

 **This new and improved short form of model legislation relating to the ratification and accession of the Cape Town Convention on International Interests in Mobile Equipment and Protocol thereto on Matters specific to Aircraft Equipment, has been prepared by the Aviation Working Group for consideration and technical use by countries and others involved in the ratification of, or accession to, the Cape Town Convention and the Protocol thereto.**

Short Form of Model Legislation

The Aviation Working Group continues advising states on the effective implementation of the Cape Town Convention through the [qualifying declarations](http://www.awg.aero/assets/docs/2011-Qualifying%20Declarations.pdf), assuring force of law, and to the extent of any conflict, prevalence of the Convention over other domestic laws.

The document below includes the model: (i) Act of Implementation of the Cape Town Convention, (ii) Declarations to the Convention on International Interests in Mobile Equipment and Protocol thereto on Matters Specific to Aircraft Equipment and, (iii) Regulations of the corresponding Aviation Authority, including two forms of IDERA regulations these are: i) the short-form IDERA regulations contained under annexure 4.

**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** [Country] (‘***[Country]***’), 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 \_\_\_\_\_\_\_ 2018;

**NOW, THEREFORE,** IT IS ENACTED by [Country] 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 Civil Aviation Authority of [Country], 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 [Country].

**PREVAILING LAW**

To the extent of any conflict or inconsistency between the Cape Town Treaty and its Implementing Provisions and any other law of [Country], the Cape Town Treaty 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 [Country] 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 Civil Aviation Authority of [Country]

(attach)

\_\_\_\_\_\_\_\_\_\_\_\_\_

**Annexure 3**

**Convention on International Interests in Mobile Equipment**

1. [Country] declares, in accordance with Article 54(2) of the Convention, that all remedies available to the creditor under the Convention and the Protocol which are not expressed under the relevant provision thereof to require application to the court may be required exercised without leave of the court of other court action.

2. [Country] declares, in accordance with Article 39(1)(a) of the Convention, that the following categories of non-consensual right or interest:

a). liens in favour of the government relating to taxes and unpaid charges directly attributable to the use of an aircraft object arising after a declared default under a contract to lease of finance that aircraft object; and

b). liens in favour of repairers of an aircraft object in its possession to the extent of services performed on and value added to that aircraft object –

have priority over an interest in an object equivalent to that of the holder of a registered international interest and shall have priority to the same extent over such registered international interest, whether in or outside insolvency proceedings.

4. [Country] declares, in accordance with Article 40 of the Convention, that the following categories of non–consensual right or interest:

a). right of a person obtaining a court order permitting attachment of an aircraft object in partial or full satisfaction of a legal judgment; and

b). liens in favour of the government relating to taxes and unpaid charges directly attributable to the use of an aircraft object arising before a declared default under a contract to lease of finance that aircraft object ---

shall be registrable under the Convention as regards aircraft objects as if the right or interest were an international interest and shall be regulated accordingly.

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

1. The [Country] declares, in accordance with Article XXX of the Protocol, that it will apply Article VIII of the Protocol.

2. The [Country] declares, in accordance with Article XXX of the Protocol, that it will apply Article XI, Alternative A of the Protocol in its entirety to all types of insolvency proceedings and all insolvency-related events and that the waiting period of the purposes of Article XI(3), Alternative A shall be sixty (60) calendar days.

3. The [Country] declares, in accordance with Article XXX of the Protocol, that it will apply Article XII of the Protocol.

4. The [Country] declares, in accordance with Article XXX of the Protocol, that it will apply Article XIII of the Protocol.

5. The [Country] declares, in accordance with Article XXX(2), that it will apply  Article X of the Protocol, and for purposes thereof, ‘speedy’ shall mean the number working days (i) for the remedies specified in Articles 13(1)(a), (b), and (c) of the Convention, equal to not more than (10) calendar days, and (ii) for the remedies specified in Articles 13(1)(d) and (e) of the Convention, equal to not more than thirty (30) calendar days.

**Annexure 4 (a)**

**IDERA short-form model regulations**

**IDERA Regulations**

**Regulations of the Civil Aviation Authority of [Country] (IDERA)**

1. **Purpose and Effect**: 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. This regulation applies to Aircraft registered in the [Country] and, for purposes of any Export remedies, Aircraft Objects located in the [Country], and is effective on entry into force [ *date* ] of the Treaty, provided that Sections 4, 5, and 7 apply to an IDERA recorded by the Registry Authority prior to that date. This regulation prevails over conflicting law.

2. **Background:** The [Country] is a Contracting State to the Treaty and made a declaration under Article XXX(1) of the Protocol providing for the recording and enforcement of IDERAs.

3. **IDERA Recordation:** The Registry Authority will accept and record an IDERA if it: (a) is submitted in writing to the Registry Authority substantially in the form set forth in the Protocol; (b) identifies an Aircraft registered or to be registered in the [Country]n Aircraft Register; and (c) is signed by an Applicant. The Registry Authority will record an IDERA within five working days of receipt, and will promptly confirm to the Applicant, the Authorised Party and any Certified Designee (if applicable) that recordation is complete. No IDERA may be recorded for an Aircraft if a prior IDERA has been recorded by the Registry Authority for that Aircraft which has not been revoked in accordance with Section 5. Without limiting the Registry Authority’s authority to De-Register aircraft under applicable law, once an IDERA has been recorded in respect of an Aircraft, the Applicant may not request that the Aircraft be De-Registered, unless the IDERA has been revoked in accordance with Section 5.

4. **Certified Designee:** The Registry Authority will accept and record a Designation, whereby an Authorised Party appoints a Certified Designee, if: (a) it is submitted in writing to the Registry Authority; (b) it identifies the Certified Designee appointed by the Authorised Party and the IDERA to which it applies; (c) no other Designation is recorded for the relevant IDERA; and (d) it is signed by the Authorised Party. The Registry Authority will record a Designation within five working days of receipt, and will promptly confirm to the Authorised Party and the Certified Designee that recordation is complete.

5. **Revocation of an IDERA or Designation:** An IDERA or appointment of a Certified Designee shall be revoked and be of no further effect if a revocation: (a) is submitted in writing to the Registry Authority, (b) identifies the IDERA or Designation to which it applies; and (c) is signed in the case of an IDERA, by an Authorised Party, or, in the case of a Designation, by the Certified Designee. The Registry Authority will record a revocation within five working days of receipt, and will promptly confirm to the Applicant, the Authorised Party and any Certified Designee (if applicable) that recordation is complete. An Applicant shall have no power to issue a revocation in respect of an IDERA or Designation. Once a revocation has been recorded, the Registry Authority will not take any action for or on behalf of an Authorised Party (in respect of a revoked IDERA) or a Certified Designee (in respect of a revoked Designation) and the revoked IDERA or Designation (as the case may be) shall be of no further force and effect. The validity of an IDERA shall not be affected by the revocation of a related Designation.

6. **IDERA Remedies**: 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 this regulation and in Article IX(1) of the Protocol pursuant to such IDERA.

7. **Exercise of Remedies**: A request to exercise IDERA remedies will be accepted by the Registry Authority if it: (a) is submitted in writing, identifying the applicable rights and remedies that are to be exercised; (b) identifies an IDERA recorded in the [Country]n Aircraft Register; (c) in line with Article IX(5) of the Protocol, the Authorized Party certifies that there are no registered interests in the Treaty’s international registry ranking in priority to that of the Authorised Party, or, if there are, that they been discharged or the holders thereof have consented to the exercise of such IDERA remedies, and (d) is signed by the Authorised Party (or Certified Designee, if applicable). The Registry Authority will honour each request submitted in accordance with this Section, to the extent so requested, by effecting the De-registration of the Aircraft, and taking all action within its power to effect or facilitate the Export of the Aircraft and any Related Engines in an expeditious manner, and, in any event, within five working days of receipt of the request. The Registry Authority will promptly provide a certificate to the Authorised Party (or Certified Designee, if applicable) evidencing De-Registration. No additional consent, approval, court or other order or decision, additional requirements, condition or any other action shall be required in order for the Registry Authority to comply with any request made under this Section. The exercise of any Export remedy shall be subject to applicable Export-Related Safety Laws.

8. **Engines**: A request with respect to an Aircraft will be honoured under Section 7 without regard to the identity of the engines and other equipment then installed on that Aircraft. Export remedies under Section 7 will be made available for any Related Engines which are not then installed on the Aircraft.

9. **Further Actions**: The Authorised Party (or Certified Designee, if applicable) will, to the extent within its reasonable control, but not as a condition to the De-registration and Export of the Aircraft, remove or cover the Registry’s nationality marks on the Aircraft, return to the Registry Authority the original certificate of registration and certificate of airworthiness for the Aircraft, and change the Aircraft’s transponder code so that it no longer indicates that such Aircraft is registered in [Country].

10. **Document Execution**: Any document delivered hereunder by an Applicant, Authorised Party or Certified Designee, as the case may be, may, if any of the foregoing is not a natural person, be executed by an Officer of any of the foregoing, or under any other document legally authorizing execution on the foregoing’s behalf.

**Annex
Defined Terms**

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

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

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

***Designation***: the appointment of a Certified Designee by an Authorised Party in respect of an IDERA.

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

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

***Export-Related Safety Laws***: applicable laws and regulations of [Country] which permit the operation in its airspace of an aircraft under a ferry or other special flight permit issued by the applicable aviation authorities but excluding any requirement (i) for the issuance of an export certificate of airworthiness, or (ii) for any documents in the possession of, or any action by, an operator of an aircraft.

***IDERA:*** an irrevocable deregistration and export request authorization, the form of which is appended to the Protocol.

***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.

***Registry Authority***: Civil Aviation Authority of [Country].

***Related Engine***: an engine to which the Treaty applies and the Authorised Party (or Certified Designee, if applicable) certifies to the Registry Authority is an engine to which the underlying documentation signed by the Applicant, and giving rise to the IDERA, applies..

***Treaty:*** the Convention on International Interests in Mobile Equipment, 2001 (the ***Convention***), as modified by the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, 2001 (the ***Protocol***), and including the declarations lodged by [Country] in connection with its accession to the Convention and Protocol.