

AN ACT TO IMPLEMENT THE CAPE TOWN CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL THERETO ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

WHEREAS the Convention on International Interests in Mobile Equipment (*'the Convention'*) and the Protocol thereto on Matters Specific to Aircraft Equipment (*'the Protocol'*) were opened for signature at Cape Town 16 November 2001;

WHEREAS the *[Name of State]* ('____'), considering these instruments in the interest of the country, as an element of the further development of its air transport sector, deposited its instruments of accession with UNIDROIT in accordance with Article 49 of the Convention and Article XXVIII of the Protocol on _____ 2015;

NOW, THEREFORE, IT IS ENACTED by *[Name of State]* as follows:

SHORT TITLE

This Act may be cited as the International Interests in Mobile Equipment (aircraft equipment) Act of 2015 (*'this Act'*).

PURPOSE

The purpose of this Act is to implement –

- (1) the provisions of the Convention, attached as **annex I**,
- (2) the Protocol, attached as **annex II** –

in each case as modified by the declarations deposited with UNIDROIT in connection therewith, attached as **annex III** (*'the Declarations'*), and

- (3) the regulations of the *[State Civil Aviation Authority]*, attached as **annex IV**, in respect of Articles IX(1) and (5) and XIII of the Protocol and declaration under Article XXX(1) of the Protocol relating thereto (*'the Regulations'*)

(the Convention and the Protocol, as modified by the Declarations, and the Regulations, collectively, *'the Cape Town Treaty and its Implementing Provisions'*).

FORCE OF LAW

The Cape Town Treaty and its Implementing Provisions shall have the force of law in *[Name of State]*.

PREVAILING LAW

To the extent of any conflict or inconsistency between the Cape Town Convention and its Implementing Provisions and any other law of *[Name of State]*, the Cape Town Convention and its Implementing Provisions prevail over such other law, and, to that extent, such other law is hereby superseded.

ENTRY INTO FORCE

This Act and the Regulations shall enter into force simultaneously with the entry into force in *[Name of State]* of the Convention and the Protocol.

END

Annexure 1

Convention on International Interests in Mobile Equipment

(attach)

Annexure 2

Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment

(attach)

Annexure 3

Declarations to the Convention on International Interests in Mobile Equipment and Protocol thereto on Matters Specific to Aircraft Equipment – as Deposited with UNIDROIT

(attach)

Annexure 4

Regulations of the *[State Civil Aviation Authority]*

(attach)

Annexure 4

Regulations of the *[State Civil Aviation Authority]*

1 **Introduction**

1.1 The purpose of this regulation is to provide procedures for (a) Recording and Cancelling an IDERA, and (b) De-Registering Aircraft and Exporting Aircraft Objects under an IDERA.

1.2 This regulation applies to Aircraft registered in *[name of state]* and for purposes of 6.2.2 and 6.3.4 Aircraft Objects located in *[name of state]*.

2 **References**

2.1 **Authority**

The *[name of relevant authority]* of *[name of state]* has authority to issue this regulation under *[cite relevant law or regulation]*.

2.2 **Effective Date**

This regulation is effective on *[date]*, provided that 4.2, 5, and 6 apply to an IDERA Recorded by the Registry Authority prior to that date.

2.3 **Reference Documents**

2.3.1 *[relevant aviation law or regulation]*

2.3.2 *[specific, relevant law(s), or regulation(s) dealing with aircraft registration]*

2.3.3 Convention on International Interests in Mobile Equipment, 2001.

2.3.4 Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, 2001.

2.4 **Canceled Documents**

Without limiting 3.2, the following are canceled and superseded by this regulation: *[specify any regulations or other documents canceled or superseded by this regulation]*.

2.5 **Defined Terms**

Terms used without definition in this regulation have the meanings given in the Treaty.

Aircraft: an airframe which is part of an aircraft, or a helicopter (i) registered or intended to be registered in the Registry, and (ii) to which the Treaty applies.

Applicant: an entity or person that has applied or is applying for the registration of an Aircraft in the Registry.

Authorised Party: an entity or person in favour of whom an IDERA has been issued.

Certified Designee: an entity or person named in a Designation as the certified designee under an IDERA.

Convention: Convention on International Interests in Mobile Equipment, 2001.

Declarations: the declarations lodged by [*name of state*] in connection with its [ratification of][accession to] the Convention and Protocol.

De-Registration: [deletion][removal] of the registration of an Aircraft from the Registry and promptly providing a certificate evidencing De-Registration to the Authorised Party or Certified Designee, as applicable.

Designation: a designation in the form of Annex 2.

Export: export and physical transfer of an Aircraft from the territory of [*name of state*].

IDERA: an Irrevocable De-Registration and Export Request Authorisation in the form of Annex 1.

Officer: of an entity is (i) a member of its board of directors, (ii) its chief executive, operating, financial or legal officer, (iii) a vice president, (iv) its secretary or an assistant secretary, (v) its treasurer or assistant treasurer, (vi) a member or general partner, (vii) a trustee or (v) any other person or entity whose signing authority is acceptable to the Registry Authority.

Protocol: Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, 2001.

Record: 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.

Registry: [*describe aircraft registry of the state*].

Registry Authority: [*name of the authority responsible for the registration of Aircraft in the Registry*].

Related Engine: an engine to which the Treaty applies and which is identified by manufacturer's serial number in an IDERA.

Request: a request in the form of Annex 3.

Revocation: a revocation of an IDERA or Designation, as the case may be, in the form of Annex 4.

Signature Authorisation: a document legally authorising execution of a document contemplated by this regulation, including, without restriction, a power of attorney signed by an Officer.

Treaty: the Convention, as modified by the Protocol and including the Declarations.

3 **Background**

3.1 [Name of state] is a Contracting State to the Convention and Protocol and made a Declaration under Article XXX(1) of the Protocol providing for the recording and enforcement of IDERA.

3.2 The Treaty has effect under the law of [name of state], prevailing over conflicting law.

3.3 In addition to other remedies available to a Creditor under the Treaty, an Authorised Party may, upon request made pursuant to an IDERA:

- 3.3.1 procure the De-Registration and Export of an Aircraft, and
- 3.3.2 procure the Export of any Related Engines.

3.4 Under the Treaty:

3.4.1 the Registry Authority shall Record a properly submitted IDERA;

3.4.2 the Registry Authority and other administrative authorities shall expeditiously co-operate with and assist an Authorised Party in the exercise of the De-registration and Export remedies;

3.4.3 the Registry Authority shall honour a request for De-registration made pursuant to an IDERA; and

3.4.4 the Registry Authority and other administrative authorities shall honour a request for Export made pursuant to an IDERA, subject to applicable safety laws and regulations.

4 **IDERA Recordation**

4.1 **Recordation Requirements and Procedures**

4.1.1 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 line 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.

4.1.2 If two copies of an IDERA are submitted to the Registry Authority, the Registry Authority will acknowledge receipt of that IDERA by executing one such copy and returning it.

4.1.3 The Registry Authority will (a) Record an IDERA submitted in line with 4.1.1 within five working days of receipt, and (b) if requested by the Applicant, Authorised Party or Certified Designee, promptly confirm that Recordation is complete.

4.1.4 The Registry Authority will neither Record nor give any effect to an IDERA for an Aircraft if another Recorded IDERA for that Aircraft has not been revoked in line with 5.1.

4.1.5 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 Article IX(1) of the Protocol pursuant to such IDERA.

4.2 Certified Designee

4.2.1 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 in line with 5.1; and
- (d) it is signed in line 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.

4.2.2 If two copies of a Designation are submitted to the Registry Authority, the Registry Authority will acknowledge receipt of that Designation by returning one copy, indicating in writing that it was 'received'.

4.2.3 The Registry Authority will (a) Record a Designation submitted in line with 4.2.1 within five working days, and (b) upon request from an Authorised Party or Certified Designee, promptly confirm that Recordation is complete.

5 Cancellation of an IDERA or Designation

5.1 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 line 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.

5.2 An Applicant shall have no power to issue a Revocation or otherwise revoke an IDERA or Designation.

5.3 If two copies of a Revocation are submitted to the Registry Authority, the Registry Authority will acknowledge receipt of that Revocation by returning one copy, indicating in writing that it was 'received'.

5.4 The Registry Authority will (a) Record a Revocation submitted in line with 5.1 within five working days, and (b) upon request from an Applicant, Authorised Party or Certified Designee, promptly confirm that Recordation is complete.

5.5 Effect of Revocation

5.5.1 The Registry Authority will not accept a Request or take any other action relating to an IDERA that has been revoked in line with 5.1.

5.5.2 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 line with 5.1.

5.5.3 The validity of an IDERA shall not be affected by revocation of a related Designation.

6 Deregistration and Export

6.1 A Request will be accepted by the Registry Authority if that Request:

6.1.1 is submitted in writing substantially in the form of **Annex 3**;

6.1.2 identifies an IDERA Recorded in the Registry; and

6.1.3 is signed in line 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.

6.2 The Registry Authority will honour each Request submitted in line with 6.1:

6.2.1 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.

- (a) expeditiously, and, in any case, no later than five working days following receipt of the Request;
- (b) 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
- (c) 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.

6.2.2 in the context of Export remedies only, subject to applicable aviation safety laws and regulations. For purposes of this regulation, 'applicable aviation safety laws and regulations':

- (a) with respect to Aircraft, are those which must be met under the laws of [*name of state*] to permit the operation in its airspace of an aircraft under a ferry or other special flight permit issued by the aviation authority of the state of registration of that aircraft ('**ferry flight rules**'); and
- (b) do not include any requirement (i) for the issuance of an export certificate of airworthiness, or (ii) without limiting 6.3, for any

documents in the possession of, or any action by, an operator of an aircraft.

6.3 A Request will have following additional effects:

6.3.1 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:

- (a) removing or covering the Registry's nationality marks on the Aircraft;
- (b) returning to the Registry Authority the original (i) certificate of registration for the Aircraft, and (ii) certificate of airworthiness for the Aircraft; and
- (c) changing the Aircraft's transponder code so that it no longer indicates that such Aircraft is registered in [*name of state*].

6.3.2 Upon notice to the operator, the Aircraft may not be operated unless and until it is re-registered and can be lawfully operated under applicable airworthiness rules.

6.3.3 A Request with respect to an Aircraft will be honoured under 6.1 and 6.2 without regard to the identity of the engines and other equipment then installed on that Aircraft.

6.3.4 Export remedies under 6.1 and 6.2 will be made available for any Related Engines which are not then installed on the Aircraft.

6.4 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.

7 Assignments

Rights under the documents set out in this regulation may not be assigned except with the express consent of the Registry Authority.

8 Forms

8.1 Annex 1 – IDERA

8.2 Annex 2 – Designation

8.3 Annex 3 – De-Registration and Export Request

8.4 Annex 4 – Revocation

8.5 Annex 5 – Formalities

Annex 1

IDERA

[Insert Date]

To: [Insert Name of Registry Authority]

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 the undersigned in favour of [insert name of creditor] (the 'Authorised Party') under the authority of Article XIII of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment. In accordance with that Article, the undersigned hereby requests:

- (i) recognition that the Authorised Party or the person it certifies as its designee is the sole person entitled to:
 - (a) procure the de-registration of the aircraft from the [insert the name of aircraft register] maintained by the [insert name of registry authority] for the purposes of Chapter III of the Convention on International Civil Aviation, signed at Chicago, on 7 December 1944, and
 - (b) procure the export and physical transfer of the aircraft from [insert name of state]; and
- (ii) confirmation that the Authorised Party or the person it certifies as its designee (the 'Certified Designee') may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in [insert name of state] 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.

Please acknowledge your agreement to this request and its terms by appropriate notation in the space provided below and lodging this instrument in [insert name of registry authority].

[insert name of operator / owner]

Agreed to and lodged this
[insert date]

By: [insert name of signatory]
Its: [insert title of signatory]

[insert relevant notational details]

Annex 2

Designation

[Insert Date]

To: [Insert Name of Registry Authority]

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 4.2 of [describe the regulation] 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 5.1 of [describe the regulation].

[insert name of Authorised Party]

Agreed to and lodged this
[insert date]

By: [insert name of signatory]
Its: [insert title of signatory]

[insert relevant notational details]

Annex 3

Request

[Insert Date]

To: [Insert Name of Registry Authority]

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 6 of [describe the regulation] 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 [insert name of Registry Authority] and other

administrative authorities in [insert name of state] in the export of the [Aircraft][Related Engine]
from [insert name of state].]

[insert name of Authorised Party/Certified Designee]

Agreed to and lodged this
[insert date]

By: [insert name of signatory]
Its: [insert title of signatory]

[insert relevant notational details]

Annex 4

Revocation

[Insert Date]

To: [Insert Name of Registry Authority]

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 line with 5.1 of [describe the regulation] the undersigned hereby revokes the [IDERA][Designation], effective immediately.

[insert name of Authorised Party]

Agreed to and lodged this
[insert date]

By: [insert name of signatory]
Its: [insert title of signatory]

[insert relevant notational details]

Annex 5

Formalities

1. A document that indicates it was signed in [*name of state*] will be accepted by the Registry Authority without additional formalities.
2. A document that indicates it was signed outside [*name of state*] will be accepted by the Registry Authority if notarised locally and apostilled or legalised at a [*name of state*] embassy or consulate.