



Number 15 of 2005

**INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
(CAPE TOWN CONVENTION) ACT 2005**

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PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

ACT REFERRED TO

Air Navigation and Transport (International Conventions) Act 2004

2004, No. 7



Number 15 of 2005

**INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
(CAPE TOWN CONVENTION) ACT 2005**

AN ACT TO GIVE EFFECT TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT, AND TO THE PROTOCOL TO THAT CONVENTION ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT, OPENED FOR SIGNATURE AT CAPE TOWN ON 16 NOVEMBER 2001; TO PROVIDE FOR RELATED MATTERS; AND TO AMEND THE AIR NAVIGATION AND TRANSPORT (INTERNATIONAL CONVENTIONS) ACT 2004.

[9th July, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY MATTERS

1.—This Act may be cited as the International Interests in Mobile Equipment (Cape Town Convention) Act 2005. Short title.

2.—The purpose of this Act is to give effect in the State to— Purpose of Act.

(a) the Cape Town Convention, and

(b) the Aircraft Protocol with regard to aircraft equipment.

3.—(1) In this Act, unless the context otherwise requires— Interpretation.

“the Aircraft Protocol” means 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 set out in *Schedule 2*;

“the Cape Town Convention” means 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 set out in *Schedule 1*;

[No. 15.] *International Interests in Mobile Equipment (Cape Town Convention) Act 2005.* [2005.]

“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 Minister” means the Minister for Transport.

(2) In this Act, a reference to an Article of the Cape Town Convention or the Aircraft Protocol is a reference to that Article as it appears in the Schedule in which it is set out.

(3) Words and expressions used in this Act have the same meaning as the corresponding words and expressions used in the Cape Town Convention and the Aircraft Protocol.

(4) In this Act—

- (a) a reference to a Part, section or Schedule is a reference to a Part or section of, or a Schedule to, this Act, unless it is indicated that reference to some other enactment is intended, and
- (b) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (c) a reference to a specified enactment is a reference to that enactment as amended, adapted or extended by or under any subsequent enactment, including this Act.

(5) In interpreting the Cape Town Convention and the Aircraft Protocol, a court or other interpreter can have recourse to—

- (a) the consolidated text of that Convention and that Protocol of which the Diplomatic Conference took note in its Resolution No. 1, and
- (b) the Official Commentary by Professor Sir Roy Goode that was prepared in response to Resolution No. 5 of that Conference, and
- (c) such other texts as the court considers relevant to interpreting that Convention and that Protocol.

PART 2

IMPLEMENTATION OF THE CONVENTION AND PROTOCOL

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

4.—(1) Subject to *subsection (2)*, the Cape Town Convention and the Aircraft Protocol have the force of law in the State in relation to matters to which they apply.

(2) *Subsection (1)* applies on and after the day on which the Cape Town Convention and the Aircraft Protocol enter into force in accordance with Article 49 of that Convention and Article XXVIII of that Protocol.

5.—(1) The Government may, by order, make decisions about any matter in relation to which a State may make a declaration as provided for in Articles 39, 40, 50, 52, 53, 54, 55, 57 and 60 of the Convention and in Articles XXIV, XXX, XXXI and XXXIII of the Aircraft Protocol.

Power of Government to make declarations for the purposes of the Cape Town Convention and Aircraft Protocol.

(2) If the Government has made a declaration under the Cape Town Convention or the Aircraft Protocol (other than a declaration authorised under Article 60 of that Convention or Article XXXI of that Protocol), it may make a decision withdrawing from the declaration in accordance with Article 58 of that Convention or Article XXXIV of that Protocol.

(3) An order under this section may authorise the Minister to make the declaration or effect the withdrawal to which the decision of the Government relates.

6.—(1) An order under *section 5* may include such transitional and consequential provisions as appear to the Government to be appropriate.

Orders may include savings and transitional provisions.

(2) Such a provision may, if the order so provides, take effect on the date on which this Act comes into operation or a later date.

(3) To the extent to which such a provision takes effect on a date that is earlier than the date of its notification in *Iris Oifigiúil*, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of that notification, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of that notification.

7.—The High Court is the relevant court for the purposes of the Cape Town Convention and the Aircraft Protocol including for the purposes of Article 53 of the Cape Town Convention.

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

8.—All courts and tribunals are required to take judicial notice of the provisions of the Cape Town Convention and the Aircraft Protocol.

Cape Town Convention and Aircraft Protocol to be judicially noticed.

9.—In any proceedings for damages brought by a person under Article 28 of the Cape Town Convention, the court—

Proceedings for compensatory damages under Article 28 of the Cape Town Convention.

- (a) shall take into account the extent to which the person and the Registrar and the Registrar's officers and employees have respectively complied with the regulations (if any) in force under Article 17(2)(d) of that Convention relating to the operation of the International Registry and the associated international registration system and with any requirements, conditions or limitations imposed under those regulations, and