.

39. A transfer or mortgage of a registered aircraft or share therein, and a transfer of a registered mortgage shall have no effect in regard to the aircraft or share or against any person other than the transferor or the mortgagor, unless the transfer or mortgage has been registered under and in accordance with this Act.

Loss of original mortgage deed. *Amended by: XXXVII.2021.30.*

40. (1)In case of loss of any registered mortgage the Director General shall, at the request of the mortgagee alone, or together with the debtor, reconstitute the original mortgage and certify this instrument as a reconstituted original of the mortgage. The Director General shall only accede to such a request upon the production by the party making the request of a sworn declaration to the effect that the original has been lost.

(2) In such a case the Director General shall make a note in the Malta Aircraft Register that a reconstituted mortgage has been issued, reciting at whose request such a reconstituted instrument has been issued.

(3) In case of loss of any original mortgage, the Director General may enter any transfer or discharge of mortgage if the

mortgagee produces a sworn declaration that he is the holder of the mortgage, the instrument of which has been lost, and that he is discharging or transferring the said mortgage in virtue of the sworn declaration.

(4) In such a case the Director General shall, on production of the said sworn declaration, treat such declaration as the mortgage and shall follow the procedure specified in this Act for the transfer or discharge of the mortgage; the Director General shall make a note in the Malta Aircraft Register that the transfer or discharge of the mortgage has taken place in virtue of a sworn declaration.

Recognition of foreign mortgages and foreign security interests. *Amended by: LII. 2016.20; XXXVII.2021.31.*

41. (1)A foreign mortgage shall be recognised as a mortgage with the status and all the rights and powers specified in this Act, notwithstanding the fact that it is not entered on a registered aircraft if:

(*a*) such mortgage has been validly recorded in the registry of aircraft or other register of the country under whose laws the aircraft is documented;

(*b*) such registry is a public registry;

(*c*) such mortgage appears upon a search of such registry; and

(*d*) such mortgage is granted a preferential and generally equivalent status as a mortgage under this Act under the laws of the country where the mortgage is registered.

(2) An international interest registered in the International Registry in accordance with the First Schedule shall be recognized and enforceable under the laws of Malta and shall have the status and all rights and powers specified in the First Schedule with reference to a registered aircraft irrespective of whether it is recorded in the Malta Aircraft Register or not.

(3) Without prejudice to any default remedies as may be applicable by virtue of the First Schedule, the holder of a security interest which is registered in accordance with the First Schedule shall, in the event of default of any term or condition of such security or of any document or agreement referred to therein, and upon giving notice in writing to the debtor -

(*a*) have power to terminate the agreement and take possession or control of the aircraft to which the agreement relates; or

(*b*) apply to the court to authorise or direct either of these acts.

(4) A security interest and, or an international interest which is registered in accordance with the First Schedule shall be an executive title for the purposes of article 253 of the Code of Organization and Civil Procedure. Cap. 12.

(5) The powers referred to in sub-article (3)(a) may be exercised by the creditor without the leave of any court and to the extent that any creditor seeks the support of the court due to any

hindrance of any conditional buyer or lessee to the exercise of his rights, the court shall render full support to the holder of the security interest as expeditiously as possible including by making any declaration on the vesting of ownership or lessor rights or the termination of possessory rights to the aircraft.

(6) The provisions of -

(*a*) the last paragraph of article 33(1); and

(*b*) article 33(2), (7) and (8), with reference to the powers stated in sub-article (3) of this article and generally stated in the First Schedule

shall apply to the enforcement of a security interest which is registered in accordance with the First Schedule.

(7) Where the holder of a security interest or of an international interest registered in accordance with the First Schedule seeks the support of the court in the course of the exercise of any remedies competent to him in terms of this Act he shall do so by virtue of an application filed in the competent court.

(8) A security interest shall be governed by the terms of the security agreement constituting such interest whether with reference to a registered aircraft or otherwise. The existence or validity of the security interest, its construction and its effects shall be governed by the proper law applicable to the security agreement and when executed and, or perfected in accordance with the proper law, shall be recognised and given effect to in Malta in accordance with this article. Such interests shall be subject and subordinate to the rights of any registered mortgagee or the holder of an international interest duly registered in accordance with the First Schedule and shall be subject also to the terms of any inter-creditor agreement.

(9) A security interest shall operate for such time and under such conditions as apply under the proper law governing the security agreement.

Extension of rights under Maltese law. *Added by: LII. 2016.21.*

41A. When the proper law of a conditional sale or a lease agreement is Maltese law and a security interest in relation thereto is registered in accordance with the First Schedule, for the purposes of Maltese law, the owner and, or the lessor shall enjoy the status and powers in relation to the relevant aircraft as is envisaged in terms of article 41(3) to (6) without prejudice to its rights under the First Schedule

PART V

SPECIAL PRIVILEGES ON AIRCRAFT

Special privileges on aircraft. *Amended by: LII. 2016.22.*

42. (1) The debts hereunder specified are secured by a special privilege upon the aircraft, as well as any proceeds from any indemnity arising from any mishaps as well as any insurance proceeds, provided that this provision shall not apply in relation to

an indemnity payable under a liability policy:

(*a*) judicial costs incurred in respect of the sale of the aircraft and the distribution of the proceeds thereof pursuant to the enforcement of any mortgage or other executive title;

(*b*) fees and other charges due to the Director General arising under applicable law of Malta in respect of the aircraft;

(*c*) wages due to crew in respect of their employment on the aircraft;

(*d*) any debt due to the holder of a possessory lien for the repair, preservation of the aircraft to the extent of the service performed on and value added to the aircraft;

(*e*) the expenses incurred for the repair, preservation of the aircraft to the extent of the service performed on and value added to the aircraft; and

(*f*) wages and expenses for salvage in respect of the aircraft.

(2) The debts hereunder specified are secured by a special privilege upon the aircraft, as well as any proceeds from any indemnity arising from any mishaps as well as any insurance proceeds, other than from a liability policy, if registered in the International Registry after the effective date:

(*a*) taxes, duties and, or levies due to the Government of Malta in respect of the aircraft; and

(*b*) wages and expenses for assistance or recovery in respect of the aircraft.

(3) The debts referred to in sub-article (2) shall constitute a special privilege and enjoy the preference and status of such right in relation to the aircraft only if the claim is created by the owner of the aircraft or a person authorised by him. When such a claim is created by an operator of the aircraft, it shall not affect the aircraft or the owner thereof, and shall only operate in relation to the said debtor and upon the termination of his temporary title and reversion of the aircraft to the owner, the said claim shall be dissolved with regard to the aircraft which shall revert unencumbered to the owner. This article shall apply to a lessor in relation to a lessee, and a sub-lessor to a lessee in the same manner, subject to such modifications as are required due to the context.

(4) Upon the registration of such privileges in the register, the person registering the aircraft, its owner, or operator shall be notified of the registration by the registrant of the privilege.

(5) For the avoidance of doubt, the requirement for registration of the privilege for taxes, duties and levies due to the Government of Malta in sub-article (2)(*a*) and the specific ranking position of such claim in article 44, shall apply and be binding with reference to such claims notwithstanding the provisions of other special laws of Malta which may govern such claims.

(6) The above provisions shall apply to aircraft engines *mutatis mutandis*.

Possessory lien or privilege.

43. (1) Any aircraft repairer, aircraft manufacturer or other creditor into whose care and authority an aircraft has been placed for the execution of works or other purposes shall have a possessory lien on the aircraft as security for the works done to the extent of the service performed on and value added to the aircraft.

(2) A possessory lien shall entitle the creditor to retain possession on the aircraft on which he has worked or carried out activity until such creditor is paid the debts due to him for such building, repairs or activity.

(3) A possessory lien shall be extinguished by the voluntary release of the aircraft from the custody of the creditor.

(4) A possessory lien shall not be extinguished if the aircraft is released pursuant to a court order or following a judicial sale of the aircraft. In the latter case the creditor shall enjoy the priority specified in article 44(1) over the proceeds of sale of the aircraft.

(5) The creditor shall be obliged to release the aircraft if he is paid the sum claimed, or adequate security is deposited in the Civil Court, First Hall, under the provisions of the Code of Organization and Civil Procedure: Cap. 12.

Provided that the creditor shall enjoy the same priority over such sum or security.

(6) For the purposes of this article, the creditor upon a demand by judicial letter served upon him by any person interested in the aircraft, shall be obliged to declare the amount of his claim by judicial act to be filed within a period of two days from the date of notification to him of the aforesaid demand failing which he shall be obliged to release the aircraft forthwith.

Ranking of creditors. *Amended by: LII. 2016.23.*

44. (1) The debts specified in article 42(1) shall rank in the order therein set out and in preference to all other claims; provided that the person in possession of the aircraft enjoying a possessory lien shall not be constrained to release the aircraft until the sums due to him are unconditionally discharged or otherwise secured to his satisfaction and in any such case shall rank first on such security as may be granted.

(2) Any debt secured by a mortgage registered in the Malta Aircraft Register or a charge in the International Registry or secured by a foreign mortgage recognised under this Act shall rank after the debts secured by possessory liens and, subject to sub-article (5), special privileges on aircraft in terms of article 42(1) and in preference to other hypothecary and privileged claims.

(3) The debts secured by special privileges referred to in article 42(2) shall, on registration in the International Registry, and subject to sub-article (5), rank after the debts referred to in article 42(1) but after all debts secured by mortgages and charges in the International Registry registered prior to the date of the registration of the relevant privilege, and thereafter shall rank:

(*a*) other overriding non-consensual rights and interests arising under foreign law which do not have priority under Chapter X of the First Schedule;

(*b*) any security interest governed by a foreign law and recognised in accordance with article 41 which shall rank after the claims referred to in the preceding articles; and

(*c*) general hypothecs and privileges, whether general or over particular movables, which shall rank after the debts referred to in the preceding articles.

(4) Where the fund is insufficient -

(*a*) competing creditors under the same heading of privileges in article 42(1) shall rank equally and shall share in such fund *pro rata* to the amount of their claim;

(*b*) registered special privileges referred to in article 42(2) and mortgages shall rank in order of date and time in accordance with article 32(1), subject to the specific exceptions laid down in sub-articles (2) and (3) of the same article;

(*c*) rights referred to in sub-article (3)(a) and (b) shall rank among themselves equally and shall share in such fund *pro rata* up to the amount of their claim and rights referred to in sub-article (3)(c) shall rank among themselves according to the provisions of the Civil Code.

Cap. 16.

(5) The preference and rights of privileges listed in article 42(2) shall arise only in relation to the particular title of an operator of an aircraft, whether being the owner or a person under a temporary title, and shall not bind any other party or encumber his assets.

PART VI

IMPLEMENTATION OF THE CAPE TOWN CONVENTION

Interpretation.

45. (1) Words and expressions used in this Part have the same meaning as the corresponding words and expressions used in the Cape Town Convention and the Protocol as reproduced in the First Schedule.

(2) In interpreting the Cape Town Convention and the Aircraft Protocol and Implementing Law, a court or other interpreter may have recourse to the list of sources and materials listed in the Third Schedule as the same may be updated and supplemented from time to time, and such other texts as the court considers relevant to interpreting the Cape Town Convention and the Protocol.

Cape Town Convention and Aircraft Protocol to have the force of law in Malta.

46. (1) The Government of Malta is hereby authorised to ratify the Cape Town Convention and its Aircraft Protocol and without prejudice to the Declarations lodged by the European Community on behalf of its Member States, the Government of Malta, through the Minister of Foreign Affairs, is authorized to

lodge such Declarations in respect thereof as the Minister may decide, and in future to lodge any revocation thereof, or amendment thereto, as may be necessary from time to time.

(2) Subject to sub-article (3), the Cape Town Convention and the Aircraft Protocol as reproduced by the Implementing Law shall have the force of law in Malta in relation to matters to which they apply and shall prevail over any other law, in case of conflict.

(3) The provisions of the Cape Town Convention and the Aircraft Protocol shall come into effect on the effective date.

Relevant court for the purposes of the Cape Town Convention and Aircraft Protocol.

47. The First Hall Civil Court is the relevant court for the purposes of the Cape Town Convention and the Protocol for the purposes of Article 53 of the Cape Town Convention.

Cape Town Convention and Aircraft Protocol to be judicially noticed.

48. All courts and tribunals are required to take judicial notice of the provisions of the Cape Town Convention and the Protocol as implemented by the Implementing Law.

Protection of operation of the International Registry.

49. A court or tribunal may not make an order or a decision that would have the effect of binding the Registrar and if such a matter were to arise before a Maltese court, the court shall stay proceedings and refer the matter to the relevant courts enjoying jurisdiction in accordance with the Cape Town Convention.

PART VII

RULES ON THE OPERATION OF SECURITY RIGHTS IN AIRCRAFT WHEN GOVERNED BY TWO PARTS OF THIS ACT

Entitlement to registration.

50. A creditor is entitled to register his mortgage under Part IV or as an international interest under Part VI and the First Schedule, or both, as he may require.

Applicable Part.

51. To the extent that the creditor chooses to register his mortgage only in terms of Part IV, Part IV shall apply exclusively to such security.

Registration of international interest.

52. Where an international interest is registered in terms of Part VI and the First Schedule, such international interest will be fully enforceable in Malta subject however to those rights having priority as provided for in article 42. The international interest shall not be subordinate to any mortgage registered under Part IV, even if the international interest is registered at a later date, except for those mortgages registered under Part IV prior to the effective date.

In case of conflict between two Parts. *Amended by: LII. 2016.25.*

53. *(Deleted by Act LII. 2016.25)*

Registered international interest to operate independently of the application of Part IV.

54. Apart from the specific exception referred to in article 52, the registration of a mortgage under Part IV shall under no circumstances prejudice the operation of an international interest registered under Part VI and the First Schedule.

Prevalence of Part VI and the First Schedule.

55. In case of conflict on any matter between Part IV on the one hand and Part VI and the First Schedule on the other hand, Part VI and the First Schedule shall prevail over Part IV; however, to the

extent that a mortgage registered under Part IV attaches to more assets or grants additional rights, then the mortgagee registered under Part IV shall be entitled to such additional rights in terms of Part IV.

PART VIII

MISCELLANEOUS

Powers to make regulations. *Amended by: LII. 2016.25.*

56. In addition to the matters on which the Minister is empowered to prescribe rules under the provisions of this Act, the Minister shall additionally have the power to make regulations to regulate the following matters:

(*a*) the registration of any aircraft, including matters relating to nationality and marking as well as eligibility to register the same or to remain the registrant thereof and to establish rules applicable to cases where the ownership is held by, or for the benefit of, more than one person;

(*b*) the registration of aircraft under construction;

(*c*) the conditions of any temporary title to an aircraft in the context of registration thereof;

(*d*) fractional ownership and all matters related thereto;

(*e*) forms, fees, declarations and undertakings and ancillary matters relating to registration of aircraft, mortgages and other rights over aircraft or parts thereof;

(*f*) the registration of foreign law security interests in the register and the rules applicable thereto including forms, fees and other matters;

(*g*) proceedings for damages;

(*h*) the classification of aircraft, nationality, and registration marks of aircraft registered in Malta;

(*i*) the operation of security granted to secure future debts;

(*j*) the regulation of agreements constituting security, other than mortgages, over or in relation to aircraft as well as registration or enforcement thereof and ancillary matters relating thereto;

(*k*) the establishment, operation and expansion of aviation undertakings of any legal form or purpose by the introduction of incentives, schemes and other facilitations;

(*l*) the recognition of rights in aircraft components;

(*m*) the introduction of penalties for non-observance of the provision of this Act;

(*n*) the definition of aircraft for the purposes of this Act and for the purposes of the applicability or interpretation of any other law;

(*o*) the requirements for registration, the conditions for

operation and generally the regulation of aircraft when used for peacekeeping operations or humanitarian purposes, even if configured as military or state aircraft;

(*p*) the registration, operation or any matter related to unmanned aerial systems, unmanned aerial vehicles, remotely piloted aerial systems or any other similar system or vehicle; and

(*q*) any other matter which may be further regulated for the better implementation of the provisions of this Act.

(2) The Minister may by regulations amend any of the provisions of the Schedules to this Act, other than the provisions of the First Schedule.

Segregated cells within aviation undertakings. Cap. 16.

57. (1) It shall be lawful for aviation undertakings having the legal form of foundations registered in terms of the Second Schedule of the Civil Code to establish segregated cells in accordance with the provisions of article 20 of the Second Schedule of the Civil Code.

(2) The Minister may, with the concurrence of the relevant Minister responsible for foundations, make regulations relating to article 20 of the Second Schedule of the Civil Code to regulate: Cap. 16.

(*a*) the mode of its applicability to aviation undertakings of the particular legal form; and

(*b*) all related and ancillary matters, including but not limited to the powers of the relevant Registrar, any requirements for notification to such registrar or for registration in the relevant registry, applicable fees, forms, or otherwise.

Conflict between texts and language of the First Schedule and regulations.

58. (1) In case of conflict between the Maltese and English text of this Act, the English text shall prevail.

(2) Any rules or regulations made pursuant to any provision of this Act shall be made in the Maltese language and in the English language; however where in exceptional cases the use of the Maltese language would be difficult due to technical terminology, such rules or regulations may be made in the English language only.

Transitory provisions.

59. (1) All registered aircraft that have been validly entered in the register before the entry into force of this Act shall continue to be validly registered in terms of this Act until the registration is cancelled in accordance with this Act, unless required to comply with any requirements of this Act by means of a notice in writing issued by the Minister which shall provide for a minimum period of six months for such compliance.

(2) All registered mortgages that have been validly entered in the register before the entry into force of this Act shall continue to be valid and enforceable in terms of this Act and shall not be affected in any manner whatsoever by the entry into force of this Act, or the repeal, or amendment, of any provision applicable to such mortgage prior to the coming into force of this Act.

(3) Any special privileges which may have arisen over the aircraft before the entry into force of this Act shall be governed by the law in force until such date and shall not be affected by the coming into force of this Act.

Application of Laws.

60. The following enactments shall apply in the case of the landing in or departure from Malta of passengers from or by any aircraft, and any obligation or duty and any penalty for any breach thereof imposed by the said enactments on the master of a vessel shall be deemed to be imposed on the pilot or other person in command of an aircraft:

Cap. 217.

(*a*) the Immigration Act; and

Cap. 234.

(*b*) article 103 of the Merchant Shipping Act.

Administrative sanctions. *Added by: LII. 2016.26.*

61. (1) Notwithstanding any other provision of this Act, the offences listed in the First Column of the Sixth Schedule shall be administrative offences punishable by the Authority.

(2) The imposition by the Authority of an administrative sanction in terms of this article shall be without prejudice to any other consequences of the act or omission of the offender under civil or administrative law.

(3) The Authority shall observe the guarantees of fair and public hearing in its determination as to whether a person is guilty of an administrative offence in terms of this article.

(4) When the Authority is satisfied that a person has committed an offence against any provision of this Act listed in the First Column of the Sixth Schedule to this Act, the Authority may -

(*a*) issue a warning in writing to such person; or

(*b*) impose an administrative penalty on such person up to an amount as established in the Second Column of the Sixth Schedule and subject to the provisions of paragraph 1 of the said Schedule:

Provided that if such person is found guilty of more than one offence in the same charge, the Authority shall only impose the payment of the higher penalty attributed to the offence in the same charge as listed in the Sixth Schedule:

Provided further that the Authority may also impose a suspended penalty which penalty shall be paid within such period as the Authority may establish. The Authority may also determine such conditions, limitations and restrictions both with regard to the penalty and the suspended penalty as it may deem fit.

FIRST SCHEDULE

(Articles 2, 4, 26, 28, 29, 30, 31, 32, 33, 39, 45, 50, 52, 53, 54, 55 and 58)

THE IMPLEMENTING LAW IN RESPECT OF THE CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE AIRCRAFT PROTOCOL THERETO

PREAMBLE

AWARE of the need to acquire and use aircraft equipment of high value or particular economic significance and to facilitate the financing of the acquisition and use of such equipment in an efficient manner,

RECOGNISING the advantages of asset-based financing and leasing for this purpose and desiring to facilitate these types of transaction by establishing clear rules to govern them,

MINDFUL of the need to ensure that interests in such equipment are recognised and protected universally,

DESIRING to provide broad and mutual economic benefits for all interested parties,

BELIEVING that such rules must reflect the principles underlying asset-based financing and leasing and promote the autonomy of the parties necessary in these transactions,

CONSCIOUS of the need to establish a legal framework for international interests in such equipment and for that purpose use of an international registration system for their protection,

MINDFUL of the principles and objectives of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944,

Malta has promulgated the following implementing legislation ("this Schedule") relating to its accession to the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters Specific to Aircraft Equipment:

CHAPTER I

Sphere of application and general provisions

Article 1

Definitions

In this Schedule, references to "this Act" are references to the principal Act to which this Schedule is annexed and except where the context otherwise requires, the following terms are employed with the meanings set out below:

(*a*) "agreement" means a security agreement, a title reservation agreement or a leasing agreement;

(*b*) "aircraft" means aircraft as defined for the purposes of the Chicago Convention which are either airframes with aircraft engines installed thereon or helicopters;

(*c*) "aircraft engines" means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:

(i) in the case of jet propulsion aircraft engines, have at least 1750 lb of thrust or its equivalent; and

(ii) in the case of turbine-powered or piston-powered aircraft engines,

have at least 550 rated take-off shaft horsepower or its equivalent,

together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto;

(*d*) "aircraft objects" means airframes, aircraft engines and helicopters;

(*e*) "aircraft register" means the National Aircraft Registry or another register maintained by a State or common mark registering authority for purposes of the Chicago Convention;

(*f*) "airframes" means" airframes (other than those used in military, customs and police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport:

(i) at least eight (8) persons including crew; or

(ii) goods in excess of 2750 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto;

(*g*) "assignment" means a contract which, whether by way of security or otherwise, confers on the assignee associated rights with or without a transfer of the related international interest;

(*h*) "associated rights" means all rights to payment or other performance by a debtor under an agreement which are secured by or associated with the aircraft object;

(*i*) "authorised party" means the party referred to in Article 25(3);

(*j*) "Cape Town Convention" means the Convention on International Interests in Mobile Equipment as modified by the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment, each concluded at Cape Town, South Africa on 16 November 2001;

(*k*) "Cape Town Convention State" means any State that is party to the Cape Town Convention;

(*l*) "Chicago Convention" means the Convention on International Civil Aviation, signed at Chicago on 7 December 1944, as amended, and its Annexes;

(*m*) "commencement of the insolvency proceedings" means the time at which the insolvency proceedings are deemed to commence under the applicable insolvency law;

(*n*) "common mark registering authority" means the authority maintaining a register in accordance with Article 77 of the Chicago Convention as implemented by the Resolution adopted on 14 December 1967 by the Council of the International Civil Aviation Organization on nationality and registration of aircraft operated by international operating agencies;

(*o*) "conditional buyer" means a buyer under a title reservation agreement;

(*p*) "conditional seller" means a seller under a title reservation agreement;

(*q*) "contract of sale" means a contract for the sale of an aircraft object by a seller to a buyer which is not an agreement as defined in (*a*) above;

(*r*) "court" means a court of law or an administrative or arbitral tribunal

established by a Cape Town Convention State;

(*s*) "creditor" means a chargee under a security agreement, a conditional seller under a title reservation agreement or a lessor under a leasing agreement;

(*t*) "debtor" means a chargor under a security agreement, a conditional buyer under a title reservation agreement, a lessee under a leasing agreement or a person whose interest in an aircraft object is burdened by a registrable non-consensual right or interest;

(*u*) "de-registration of the aircraft" means deletion or removal of the registration of the aircraft from its aircraft register in accordance with the Chicago Convention;

(*v*) "guarantee contract" means a contract entered into by a person as guarantor;

(*w*) "guarantor" means a person who, for the purpose of assuring performance of any obligations in favour of a creditor secured by a security agreement or under an agreement, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;

(*x*) "helicopters" means heavier-than-air machines (other than those used in military, customs or police services) supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes and which are type certified by the competent aviation authority to transport:

(i) at least five (5) persons including crew; or

(ii) goods in excess of 450 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto;

(*y*) "insolvency administrator" means a person authorised to administer the reorganisation or liquidation, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;

(*z*) "insolvency proceedings" means bankruptcy, liquidation or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court for the purposes of reorganisation or liquidation;

(*aa*) "insolvency-related event" means:

(i) the commencement of the insolvency proceedings; or

(ii) the declared intention to suspend or actual suspension of payments by the debtor where the creditor's right to institute insolvency proceedings against the debtor or to exercise remedies under this Act is prevented or suspended by law or State action;

(*bb*) "interested persons" means:

(i) the debtor;

(ii) any guarantor;

(iii) any other person having rights in or on the aircraft object;

(*cc*) "international interest" means an interest held by a creditor to which

Article 2 applies;

(*dd*) "International Registry" means the international registration facilities established by the Cape Town Convention;

(*ee*) "leasing agreement" means an agreement by which one person (the lessor) grants a right to possession or control of an aircraft object (with or without an option to purchase) to another person (the lessee) in return for a rental or other payment;

(*ff*) "National Aircraft Register" means the Malta Aircraft Register of Malta;

(*gg*) "non-consensual right or interest" means a right or interest conferred under the law of a Cape Town Convention State to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;

(*hh*) "pre-existing right or interest" means a right or interest of any kind in or on an aircraft object created or arising before the effective date of this Schedule, as specified in Article 56 of this Schedule;

(*ii*) "primary insolvency jurisdiction" means the Cape Town Convention State in which the centre of the debtor's main interests is situated, which for this purpose shall be deemed to be the place of the debtor's statutory seat or, if there is none, the place where the debtor is incorporated or formed, unless proved otherwise;

(*jj*) "priority non-consensual right or interest" means a non-consensual right or interest conferred under the law of Malta of the following types:

(i) judicial costs incurred in respect of the sale of the aircraft and the distribution of the proceeds thereof pursuant to the enforcement of any mortgage or other executive title;

(ii) fees and other charges due to the Director General arising under applicable law of Malta in respect of the aircraft;

(iii) wages due to crew in respect of their employment on the aircraft;

(iv) any debt due to the holder of a possessory lien for the repair, preservation of the aircraft to the extent of the service performed on and value added to the aircraft;

(v) the expenses incurred for the repair, preservation of the aircraft to the extent of the service performed on and value added to the aircraft; and

(vi) wages and expenses for salvage in respect of the aircraft.

(*kk*) "proceeds" means money or non-money proceeds of an aircraft object arising from the total or partial loss or physical destruction of the aircraft object or its total or partial confiscation, condemnation or requisition;

(*ll*) "prospective assignment" means an assignment that is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(*mm*)"prospective international interest" means an interest that is intended to be created or provided for in an aircraft object as an international interest in the future, upon the occurrence of a stated event (which may include the debtor's acquisition of an interest in the aircraft object), whether or not the occurrence of the event is certain;

(*nn*) "prospective sale" means a sale which is intended to be made in the

future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(*oo*) "registered" means registered in the International Registry under the Cape Town Convention;

(*pp*) "registered interest" means an interest registered with the International Registry pursuant to the Cape Town Convention;

(*qq*) "registrable non-consensual right or interest" means a non-consensual right or interest conferred under the law of Malta of the following types:

(i) taxes, duties and/or levies due to the Government of Malta in respect of the aircraft;

(ii) wages and expenses for assistance or recovery in respect of the aircraft;

(*rr*) "Registrar" means the person or body serving as Registrar under the Cape Town Convention;

(*ss*) "registry authority" means the Maltese Director General of Civil Aviation as the authority maintaining a National Aircraft Register, which is responsible for the registration and de-registration of an aircraft in Malta in accordance with the Chicago Convention;

(*tt*) "regulations" means regulations made or approved by the Supervisory Authority pursuant to the Cape Town Convention;

(*uu*) "sale" means a transfer of ownership of an aircraft object pursuant to a contract of sale;

(*vv*) "secured obligation" means an obligation secured by a security interest;

(*ww*) "security agreement" means an agreement by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over an aircraft object to secure the performance of any existing or future obligation of the chargor or a third person;

(*xx*) "security interest" means an interest created by a security agreement;

(*yy*) "State of registry" means, in respect of an aircraft, the State on the national register of which an aircraft is entered or the State of location of the common mark registering authority maintaining the aircraft register;

(*zz*) "Supervisory Authority" means the body acting as Supervisory Authority under the Cape Town Convention;

(*aaa*) "title reservation agreement" means an agreement for the sale of an aircraft object on terms that ownership does not pass until fulfilment of the condition or conditions stated in the agreement;

(*bbb*) "unregistered interest" means a consensual interest or non-consensual right or interest (other than a priority non-consensual right or interest to the extent specified in Article 45(1)) which has not been registered, whether or not it is registrable under the Cape Town Convention or this Act; and

(*ccc*) "writing" means a record of information (including information communicated by teletransmission) which is in tangible or other form and is capable of being reproduced in tangible form on a subsequent occasion and which indicates by reasonable means a person’s approval of the record.

Article 2

The international interest

1. This Act provides for the constitution and effects of an international interest in aircraft objects and associated rights.

2. For the purposes of this Schedule, an international interest in aircraft objects is an interest, constituted under Article 10, in airframes, aircraft engines or helicopters:

(*a*) granted by the chargor under a security agreement;

(*b*) vested in a person who is the conditional seller under a title reservation agreement; or

(*c*) vested in a person who is the lessor under a leasing agreement.

An interest falling within sub-paragraph (*a*) does not also fall within sub-paragraph (*b*) or (*c*).

3. The applicable law determines whether an interest to which the preceding paragraph applies falls within sub-paragraph (*a*), (*b*) or (*c*) of that paragraph.

4. An international interest in an aircraft object extends to proceeds of that aircraft object.

Article 3

Sphere of application

1. This Act applies when, at the time of the conclusion of the agreement creating or providing for the international interest or a contract of sale, the debtor or seller, as applicable, is situated in a Cape Town Convention State.

2. The fact that the creditor or buyer is situated in a non-Cape Town Convention State does not affect the applicability of this Act.

3. Without prejudice to paragraph 1 of this Article, this Schedule shall also apply in relation to a helicopter, or to an airframe pertaining to an aircraft, registered in an aircraft register of a Cape Town Convention State which is the State of registry, and where such registration is made pursuant to an agreement for registration of the aircraft it is deemed to have been effected at the time of the agreement.

Article 4

Where debtor or seller is situated

1. For the purposes of Article 3(1), the debtor or seller is situated in any Cape Town Convention State:

(*a*) under the laws of which it is incorporated or formed;

(*b*) where it has its registered office or statutory seat;

(*c*) where it has its centre of administration; or

(*d*) where it has its place of business.

2. A reference in sub-paragraph (*d*) of the preceding paragraph to the debtor's place of business shall, if it has more than one place of business, mean its principal place of business or, if it has no place of business, its habitual residence.

Article 5

Interpretation and applicable law

1. In the interpretation of this Schedule, regard is to be had to its purposes as

set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.

2. Questions concerning matters governed by this Schedule which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the applicable law.

3. References to the applicable law are to the domestic rules of the law applicable by virtue of rules of private international law of the forum State.

Article 6

Application to sale and prospective sale

In addition to the specific provisions in this Schedule referring to sales and prospective sales, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 35, Chapter X, Chapter XI (other than Article 48), Chapter XII and Chapter XIII shall apply to contracts of sale and prospective sales.

Article 7

Representative capacities

A person may enter into an agreement or a sale, and register an international interest in, or a sale of, an aircraft object [or take any other action under this Schedule], in an agency, trust or other representative capacity. In such case, that person is entitled to assert rights and interests under this Schedule.

Article 8

Description of aircraft objects

A description of an aircraft object that contains its manufacturer's serial number, the name of the manufacturer and its model designation is necessary and sufficient to identify the aircraft object for the purposes of Articles 10(c) and 11(1)(c) of this Schedule.

Article 9

Choice of law

Intentionally omitted in the light of the terms of Accession to the Convention and the Protocol by the European Union

CHAPTER II

Constitution of an international interest; contracts of sale

Article 10

Formal requirements

1. An interest is constituted as an international interest under this Schedule where the agreement creating or providing for the interest:

(*a*) is in writing;

(*b*) relates to an aircraft object of which the chargor, conditional seller or lessor has power to dispose;

(*c*) enables the aircraft object to be identified; and

(*d*) in the case of a security agreement, enables the secured obligations to be determined, but without the need to state a sum or maximum sum secured.

2. Unless otherwise agreed, the reference in the preceding paragraph to the law

chosen by the parties is to the domestic rules of law of the designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.

Article 11

Formalities and effects of contracts of sale

1. For the purposes of this Act, a contract of sale is one which:

(*a*) is in writing;

(*b*) relates to an aircraft object of which the seller has power to dispose; and

(*c*) enables the aircraft object to be identified in conformity with this Schedule.

2. A contract of sale transfers the interest of the seller in the aircraft object to the buyer according to its terms.

CHAPTER III

Default remedies

Article 12

Remedies of chargee

1. In the event of default as provided in Article 17, the chargee may, to the extent that the chargor has at any time so agreed, exercise any one or more of the following remedies:

(*a*) take possession or control of any aircraft object charged to it;

(*b*) sell or grant a lease of any such aircraft object;

(*c*) collect or receive any income or profits arising from the management or use of any such aircraft object.

2. The chargee may alternatively apply for a court order authorising or directing any of the acts referred to in the preceding paragraph.

3. A chargee proposing to sell or grant a lease of an aircraft object under paragraph 1 shall give reasonable prior notice in writing of the proposed sale or lease to:

(*a*) interested persons specified in Article 1(*bb*)(i) and (ii); and

(*b*) interested persons specified in Article 1(*bb*)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the sale or lease.

4. A chargee giving ten or more working days' prior written notice of a proposed sale or lease to interested persons shall be deemed to satisfy the requirement of providing "reasonable prior notice" specified in the preceding paragraph. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. Any sum collected or received by the chargee as a result of exercise of any of the remedies set out in paragraph 1 or 2 shall be applied towards discharge of the amount of the secured obligations.

6. Where the sums collected or received by the chargee as a result of the exercise of any remedy set out in paragraph 1 or 2 exceed the amount secured by the security interest and any reasonable costs incurred in the exercise of any such remedy, then unless otherwise ordered by the court the chargee shall distribute the surplus among holders of subsequently ranking interests which have been registered

or of which the chargee has been given notice, in order of priority, and pay any remaining balance to the chargor.

Article 13

Vesting of aircraft object in satisfaction; redemption

1. At any time after default as provided in Article 17, the chargee and all the interested persons may agree that ownership of (or any other interest of the chargor in) any aircraft object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

2. The court may on the application of the chargee order that ownership of (or any other interest of the chargor in) any aircraft object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

3. The court shall grant an application under the preceding paragraph only if the amount of the secured obligations to be satisfied by such vesting is commensurate with the value of the aircraft object after taking account of any payment to be made by the chargee to any of the interested persons.

4. At any time after default as provided in Article 17 and before sale of the charged aircraft object or the making of an order under paragraph 2, the chargor or any interested person may discharge the security interest by paying in full the amount secured, subject to any lease granted by the chargee under Article 12(1)(b) or ordered under Article 12(2). Where, after such default, the payment of the amount secured is made in full by an interested person other than the debtor, that person is subrogated to the rights of the chargee.

5. Ownership or any other interest of the chargor passing on a sale under Article 12(1)(b) or passing under paragraph 1 or 2 of this Article is free from any other interest over which the chargee's security interest has priority under the provisions of Article 35.

Article 14

Remedies of conditional seller or lessor

In the event of default under a title reservation agreement or under a leasing agreement as provided in Article 17, the conditional seller or the lessor, as the case may be, may:

(*a*) terminate the agreement and take possession or control of any aircraft object to which the agreement relates; or

(*b*) apply for a court order authorising or directing either of these acts.

Article 15

Additional remedies of creditor

1. In addition to the remedies specified in Articles 12, 14, 16 and 20, the creditor may, to the extent that the debtor has at any time so agreed and in the circumstances specified in such provisions:

(*a*) procure the de-registration of the aircraft; and

(*b*) procure the export and physical transfer of the aircraft object from the territory in which it is situated.

2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.

3. The registry authority shall, subject to any applicable safety laws and

regulations, honour a request for de-registration and export if:

(*a*) the request is properly submitted by the authorised party under a recorded irrevocable de-registration and export request authorisation; and

(*b*) the authorised party certifies to the registry authority, if required by that authority, that all registered interests ranking in priority to that of the creditor in whose favour the authorisation has been issued have been discharged or that the holders of such interests have consented to the de-registration and export.

4. A chargee proposing to procure the deregistration and export of an aircraft under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed deregistration and export to:

(*a*) interested persons specified in Article 1(*bb*)(i) and (ii); and

(*b*) interested persons specified in Article 1(*bb*)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the deregistration and export.

Article 16

Additional remedies under applicable law

Any additional remedies permitted by the applicable law, including any remedies agreed upon by the parties, may be exercised to the extent that they are not inconsistent with the mandatory provisions of this Chapter as set out in Article 22.

Article 17

Meaning of default

1. The debtor and the creditor may at any time agree in writing as to the events that constitute a default or otherwise give rise to the rights and remedies specified in Articles 12 to 15 and 20.

2. Where the debtor and the creditor have not so agreed, "default" for the purposes of Articles 12 to 15 and 20 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.

Article 18

Debtor provisions

1. In the absence of a default within the meaning of Article 17, the debtor shall be entitled to the quiet possession and use of the aircraft object in accordance with the agreement as against:

(*a*) its creditor and the holder of any interest from which the debtor takes free pursuant to Article 35(5) or, in the capacity of buyer, Article 35(3), unless and to the extent that the debtor has otherwise agreed; and

(*b*) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 35(5) or, in the capacity of buyer, Article 35(4), but only to the extent, if any, that such holder has agreed.

2. Nothing in this Schedule affects the liability of a creditor for any breach of the agreement under the applicable law in so far as that agreement relates to an aircraft object.

Article 19

Standard for exercising remedies

Any remedy given by this Schedule in relation to an aircraft object shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.

Article 20

Relief pending final determination

1. A creditor who adduces evidence of default by the debtor shall, pending final determination of its claim and to the extent that the debtor has at any time so agreed, be entitled to obtain from a court speedy relief in the form of such one or more of the following orders as the creditor requests:

(*a*) preservation of the aircraft object and its value;

(*b*) possession, control or custody of the aircraft object;

(*c*) immobilisation of the aircraft object;

(*d*) lease or, except where covered by sub-paragraphs (*a*) to (*c*), management of the aircraft object and the income therefrom; and

(*e*) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom.

2. For the purposes of the preceding paragraph, "speedy" in the context of obtaining relief means, in respect of the relief specified in Article 20(1)(*a*)-(*c*), the number of working days equivalent to no more than ten (10) calendar days, and in respect of the relief specified in Article 20(1)(*d*)-(*e*), the number of working days equivalent to no more than thirty (30) calendar days, in each case from the date the application for relief is filed.

3. Ownership or any other interest of the debtor passing on a sale under sub-paragraph (*e*) of paragraph 1 of this Article is free from any other interest over which the creditor's international interest has priority under the provisions of Article 35 of this Schedule.

4. In making any order under paragraph 1 of this Article, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:

(*a*) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Act; or

(*b*) fails to establish its claim, wholly or in part, on the final determination of that claim.

5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of the preceding paragraph.

6. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.

7. With regard to the remedies in Article 15(1):

(*a*) they shall be made available by the registry authority and other administrative authorities, as applicable, in no later than five (5) working days after the creditor notifies such authorities that the relief specified in Article 15(1) is granted or, in the case of relief granted by a

foreign court, recognised by a Maltese court, and that the creditor is entitled to procure those remedies in accordance with this Schedule; and

(*b*) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

8. Nothing in the preceding paragraphs affects the application of Article 19 or limits the availability of forms of interim relief other than those set out in paragraph 1.

9. Paragraphs 2 and 7 shall not affect any applicable aviation safety laws and regulations.

Article 21

Procedural requirements; Non-Judicial Remedies

1. Subject to paragraph 2, any remedy provided by this Chapter shall be exercised in conformity with the procedure prescribed by the law of the place where the remedy is to be exercised.

2. Any remedy available to the creditor under any provision of this Schedule which is not there expressed to require application to the court may be exercised without court action and without leave of the court.

Article 22

Derogation

Any two or more of the parties referred to in this Chapter may at any time, by agreement in writing, exclude the application of Article 23 and, in their relations with each other, derogate from or vary the effect of any of the preceding provisions of this Chapter, except as stated in Articles 12(3) to (6), 13(3) and (4), 15(2), 19 and 21.

Article 23

Remedies on insolvency

1. This Article applies to all insolvency proceedings where Malta is the primary insolvency jurisdiction.

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the aircraft object to the creditor no later than the earlier of:

(*a*) the end of the waiting period; and

(*b*) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.

3. For the purposes of this Article, the "waiting period" shall be the period of thirty (30) calendar days commencing on the date of the insolvency-related event.

4. References in this Article to the "insolvency administrator" shall be to that person in its official, not in its personal, capacity.

5. Unless and until the creditor is given the opportunity to take possession under paragraph 2:

(*a*) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and

(*b*) the creditor shall be entitled to apply for any other forms of interim

relief available under the applicable law.

6. Sub-paragraph (*a*) of the preceding paragraph shall not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.

7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the performance of such future obligations.

8. With regard to the remedies in Article 15(1):

(*a*) they shall be made available by the registry authority and the administrative authorities, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with this Schedule; and

(*b*) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

9. No exercise of remedies permitted by this Schedule may be prevented or delayed after the date specified in paragraph 2.

10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.

11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.

12. No rights or interests, except for a priority non-consensual right or interest to the extent specified in Article 45(1), shall have priority in insolvency proceedings over registered interests.

13. The provisions of this Schedule shall apply to the exercise of any remedies under this Article.

Article 24

Insolvency assistance

1. This Article applies where Malta is not the primary insolvency jurisdiction.

2. Where an aircraft object is situated in Malta its courts shall, in accordance with the laws of Malta, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article 23.

Article 25

De-registration and export request authorization

1. This Article applies where an airframe pertaining to an aircraft, or a helicopter, is registered in the Malta Aircraft Register.

2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form in the Second Schedule and has submitted such authorisation for recordation to the registry authority, that authorisation shall be so recorded.

3. The person in whose favour the authorization has been issued (the

"authorized party") or its certified designee shall be the sole person entitled to exercise the remedies specified in Article 15(1) and may do so only in accordance with the authorization and applicable aviation safety laws and regulations. Such authorisation may not be revoked by the debtor without the consent in writing of the authorized party. The registry authority shall remove an authorization from the registry at the request of the authorized party.

4. The registry authority and other administrative authorities shall expeditiously co-operate with and assist the authorized party in the exercise of the remedies specified in Article 15.

CHAPTER IV

Registrations in the international registration system

Article 26

Means and Effect of Registration

1. Registration in the International Registry under the Cape Town Convention is the only means of establishing the priority of a right or interest in an aircraft object, such priority being determined in accordance with Article 35, except only in respect of a priority non-consensual right or interest, whose priority is determined in accordance with Article 45(1).

2. Only those registrations with the International Registry permitted by the Cape Town Convention and complying with the regulations and this Act shall, when made, be valid for purposes of determining priority. Such permitted registrations are:

(*a*) international interests, prospective international interests and registrable non-consensual rights and interests;

(*b*) assignments and prospective assignments of international interests;

(*c*) acquisitions of international interests by legal or contractual subrogations under the applicable law;

(*d*) "notices of a national interest", as defined in the Cape Town Convention, under the laws of a Cape Town Convention State permitting such notice through a declaration thereunder made by that State, Malta not having made such a declaration;

(*e*) subordinations of interests referred to in any of the preceding sub-paragraphs; and

(*f*) sales and prospective sales.

3. All information required for the registrations referred to in the previous paragraph in relation to a helicopter, or to an airframe pertaining to an aircraft, registered for nationality purposes in the Malta Aircraft Register may only be transmitted directly to the International Registry, not through any designated entry point.

4. *Omitted intentionally.*

5. For the purposes of this Chapter and Chapter V, the term "registration" includes, where appropriate, an amendment, extension or discharge of a registration.

CHAPTER V

Modalities of registration

Article 27

Validity and time of registration

1. A registration shall be valid only if made in conformity with Article 28.

2. A registration, if valid, shall be complete upon entry of the required information into the International Registry database so as to be searchable.

3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:

(*a*) the International Registry has assigned to it a sequentially ordered file number; and

(*b*) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.

4. If an interest first registered as a prospective international interest or prospective sale becomes an international interest or a sale, respectively, that international interest or sale shall be treated as registered from the time of registration of the prospective international interest or prospective sale provided that the registration was still current immediately before the international interest or contract of sale was constituted as provided by Article 10 or 11.

5. The preceding paragraph applies with necessary modifications to the registration of a prospective assignment of an international interest.

6. A registration pertaining to an aircraft object shall be searchable in the International Registry data base according to the name of its manufacturer, its manufacturer's serial number and its model designation, as further specified in the regulations.

Article 28

Consent to registration

1. An international interest, a prospective international interest, an assignment or prospective assignment of an international interest, or a contract of sale or a prospective sale may be registered, and any such registration extended prior to its expiry (except in respect of a contract of sale) or amended, by either party with the consent in writing of the other.

2. The subordination of an international interest to another international interest may be registered by or with the consent in writing at any time of the person whose interest has been subordinated.

3. A registration may be discharged by or with the consent in writing of the party in whose favour it was made.

4. The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee.

5. A registrable non-consensual right or interest may be registered by the holder thereof.

Article 29

Duration of registration

1. Registration of an international interest remains effective until discharged or until expiry of the period specified in the registration.

2. Registration of a contract of sale remains effective indefinitely. Registration of a prospective sale remains effective unless discharged or until expiry of the period, if any, specified in the registration.

Article 30

Searches

1. Any person may, in the manner prescribed by this Act and the regulations, make or request a search of the International Registry by electronic means concerning interests or prospective interests international registered therein.

2. Any person may request and receive from the Registrar, in the manner prescribed by the regulations, a registry search certificate by electronic means with respect to any aircraft object:

(*a*) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or

(*b*) stating that there is no information in the International Registry relating thereto.

3. A search certificate issued under the preceding paragraph shall indicate that the creditor named in the registration information has acquired or intends to acquire an international interest in the object but shall not indicate whether what is registered is an international interest or a prospective international interest, even if this is ascertainable from the relevant registration information.

Article 31

Evidentiary value of certificates

A document in the form prescribed by the regulations which purports to be a certificate issued by the International Registry is *prima facie* proof

(*a*) that it has been so issued; and

(*b*) of the facts recited in it, including the date and time of a registration.

Article 32

Discharge of registration

1. Where the obligations secured by a registered security interest or the obligations giving rise to a registered non-consensual right or interest have been discharged, or where the conditions of transfer of title under a registered title reservation agreement have been fulfilled, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.

2. Where a prospective international interest, a prospective assignment of an international interest, or a prospective sale has been registered, the intending creditor, intending assignee, or intending buyer shall, without undue delay, procure the discharge of the registration after written demand by the intending debtor, assignor or seller which is delivered to or received at its address stated in the registration before the intending creditor, assignee or buyer has given value or incurred a commitment to give value.

3. For the purpose of the preceding paragraph and in the circumstances there described, the holder of a registered prospective international interest or a registered prospective assignment of an international interest or the person in whose favour a prospective sale has been registered shall take such steps as are within its power to procure the discharge of the registration no later than five working days after the

receipt of the demand described in such paragraph.

4. Where a registration ought not to have been made or is incorrect, the person in whose favour the registration was made shall, without undue delay, procure its discharge or amendment after written demand by the debtor [or seller] to or received at its address stated in the registration.

CHAPTER VI

Recognition of certain privileges and immunities of the Supervisory Authority and the Registrar

Article 33

Legal personality; immunity

As a matter of law Malta recognises that:

(*a*) the Supervisory Authority has international legal personality;

(*b*) the Supervisory Authority and its officers and employees shall enjoy such immunity from legal and administrative process as is provided under the rules applicable to them as an international entity or otherwise;

(*c*) the assets, documents, databases and archives of the International Registry shall be inviolable and immune from seizure or other legal or administrative process;

(*d*) for the purposes of any claim against the Registrar under Article 34(1) or Article 49, the claimant shall be entitled to access to such information and documents as are necessary to enable the claimant to pursue its claim; and

(*e*) the Supervisory Authority may waive the inviolability and immunity conferred by paragraph (*c*) of this Article.

CHAPTER VII

Recognition of Liability of the Registrar

Article 34

Standard and extent of liability

1. As a matter of law Malta recognises that the Registrar shall be liable for compensatory damages for loss suffered by a person directly resulting from an error or omission of the Registrar and its officers and employees or from a malfunction of the international registration system except where the malfunction is caused by an event of an inevitable and irresistible nature, which could not be prevented by using the best practices in current use in the field of electronic registry design and operation, including those related to back-up and systems security and networking.

2. The Registrar shall not be liable under the preceding paragraph for factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which it received that information nor for acts or circumstances for which the Registrar and its officers and employees are not responsible and arising prior to receipt of registration information at the International Registry.

3. Compensation under paragraph 1 may be reduced to the extent that the person who suffered the damage caused or contributed to that damage.

CHAPTER VIII

Effects of an international interest as against third parties

Article 35

Priority of competing interests

1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.

2. The priority of the first-mentioned interest under the preceding paragraph applies:

(*a*) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and

(*b*) even as regards value given by the holder of the first-mentioned interest with such knowledge.

3. A buyer of an aircraft object under a registered sale acquires its interest in that object free from an interest subsequently registered and from an unregistered interest, even if the buyer has actual knowledge of the unregistered interest.

4. A buyer of an aircraft object under a registered sale acquires its interest in that object subject to an interest previously registered.

5. A conditional buyer or lessee acquires its interest in or right over that object:

(*a*) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and

(*b*) free from an interest not so registered at that time even if it has actual knowledge of that interest.

6. The priority of competing interests or rights under this Article may be varied by agreement between the holders of those interests, but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

7. Any priority given by this Article to an interest in an aircraft object extends to proceeds.

8. This Schedule -

(*a*) does not affect the rights of a person in an item, other than an aircraft object, held prior to its installation on an aircraft object if under the applicable law those rights continue to exist after the installation; and

(*b*) does not prevent the creation of rights in an item, other than an aircraft object, which has previously been installed on an aircraft object where under the applicable law those rights are created.

9. Ownership of or another right or interest in an aircraft engine shall not be affected by its installation on or removal from an aircraft.

10. Paragraph 8 of this Article applies to an item, other than an aircraft object, installed on an airframe, aircraft engine or helicopter.

Article 36

Effects of insolvency

1. In insolvency proceedings against the debtor or seller an international interest or sale, as applicable, is effective if prior to the commencement of the

insolvency proceedings that interest or sale was registered in conformity with this Schedule.

2. Nothing in this Article impairs the effectiveness of an international interest or sale in the insolvency proceedings where that interest is effective under the applicable law.

3. Nothing in this Article affects any rules of law applicable in insolvency proceedings relating to the avoidance of a transaction as a preference or a transfer in fraud of creditors or, except as provided in Article 23, any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.

CHAPTER IX

Assignments of associated rights and international interests; rights of subrogation

Article 37

Effects of assignment

1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 38 also transfers to the assignee:

(*a*) the related international interest; and

(b) all the interests and priorities of the assignor under this Schedule.

2. Nothing in this Schedule prevents a partial assignment of the assignor's associated rights. In the case of such a partial assignment the assignor and assignee may agree as to their respective rights concerning the related international interest assigned under the preceding paragraph but not so as adversely to affect the debtor without its consent.

3. Subject to paragraph 4, the applicable law shall determine the defences and rights of set-off available to the debtor against the assignee.

4. The debtor may at any time by agreement in writing waive all or any of the defences and rights of set-off referred to in the preceding paragraph other than defences arising from fraudulent acts on the part of the assignee.

5. In the case of an assignment by way of security, the assigned associated rights re-vest in the assignor, to the extent that they are still subsisting, when the obligations secured by the assignment have been discharged.

Article 38

Formal requirements of assignment

1. An assignment of associated rights transfers the related international interest only if it:

(*a*) is in writing;

(*b*) enables the associated rights to be identified under the contract from which they arise; and

(*c*) in the case of an assignment by way of security, enables the obligations secured by the assignment to be determined in accordance with this Schedule but without the need to state a sum or maximum sum secured.

2. An assignment of an international interest created or provided for by a security agreement is not valid unless some or all related associated rights are also assigned.

3. This Schedule does not apply to an assignment of associated rights which is not effective to transfer the related international interest.

Article 39

Debtor's duty to assignee

1. To the extent that associated rights and the related international interest have been transferred in accordance with Articles 37 and 38, the debtor in relation to those rights and that interest is bound by the assignment and has a duty to make payment or give other performance to the assignee, if but only if:

(*a*) the debtor has been given notice of the assignment in writing by or with the authority of the assignor;

(*b*) the notice identifies the associated rights; and

(*c*) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.

2. Irrespective of any other ground on which payment or performance by the debtor discharges the latter from liability, payment or performance shall be effective for this purpose if made in accordance with the preceding paragraph.

3. Nothing in this Article shall affect the priority of competing assignments.

Article 40

Default remedies in respect of assignment by way of security

In the event of default by the assignor under the assignment of associated rights and the related international interest made by way of security, Articles 12, 13 and 15 to 21 apply in the relations between the assignor and the assignee (and, in relation to associated rights, apply in so far as those provisions are capable of application to intangible property) as if references:

(*a*) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;

(*b*) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;

(*c*) to the holder of the international interest were references to the assignee; and

(*d*) to the aircraft object were references to the assigned associated rights and the related international interest.

Article 41

Priority of competing assignments

1. Where there are competing assignments of associated rights and at least one of the assignments includes the related international interest and is registered, the provisions of Article 35 apply as if the references to a registered interest were references to an assignment of the associated rights and the related registered interest and as if references to a registered or unregistered interest were references to a registered or unregistered assignment.

2. Article 36 applies to an assignment of associated rights as if the references to an international interest were references to an assignment of the associated rights and the related international interest.

Article 42

Assignee's priority with respect to associated rights

1. The assignee of associated rights and the related international interest whose assignment has been registered only has priority under Article 41(1) over another assignee of the associated rights:

(*a*) if the contract under which the associated rights arise states that they are secured by or associated with the object; and

(*b*) to the extent that the associated rights are related to an aircraft object.

2. For the purpose of sub-paragraph (*b*) of the preceding paragraph, associated rights are related to an aircraft object only to the extent that they consist of rights to payment or performance that relate to:

(*a*) a sum advanced and utilised for the purchase of the aircraft object;

(*b*) a sum advanced and utilised for the purchase of another aircraft object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;

(*c*) the price payable for the aircraft object;

(*d*) the rentals payable in respect of the aircraft object; or

(*e*) other obligations arising from a transaction referred to in any of the preceding sub-paragraphs.

3. In all other cases, the priority of the competing assignments of the associated rights shall be determined by the applicable law.

Article 43

Effects of assignor's insolvency

The provisions of Article 36 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

Article 44

Subrogation

1. Subject to paragraph 2, nothing in this Schedule affects the acquisition of associated rights and the related international interest by legal or contractual subrogation under the applicable law.

2. The priority between any interest within the preceding paragraph and a competing interest may be varied by agreement in writing between the holders of the respective interests but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

CHAPTER X

Non-consensual right or interest

Article 45

Priority non-consensual right or interest

A priority non-consensual right or interest, to the extent it had priority over an interest in an aircraft object equivalent to that of the holder of a registered international interest prior to the effective date, shall retain that priority over a registered international interest hereunder, whether in or outside of insolvency proceedings.

Article 46

Registrable non-consensual right or interest

A registrable non-consensual right or interest relating to any aircraft object may be registered under this Schedule as if the right or interest were an international interest and shall be regulated accordingly.

CHAPTER XI

Jurisdiction

Article 47

Choice of forum

1. Subject to Articles 48 or 49, the courts of a Cape Town Convention State chosen by the parties to a transaction have jurisdiction in respect of any claim brought under this Schedule, whether or not the chosen forum has a connection with the parties or the transaction. Such jurisdiction shall be exclusive unless otherwise agreed between the parties.

2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.

Article 48

Jurisdiction under Article 20

1. The courts of a Cape Town Convention State chosen by the parties in conformity with Article 47 and the courts of the Cape Town Convention State on the territory of which the aircraft object is situated or in which the aircraft is registered have jurisdiction to grant relief under Article 20(1)(*a*), (*b*), (*c*), and Article 20(8) in respect of that aircraft object or aircraft.

2. Jurisdiction to grant relief under Article 20(1)(*d*) and (*e*) or other interim relief by virtue of Article 20(8) may be exercised either:

(*a*) by the courts chosen by the parties; or

(*b*) by the courts of a Cape Town Convention State on the territory of which the debtor is situated, being relief which, by the terms of the order granting it, is enforceable only in the territory of that State.

3. A court has jurisdiction under the preceding paragraphs even if the final determination of the claim referred to in Article 20(1) will or may take place in a court of another Cape Town Convention State or by arbitration.

Article 49

Jurisdiction to make orders against the Registrar

1. The courts of the place in which the Registrar has its centre of administration shall have exclusive jurisdiction to award damages or make orders against the Registrar.

2. Where a person fails to respond to a demand made under Article 32 and that person has ceased to exist or cannot be found for the purpose of enabling an order to be made against it requiring it to procure discharge of the registration, the courts referred to in the preceding paragraph shall have exclusive jurisdiction, on the application of the debtor or intending debtor, to make an order directed to the Registrar requiring the Registrar to discharge the registration.

3. Where a person fails to comply with an order of a court having jurisdiction under these Rules, the courts referred to in paragraph 1 may direct the Registrar to

take such steps as will give effect to that order.

4. Except as otherwise provided by the preceding paragraphs, no court may make orders or give judgments or rulings against or purporting to bind the Registrar.

Article 50

Waivers of sovereign immunity

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 47 or 48 or relating to enforcement of rights and interests relating to an aircraft object under this Schedule shall be binding and, if the other conditions to such jurisdiction or enforcement have been satisfied, shall be effective to confer jurisdiction and permit enforcement, as the case may be.

2. A waiver under the preceding paragraph must be in writing and contain a description of the aircraft object.

Article 51

Jurisdiction in respect of insolvency proceedings

The provisions of this Chapter are not applicable to insolvency proceedings.

Article 52 to Article 55 have been intentionally omitted as they are not applicable to Malta.

CHAPTER XII

Final Provisions

Article 56

Effective date of this Schedule

This Schedule shall take effect on the effective date. The "effective date" is first day of the month following the expiration of three months after the date on which Malta deposits its instrument of accession to the Cape Town Convention with the depositary therefor.

Article 57

Transitional provisions

1. This Schedule does not apply to a pre-existing right or interest, which retains the priority it enjoyed under the applicable law before the effective date of this Schedule.

2. Nothing in the preceding paragraph or otherwise in this Schedule shall prevent parties to an agreement and related documents, by affirmative act, from re-constituting a pre-existing right or interest as an international interest and otherwise bringing it within the scope of this Act.

3. A priority non-consensual right or interest shall retain its priority over an international interest, to the extent specified in Article 45(1), which is registered prior to the effective date.

SECOND SCHEDULE
(articles 4, 13)

Substituted by: XXXVII.2021.32.

THE PROCEDURES AND FORMS APPLICABLE FOR THE RECORDING AND CANCELLING OF AN IRREVOCABLE DE-REGISTRATION AND EXPORT REQUEST AUTHORISATION AND DE-REGISTERING AIRCRAFT AND EXPORTING AIRCRAFT OBJECTS UNDER AN IRREVOCABLE DE-REGISTRATION AND EXPORT REQUEST AUTHORISATION

Malta has promulgated the following implementing legislation ("this Schedule") relating to the procedures for recording and cancelling an Irrevocable De-registration and Export Request Authorisation and the De-Registration of an Aircraft and Exporting Aircraft Objects under an Irrevocable De-registration and Export Request Authorisation.

Article 1
Definitions

In this Schedule, references to "this Act" are references to the principal Act to which this Schedule is annexed and except where the context otherwise requires, the following terms are employed with the meanings set out below:

(a) "Aircraft" means aircraft as defined for the purposes of the Chicago Convention which are either airframes with aircraft engines installed thereon or helicopters and duly registered or intended to be registered in the National Aircraft Register and to which the Treaty applies;

(b) "Applicant" means an entity or person that has applied or is applying for the registration of an Aircraft in the National Aircraft Register;

(c) "Authorised Party" means an entity or person in favour of whom an IDERA has been issued;

(d) "Certified Designee" means an entity or person named in a Designation as the certified designee under an IDERA;

(e) "Convention" means the Convention on International Interests in Mobile Equipment, 2001;

(f) "Declarations" means the declarations lodged by the state of Malta in connection with its accession to the Convention and Protocol;

(g) "De-Registration" means the deletion or removal of the registration of an Aircraft from the Registry and promptly providing documentary evidence of such De-Registration to the Authorised Party or Certified Designee, as applicable;

(h) "Designation" means a designation in the form of Annex 2;

(i) "Export" means the export and physical transfer of an Aircraft from the territory of Malta;

(j) "IDERA" means an Irrevocable De-Registration and Export

Request Authorisation in the form of Annex 1;

(k) "Officer" of an entity means the person who is duly authorised to represent such entity or whose signing authority is acceptable to the Director General;

(l) "Protocol" means the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, 2001;

(m) "Record" means evidencing a document in permanent form for authoritative reproduction in the future and retaining that evidence in the registration file for an Aircraft to which the document relates;

(n) "National Aircraft Register" or "register" or "Malta Aircraft Register" means the National Aircraft Register of Malta;

(o) "Registry Authority" means the Authority for Transport in Malta established under the Authority for Transport in Malta Act;

(p) "Related Engine" means an engine to which the Treaty applies and which is identified by manufacturer's serial number in an IDERA;

(q) "Request" means a request in the form of Annex 3;

(r) "Revocation" means a revocation of an IDERA or Designation, as the case may be, in the form of Annex 4;

(s) "Signature Authorisation" a document legally authorising execution of a document contemplated by this Schedule, including without restriction, a power of attorney signed by an Officer; and

(t) "Treaty" means the Convention, as modified by the Protocol and including the declarations.

Article 2
IDERA Recordation

1. The Registry Authority will accept and Record an IDERA if that IDERA:

(a) is submitted in writing to the Registry Authority substantially in the form of Annex 1;

(b) identifies an Aircraft registered or to be registered in the Registry; and

(c) is signed in accordance with the requirements of Annex 5 (i) by an Applicant, or if an Applicant is not a natural person, an Officer of an Applicant, or (ii) under a Signature Authorisation.

2. Two copies of an IDERA are to be submitted to the Registry Authority and the Registry Authority will acknowledge receipt of that IDERA by executing one such copy and returning it.

3. The Registry Authority will (a) Record an IDERA submitted in accordance with Article 2(1) within two working days of receipt, (b) promptly confirm that Recordation is complete, and (c) issue a declaration stating that pursuant to the Recordation of the IDERA the Registry Authority undertakes not to deregister the aircraft, unless consented to by the Authorised Party.

4. The Registry Authority will neither Record nor give effect to an IDERA for an Aircraft if that Aircraft has not yet been registered in the Registry or if another Recorded IDERA for that Aircraft has not been revoked.

5. If an IDERA is Recorded, an Authorised Party, or if a Designation is also Recorded, its Certified Designee shall be the sole person authorised to deliver a Request and exercise the remedies specified in the Protocol and/or in the First Schedule to the Act and/or in the Act pursuant to such IDERA.

Article 3
Certified Designee

1. The Registry Authority will record a Designation if:

(a) it is submitted in writing to the Registry Authority substantially in the form of Annex 2;

(b) it identifies a Recorded IDERA or an IDERA submitted with that Designation;

(c) no other Designation is Recorded for the relevant IDERA, other than a Designation which has been revoked;

(d) it is signed in accordance with Annex 5 (i) by the Authorised Party, or, if the Authorised Party is not a natural person, an Officer of the Authorised Party, or (ii) by the foregoing under a Signature Authorisation.

2. Two copies of a Designation are to be submitted to the Registry Authority and the Registry Authority will acknowledge receipt of that Designation by returning one copy, indicating in writing that it was "received".

3. The Registry Authority will (a) Record a Designation submitted in accordance with Article 3(1) within two working days, (b) promptly confirm that Recordation is complete, and (c) issue a declaration stating that the pursuant to the Recordation of the IDERA the Registry Authority undertake not to deregister the above captioned aircraft, unless consented to by the Certified Designee.

Article 4
Cancellation of an IDERA or Designation

1. An IDERA or Designation shall be revoked and be of no further effect if a Revocation:

(a) is submitted in writing to the Registry Authority substantially in the form of Annex 4;

(b) identifies a Recorded IDERA or Designation, as the case may be; and

(c) is signed in accordance with Annex 5 (i) in the case of an IDERA, by an Authorised Party, or, in the case of a Designation, by the Certified Designee and (ii) if the signatory to the Revocation is not a natural person, by an Officer of the foregoing or by the foregoing under a Signature Authorisation.

2. An Applicant shall have no power to issue a Revocation or otherwise revoke an IDERA or Designation.

3. Two copies of a Revocation are to be submitted to the Registry Authority and the Registry Authority will acknowledge receipt of that Revocation by returning one copy, indicating in writing that it was 'received'.

4. The Registry Authority will (a) Record a Revocation in accordance with Article 4(1) within two working days, and (b) promptly confirm that Recordation is complete.

5. Upon Revocation:

(a) The Registry Authority will not accept a Request or take any other action relating to an IDERA that has been revoked in accordance with Article 4(1);

(b) The Registry Authority will not accept a Request from a Certified Designee or take any other action on request of a Certified Designee under an IDERA if the Designation of that Certified Designee has been revoked in accordance with Article 4(1);

(c) The validity of an IDERA shall not be affected by revocation of a related Designation.

Article 5
Deregistration and Export

1. A Request will be accepted by the Registry Authority if that Request:

(a) is submitted in writing substantially in the form of Annex 3;

(b) identifies an IDERA Recorded in the Registry; and

(c) is signed in accordance with Annex 5 (i) by an Authorised Party or a Certified Designee, or, if the Authorised Party or Certified Designee is not a natural person, by an Officer thereof, or (b) by the foregoing under a Signature Authorisation.

2. The Registry Authority will honour each Request submitted in accordance with Article 5(1):

(a) to the extent so requested, by (i) effecting the De-registration of the Aircraft, and (ii) taking all action within its power to effect or facilitate the Export

of the Aircraft and any Related Engines:

(I) expeditiously, and, in any case, no later than five working days following receipt of the Request;

(II) without (i) the consent or approval of the Applicant or any other person or entity, (ii) any court or administrative or other order or decision of any kind, (iii) any need for the Registry Authority to investigate external facts, or (iv) imposing any additional requirements; and

(III) regardless of whether the Authorised Party or its Certified Designee is in possession of the Aircraft or Related Engine and notwithstanding that a Related Engine is not installed on the Aircraft;

(b) in the context of Export remedies only, subject to applicable aviation safety laws and regulations. For the purposes of this regulation, "applicable aviation safety laws and regulations":

(i) do not include any requirement (I) for the issuance of an export certificate of airworthiness, or (II) without limiting Article 5(3), for any documents in the possession of, or any action by, an operator of an aircraft.

3. A Request will have the following additional effects:

(a) to the extent within its reasonable control, the Authorised Party is responsible, promptly following but not as a condition to the De-registration and Export of the Aircraft, for:

(i) removing or covering the Registry's nationality marks on the Aircraft and removing the fireproof plate;

(ii) returning to the Registry Authority the original (I) certificate of registration for the Aircraft, and (II) certificate of airworthiness for the Aircraft; and

(iii) changing any electronic or radio transmitting aircraft identifications so that it no longer indicates that such aircraft is registered in Malta.

4. Upon notice to the Applicant, the Aircraft may not be operated unless and until it is re-registered and can be lawfully operated under applicable airworthiness rules.

5. A Request with respect to an Aircraft will be honoured under Article 5(1) and 5(2) without regard to the identity of the engines and other equipment then installed on that Aircraft.

6. Export remedies under Article 5(1) and 5(2) will be made available for any Related Engines which are not then installed on the Aircraft.

7. Without limiting the Registry Authority's authority to De-Register aircraft

under applicable law, an Aircraft for which there is a Recorded IDERA may not be De-Registered on the request of the Applicant, unless that IDERA is the subject of a Revocation.

Article 6
Assignments

1. Rights under the documents set out in this regulation may not be assigned except with the express consent of the Registry Authority.

Annex 1
IDERA

[Insert Date]

To: Authority for Transport in Malta

Director General for Civil Aviation

National Aircraft Register

Re: Irrevocable De-Registration and Export Request Authorisation

The undersigned is the registered [operator][owner] of the [insert the airframe/ helicopter manufacturer name and model number] bearing manufacturer's serial number [insert manufacturer's serial number] and registration number [number][mark] [insert registration number/mark], with the following Related Engines [insert description of engines, by model and manufacturer's serial number] (together with all installed, incorporated or attached accessories, parts and equipment, the "Aircraft").

This instrument is an irrevocable de-registration and export request authorisation issued by way of security by the undersigned in favour of [insert name and address of creditor] (the "Authorised Party") under the authority of (1) Article 25 of the First Schedule relating to the ratification by Malta of the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters Specific to Aircraft Equipment (the latter instrument, the "Protocol"), and (2) Article XIII of the Protocol. In accordance with these Articles, the undersigned hereby requests:

(a) recognition that the Authorised Party or the person it certifies as its designee is the sole person entitled to:

(i) procure the de-registration of the aircraft from the National Aircraft Register of Malta maintained by Authority for Transport in Malta for the purposes of Chapter III of the Convention on International Civil Aviation, signed at Chicago, on 7 December 1944, and

(ii) procure the export and physical transfer of the aircraft; and

(b) confirmation that the Authorised Party or the person it certifies as its designee (the "Certified Designee") may take action specified in clause (i)

above on written demand without the consent of the undersigned and that, upon such demand, the authorities in Malta shall co-operate with the Authorised Party with a view to speedy completion of such action.

The rights in favour of the Authorised Party established by this instrument may not be revoked by the undersigned without the written consent of the Authorised Party. The undersigned hereby authorizes the Authorised Party to delegate the rights established by this instrument to any third party who will be referred to as the certified designee.

Please acknowledge your agreement to this request and its terms by appropriate notation in the space provided below and lodging this instrument in National Aircraft Register.

_____

[Name of operator/owner]

By: [insert name of signatory]

Its: [insert title of signatory]

Agreed to and lodged this [insert date].

Annex 2
Designation

[Insert Date]

To: Authority for Transport in Malta

Director General for Civil Aviation

National Aircraft Register

Re: Designation Under Irrevocable De-Registration and Export Request Authorisation, dated [insert date of IDERA] by [insert name of operator/owner] for the [insert the airframe/helicopter manufacturer name and model number] bearing manufacturer's serial number [insert manufacturer's serial number] and registration number [number][mark][insert registration number/mark] (the "IDERA")

The undersigned is the Authorised Party (this and all other terms used in this Designation have the meanings given in the IDERA) under the IDERA.

Under Article 3(2) of the Second Schedule to the Aircraft Registration Act the undersigned hereby designates [insert name of Certified Designee] as the "Certified Designee" for all purposes of [describe regulation], effective immediately and until this Designation is revoked under Article 4(1) of the Second Schedule to the Aircraft Registration Act.

_____

[Insert name of Authorised Party]

By: [insert name of signatory]

Its: [insert title of signatory]

Agreed to and lodged this [insert date].

Annex 3
Request

[Insert Date]

To: Authority for Transport in Malta

Director General for Civil Aviation

National Aircraft Register

Re: Irrevocable De-Registration and Export Request Authorisation, dated [insert date of IDERA] by [insert name of operator/owner] for the [insert the airframe/helicopter manufacturer name and model number] bearing manufacturer's serial number [insert manufacturer's serial number] and registration number [number][mark] [insert registration number/mark] (the "IDERA")

Aircraft: [insert the airframe/helicopter manufacturer name and model number] bearing manufacturer's serial number [insert manufacturer's serial number] and registration number [number][mark] [insert registration number/mark]

[Related Engines: [if relevant, insert description, by model and manufacturer's serial number]]

The undersigned is the [Authorised Party][Certified Designee] (this and all other terms used in this Designation have the meanings given in the IDERA) under the IDERA.

[The undersigned hereby certifies that all registered interests ranking in priority to that of the Authorised Party have been discharged or that the holders of such interests have consented to the [de-registration and export of the Aircraft][export of the Related Engine].]

Under Article 5 of the Second Schedule to the Aircraft Registration Act the undersigned hereby requests as soon as practicable, and, in any case, within five working days [(i) de-registration of the Aircraft, with notice of such de-registration immediately thereafter sent to [insert name of state where the Aircraft is intended to be subsequently registered] and (ii) co-operation of the Authority for Transport in Malta and other administrative authorities in Malta in the export of the [Aircraft][Related Engine] from Malta.]

_____

[Insert name of Authorised Party/Certified Designee]

By: [insert name of signatory]

Its: [insert title of signatory]

Agreed to and lodged this [insert date].

Annex 4
Revocation

[Insert Date]

To: Authority for Transport in Malta

Director General for Civil Aviation

National Aircraft Register

Re: Irrevocable De-Registration and Export Request Authorisation, dated [insert date of IDERA] by [insert name of operator/owner] for the [insert the airframe/helicopter manufacturer name and model number] bearing manufacturer's serial number [insert manufacturer's serial number] and registration number [number][mark] [insert registration number/mark] (the "IDERA")

[if this is a revocation of a Designation, include: The Designation, dated [insert date of Designation] by [name of Authorised Party] designating [insert name of Certified Designee]

The undersigned is the [Authorised Party][Certified Designee] (this and all other terms used in this Revocation have the meanings given in the IDERA) under the [IDERA][Designation].

In accordance with Article 4(1) of the Second Schedule to the Aircraft Registration Act the undersigned hereby revokes the [IDERA][Designation], effective immediately.

_____

[Insert name of Authorised Party/Certified Designee]

By: [insert name of signatory]

Its: [insert title of signatory]

Agreed to and lodged this [insert date].

Annex 5
Formalities

A document that indicates it was signed in Malta will be accepted by the Registry Authority without additional formalities.

A document that indicates it was signed outside Malta will be accepted by the Registry Authority if notarised locally to the satisfaction of the Director General and the Director General in his discretion may also ask that the document is duly apostilled or legalised.

THIRD SCHEDULE

(Article 45)

List of Sources and Materials to be used by Court

(i) The Official Commentary by Professor Sir Roy Goode that was prepared in response to Resolution No. 5 of the Diplomatic Conference;

(ii) Resolution No. 2 of the Diplomatic Conference, relating to the establishment of the Supervisory Authority and the International Registry for aircraft objects;

(iii) Resolution No. 3 of the Diplomatic Conference, pursuant to Article 2(3)(b) and (c) of the Convention;

(iv) Resolution No. 4 of the Diplomatic Conference, relating to technical assistance with regard to the implementation and the use of the International Registry;

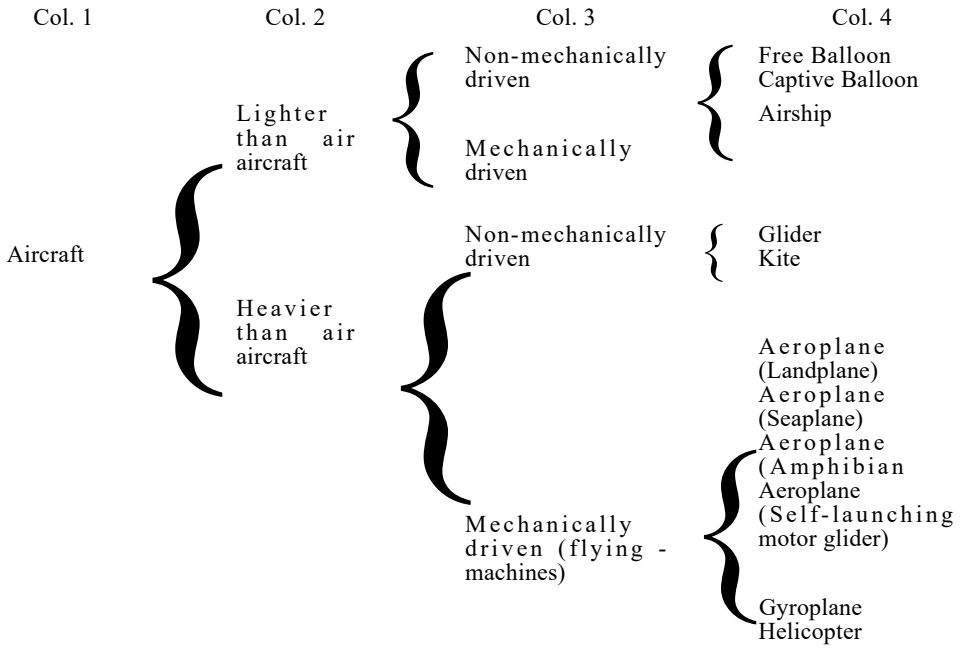
(iv) Materials, papers, commentaries and any guidelines issued by the International Institute for the Unification of Private Law ("UNIDROIT").

FOURTH SCHEDULE
(Article 16)

Amended by:
XXXVII.2021.33.

Part A

Table of General Classification of Aircraft



An aircraft which is intended to be operated with no pilot on board is to be further classified as unmanned.

Unmanned aircraft includes unmanned free balloons and remotely piloted aircraft.

Part B

Nationality and Registration Marks of Aircraft Registered in Malta

1. The nationality marks of the aircraft shall be the number 9 followed by the capital letter "H" in roman character and the registration mark shall be a group of three to five characters, which characters can be a combination of capital letters in Roman character and/or Arabic numbers assigned by the Director General on the registration of the aircraft. The letters and numbers shall be without ornamentation and the hyphen shall be placed between the nationality mark and the registration mark.

2. The nationality and registration mark shall be painted on the aircraft or shall be affixed thereto by any other means ensuring a similar degree of permanence in the following manner:

I. *Position of Marks*

(*a*) Flying machines and Gliders

(i) Wings: Except on aircraft having no fixed wing surface, the marks shall appear on the lower surface of the wing structure, and shall be on the left half of the lower surface of the wing structure unless they extend across the whole surface of both wings. So far

as possible the marks shall be located equidistant from the leading and trailing edges of the wings. The tops of the letters shall be towards the leading edge of the wing.

(ii) Fuselage (or equivalent structure) or Vertical Tail Surface: The marks shall also be either on each side of the fuselage (or equivalent structure) between the wings and the tail surfaces, or on the upper halves of the vertical tail surfaces. When on a single vertical tail surface they shall be on both sides of the tail. When there is more than one vertical tail surface, the marks shall appear on the outboard sides of the outer tails.

(*b*) Airships and Balloons

(i) Airships: The marks shall be on each side of the airship and also on the upper surface on the line of symmetry. They shall be placed lengthwise near the maximum cross-section of the airship.

(ii) Spherical Balloons: The marks shall be in two places diametrically opposite. They shall be placed near the maximum horizontal circumference of the balloon.

(iii) Non-Spherical Balloons: The marks shall be on each side. They shall be placed near the maximum cross-section of the balloon immediately above either the rigging band or the points of attachment of the basket suspension cables.

(iv) In the case of all airships and balloons the side marks shall be so placed as to be visible both from the sides and from the ground.

II. *Size of Marks*

(*a*) Flying Machines and Gliders

(i) Wings: The letters constituting each group of marks shall be of equal height. The height of the letters shall be at least 50 centimetres.

(ii) Fuselage (or equivalent structure) or Vertical Tail Surfaces: The marks on the fuselage (or equivalent structure) shall not interfere with the visible outlines of the fuselage (or equivalent structure). The marks on the vertical tail surfaces shall be such as to leave a margin of at least 5 centimetres along each side of the vertical tail surface. The letters constituting each group shall be of equal height. The height of the marks shall be at least 30 centimetres.

Provided that where owing to the structure of the aircraft a height of 30 centimetres is not reasonably practicable, the height shall be the greatest height reasonably practicable in the circumstances, but not less than 15 centimetres.

(*b*) Airships and Balloons

The letters constituting each group of marks shall be of equal height. The height of the letters shall be at least 75 centimetres.

III. *Width and Spacing of Marks*

(*a*) The width of each letter (except the letter I) and the length of the hyphen between the nationality mark and registration mark shall be two-thirds of the height of a letter.

(*b*) The letters and hyphen shall be formed by solid lines and shall be of a colour clearly contrasting with the background on which they appear. The thickness of the lines shall be one-sixth of the height of a letter.

(*c*) Each letter shall be separated from the letter which it immediately precedes or follows by a space equal to half the width of a letter. A hyphen shall be regarded as a letter for this purpose.

3. The nationality and registration marks shall be displayed to the best advantage taking into consideration the constructional features of the aircraft and shall always be kept clean and visible.

4. In addition to the foregoing requirements of this Schedule, a fireproof metal plate shall be affixed in a prominent position to the fuselage or car or basket, as the case may be, and near the main entrance to the aircraft and there shall be inscribed on the fireproof metal plate at least the nationality and registration marks of the aircraft.

Added by:
LII. 2016.27.

FIFTH SCHEDULE
(Article 17)

Repealed by Act XL of 2023.

Added by:
LII. 2016.27.

Sixth Schedule
(Article 61)

ADMINISTRATIVE SANCTIONS

First Column	Second Column
Provision	Penalty
	€
Article 11(1)(a)	2,000
Article 11(1)(b)	2,000
Article 11(1)(c)	2,000
Article 11(1)(d)	2,000
Article 13(1)(c)	5,000
Article 13(1)(g)	5,000
Article 13(1)(h)	5,000
Article 16(1)	5,000
Article 16(2)(a)	5,000
Article 16(2)(b)	5,000
Article 20(3)	2,500
Article 20(4)	2,500

The Authority may inflict on any person who has violated any of the provisions listed in the First Column of this Schedule the corresponding penalty listed in the Second Column of this Schedule.