



Aircraft Registration Act, 2010

Aim

To regulate:

- the registration of aircraft and aircraft mortgages;
- the aircraft register;
- the recordation and enforcement of aircraft mortgages and other interests in aircraft
- the special privileges on aircraft;
- the ranking of secured creditors.
- the implementation of the Cape Town Convention and the aircraft protocol and its interface with domestic law

Novel concepts

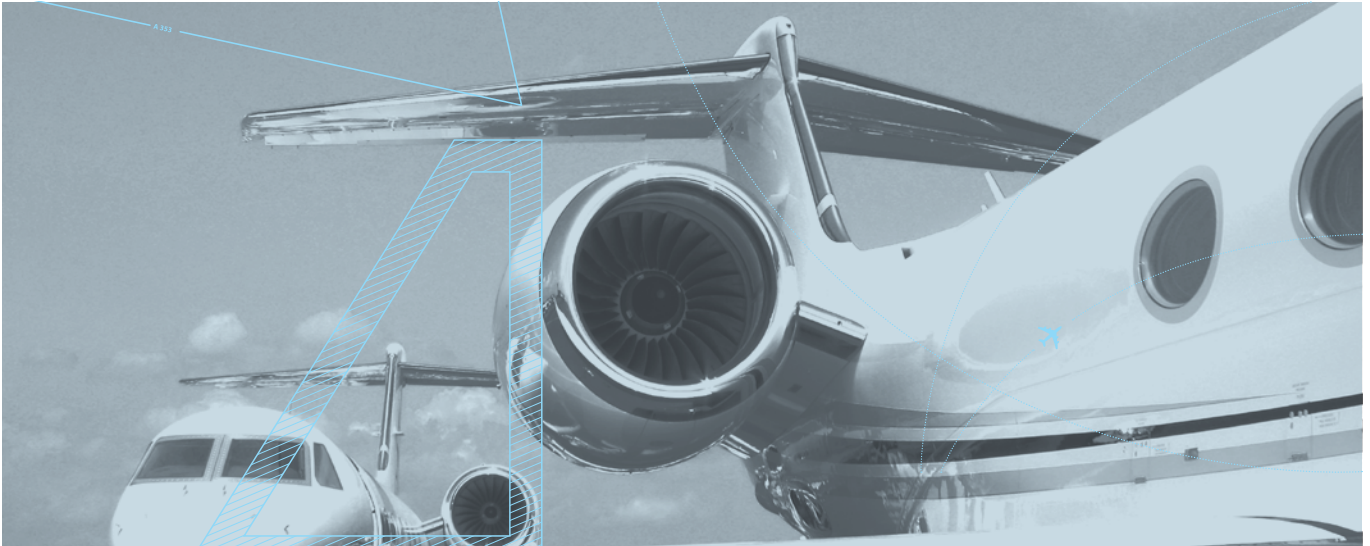
- Recognition of fractional ownership of aircraft;
- Widening of registration possibilities for aircraft not used for air service;
- Permitted registration of irrevocable de-registration and export power of attorney and other special power of attorney granted as security.

Advantages under the new law and other related legislation

- More visibility of rights and interests in aircraft
- Encourages the development of finance and operating leases of aircraft and provides clear rules on the tax treatment of the finance charge, available tax deductions to finance lessors and capital allowances for lessees;
- Broader registration possibilities;
- No withholding tax on lease payments where the lessor is not a tax resident of Malta
- Competitive minimum depreciation periods for aircraft;
- The private use of an aircraft by an individual who is not resident in Malta and is an employee/officer of an employer/company/partnership whose business activities include the ownership/leasing/operation of aircraft used for international transport does not constitute a taxable fringe benefit;
- Implements the provisions of the Cape Town Convention on International Interests in Mobile Equipment and its Aircraft Protocol thereby granting secured lenders a higher degree of protection and more effective remedies whilst allowing lower borrowing costs.

Who may register aircraft

- An owner of the aircraft who operates the said aircraft;
- An owner of an aircraft under construction or temporarily not being operated or managed;
- An operator of an aircraft under a temporary title who satisfies the conditions as may be prescribed;
- A buyer of an aircraft under a conditional sale or title reservation agreement which satisfies the conditions which may be prescribed and who is authorised to operate the aircraft.



Persons qualified to register aircraft in Malta:

Aircraft used in air service

- The Government of Malta;
- A citizen of Malta or a citizen of a Member State of the E.U. or of an EEA State, or Switzerland, having a place of residence or business in Malta, the E.U., the EEA, 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;
- An undertaking formed and existing in accordance with the laws of Malta, of a Member State of the E.U., of an EEA State, or of Switzerland and having its registered office, central administration and principal place of business within Malta, or the E.U., or the EEA, or Switzerland, whereof not less than 50% of the undertaking is owned and effectively controlled by the Government of Malta, or by any Member State of the E.U. or by persons referred to above, whether directly or indirectly through one or more intermediate undertakings.

Private aircraft

- A natural person who is a citizen of, or an undertaking established in a 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 the Act (termed "International Registrant" in the Act), provided it –
 - has legal capacity to own / operate an aircraft in terms of law;
 - appoints a local resident agent to represent the owner in Malta for matters concerning the registration of the aircraft;
 - complies with applicable regulations/guidelines.

Information entered in the National Aircraft Register:

Mandatory entries in the register

- The physical details of the aircraft and 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;
- The name and address of the registrant in what capacity the registrant has registered the aircraft;
- The details of any mortgages registered over the aircraft and subsequently all registrable transactions relating to the mortgages;
- The details of any irrevocable de-registration power of attorney, or other power of attorney 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, granting powers relating to the

exercise of rights relating to the aircraft, or to the closure of the register on behalf of the registrant.

Permitted entries in the register

- The ownership rights in the aircraft or an engine including when held by a trustee, by one or more owners, divided into fractional shares, or held under an agreement with reservation of ownership rights or under conditions affecting title;
- The lessee / lessor rights in relation to the aircraft or an engine;
- The details of the resident agent where the registrant is an international registrant;
- Information on any international interest registered in the International Registry, and the debtor thereof;
- Any charge or reservation of ownership rights or lessee rights prior to the registration of a mortgage.

Security registrable in the National Aircraft Register:

- A mortgage;
- Prior to the registration of a mortgage -
 - any creditor may register his privilege or charge on any part, appurtenance or accessory of an aircraft
 - a seller reserving ownership rights on an aircraft or on any part thereof, may register his interest in the register of the aircraft;
 - a lessee having rights to an aircraft or any part thereof.

International interests registrable in the International Registry in terms of the Cape Town Convention:

An interest in airframes, aircraft engines or helicopters which is:

- granted by a chargor under a security agreement;
- vested in a person who is the conditional seller under a title reservation agreement;

or

- vested in a person who is the lessor under a leasing agreement.

The relevant proper law determines whether an interest is characterised as any of the above mentioned interest.

Special privileges on aircraft:

Super-priority privileges -

- 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;
- Fees and other charges due to the Director General arising under applicable law of Malta in respect of the aircraft;
- Wages due to crew in respect of their employment on the aircraft;
- 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;
- 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
- Wages and expenses for salvage in respect of the aircraft.

Registrable privileges which, once registered in the International Registry 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 –

- Taxes, duties and, or levies due to the Government of Malta in respect of the aircraft; and
- Wages and expenses for assistance or recovery in respect of the aircraft.