STATUTORY INSTRUMENTS

2015 No. 912

CIVIL AVIATION

The International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015

Made - - - -	*23rd March 2015*
Laid before Parliament	*26th March 2015*
Coming into force in accordance with Regulation 2	

The Secretary of State is designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2]in relation to property interests in moveable objects.

The Convention on International Interests in Mobile Equipment and its Protocol on matters specific to Aircraft Equipment signed on 16th November 2001 are together to be regarded as an EU Treaty as defined in section 1(2) of the European Communities Act 1972, by virtue of the European Union (Definition of Treaties) (Convention on International Interests in Mobile Equipment and Protocol thereto on matters specific to Aircraft Equipment) Order 2014 [F3].

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations:

F1 See the European Communities (Designation) (No. 2) Order 2012 (S.I. 2012/2752) art.2.

F2 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c. 7). The European Union (Definition of Treaties) (Convention on International Interests in Mobile Equipment and Protocol thereto on matters specific to Aircraft Equipment) Order 2014 (S.I. 2014/1885) provides for the Cape Town Convention and its Protocol on Aircraft Equipment to be regarded as an EU Treaty as defined in section 1(2) of the European Communities Act 1972, as a result of which the provisions of section 2 of the 1972 Act apply to it for the purposes of implementation in the UK.

F3 S.I. 2014/1885.

PART 1

INTRODUCTORY

Citation

1. These Regulations may be cited as the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015.

Commencement

2. These Regulations come into force on the date specified in Article XXVIII of the Aircraft Protocol [F4] for commencement of that Protocol.

F4 Article XXVIII of the Aircraft Protocol provides that it "enters into force on the first day of the month following the expiration of three months after the date of the deposit of the eighth instrument of ratification, acceptance, approval or accession, between the States which have deposited such instruments" and, in the case of other States, "on the first day of the month following the expiration of three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.". This date will be notified in the London, Edinburgh and Belfast Gazettes. It will also be possible to find out the date on which the Cape Town Convention and Aircraft Protocol enter into force for the United Kingdom by referring to the relevant page on Gov.UK. The link to that page is https://www.gov.uk/government/collections/treaty-series-2013.

Extent

3. These Regulations extend to England and Wales, Scotland and Northern Ireland.

The Cape Town Convention and Aircraft Protocol

4.—(1) In these Regulations "the Cape Town Convention" means the Convention on International Interests in Mobile Equipment signed at Cape Town on 16th November 2001.

(2) In these Regulations "the Aircraft Protocol" means the Protocol to the Cape Town Convention on matters specific to Aircraft Equipment.

(3) In these Regulations "Protocol Regulations" means regulations made or approved by the Supervisory Authority pursuant to the Aircraft Protocol.

(4) The text of the Cape Town Convention is set out in Schedule 1.

(5) The text of the Aircraft Protocol is set out in Schedule 2.

(6) The Cape Town Convention and the Aircraft Protocol may be referred to together as the Convention on International Interests in Mobile Equipment as applied to aircraft objects.

Interpretation

5. In these Regulations—

"agreement" means a security agreement, a title reservation agreement or a leasing agreement;

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

"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—

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

(b) 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 to them;

"aircraft objects" means airframes, aircraft engines and helicopters;

"the Aircraft Protocol" has the meaning given by regulation 4(2);

"aircraft register" means a register maintained by a State or a common mark registering authority for the purposes of the Chicago Convention;

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

(a) at least 8 persons including crew, or

(b) 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 to them;

"applicable law" means the domestic rules of the law applicable by virtue of the rules of private international law of a State; and where a State comprises several territorial units, each of which has its own rules of law in respect of the matter to be decided, and where there is no indication of the relevant territorial unit—

(a) the law of that State decides which is the territorial unit whose rules govern, and

(b) in the absence of any such rule, the law of the territorial unit with which the case is most closely connected applies;

"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;

"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;

"authorised party" means the party referred to in regulation 22(6);

"the Cape Town Convention" has the meaning given by regulation 4(1);

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

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

"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 14th December 1967 by the Council of the International Civil Aviation Organization on nationality and registration of aircraft operated by international operating agencies;

"conditional buyer" means a buyer under a title reservation agreement;

"conditional seller" means a seller under a title reservation agreement;

"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);

"Contracting State" means a State party to the Cape Town Convention and the Aircraft Protocol;

"the court" has the meaning given by regulation 47;

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

"debtor" means a chargor under a security agreement, a conditional buyer under a title reservation agreement or a lessee under a leasing agreement;

"default" has the meaning given by regulation 18;

"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;

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

"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—

(a) at least 5 persons including crew, or

(b) 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 to them;

"insolvency office holder" means a person authorised to administer insolvency proceedings, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;

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

"interested persons" means—

(a) the debtor;

(b) a guarantor;

(c) any other person having rights in or over the aircraft object;

"international interest" means an interest held by a creditor to which Article 2 of the Cape Town Convention applies;

"International Registry" means the international registration facilities established for the purposes of the Cape Town Convention and the Aircraft Protocol;

"law of the United Kingdom" means the law of the relevant Part of the United Kingdom;

"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;

"non-consensual right or interest" means a right or interest conferred under the law of a Contracting State which has made a declaration under Article 39 of the Cape Town Convention to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;

"pre-existing right or interest" means a right or interest of any kind in or over an aircraft object created or arising before the effective date of the Cape Town Convention as defined by Article 60(2)(a);

"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;

"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;

"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;

"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;

"Protocol Regulations" has the meaning given by regulation 4(3);

"recognised" means recognised in the law of each Part of the United Kingdom;

"registered" means registered in the International Registry pursuant to Chapter V of the Cape Town Convention;

"registered interest" means an international interest including an interest treated as an international interest in accordance with article 40 of the Cape Town Convention, or in cases where a State has made a declaration under Article 50 of the Cape Town Convention, a national interest specified in a notice of a national interest registered pursuant to Chapter V of the Cape Town Convention;

"Registrar" means, in respect of the Aircraft Protocol, the person or body designated by that Protocol or appointed under Article 17(2)(b) of the Cape Town Convention;

"sale" means a transfer of ownership of an aircraft object pursuant to a contract of sale;

"secured obligation" means an obligation secured by a security interest;

"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;

"security interest" means an interest created by a security agreement;

"State" includes territory;

"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;

"Supervisory Authority" means, in respect of the Aircraft Protocol, the Supervisory Authority referred to in Article 17(1) of the Cape Town Convention;

"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;

"unregistered interest" means a consensual interest or non-consensual right or interest (other than an interest to which Article 39 of the Cape Town Convention applies) which has not been registered, whether or not it is registrable under the Convention; and

"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.