

SCHEDULE 5

Regulation 50

CONSEQUENTIAL AMENDMENTS

PART 1

STATUTORY INSTRUMENTS

**Mortgaging of Aircraft Order 1972**

1.—(1) The Mortgaging of Aircraft Order 1972(1) is amended as follows.

(2) In Article 2 (interpretation)—

(a) after the definition of “the Authority” insert—

““the Cape Town Convention Regulations” means the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015;” and

(b) at the end add—

“(3) An expression used in this Order and in the Cape Town Convention Regulations has the same meaning in this Order as in those Regulations.”

(3) After Article 9 (discharge of mortgages) insert—

**“Transfer to international registration**

9A.—(1) This article applies where the mortgagee applies to the Authority for the removal of an entry from the register on the grounds that an international interest has been registered, or is to be registered, under the Cape Town Convention in respect of the aircraft to which the mortgage relates.

(2) The Authority must—

(a) enter the application in the Register;

(b) mark the relevant entries in the Register ‘Removed on application in respect of registration of international interest’, and

(c) notify the mortgagee, the mortgagor and the owner that it has done so.”

(4) In Article 10 (rectification of the Register) after “for correcting any error therein” insert “(including the removal of incorrect or outdated entries if the court thinks it necessary or appropriate)”.

(5) In Article 14 (priority of mortgages) after paragraph (5) insert—

“(6) This article is subject to the rules set out in regulation 16 of the Cape Town Convention Regulations.”;

(the paragraph inserted in the application of the Article to Scotland by Sch.2, para.1(b)(i) to the Order becomes numbered (7)).

(6) In Schedule 2 (application to Scotland)—

(a) in paragraph 9(a) after “over the aircraft” insert “or who holds a registered interest under the Cape Town Convention”;

(b) at the end of paragraph 9(b) add “and of every person who holds a registered interest under the Cape Town Convention”;

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(1) [S.I. 1972/1268](#); amendments have been made by [S.I. 1981/611](#), [S.I. 1986/2001](#) and by the Criminal Justice Act 1988 c. 33 Pt V s.51.

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- (c) in paragraph 9(c) after “shall be served upon any mortgagee” insert “, and any person who holds a registered interest under the Cape Town Convention,”;
  - (d) for paragraph 10(a) insert—
    - “(a) first, in payment of amounts due under a registered interest under the Cape Town Convention;
    - (aa) secondly, in payment of all expenses properly incurred by him in connection with the sale, or any prior attempted sale, of the aircraft,”;
  - (e) in paragraph 10(b), for “secondly,” substitute “thirdly,”;
  - (f) in paragraph 10(c), for “thirdly,” substitute “fourthly,”;
  - (g) in paragraph 10(d), for “fourthly,” substitute “fifthly,”;
  - (h) in paragraph 10(e), for “fifthly,” substitute “sixthly,”;
  - (i) in paragraph 11(1) after “as holding a mortgage over the aircraft” insert “, every person who holds a registered interest under the Cape Town Convention,”;
  - (j) in paragraph 11(4), for “the owner and every person shown in the Register as holding a mortgage over the aircraft,” substitute “the owner and every person shown in the Register as holding a mortgage over the aircraft and every person who holds a registered interest under the Cape Town Convention,”;
  - (k) in paragraph 12 after “a mortgagee in any mortgage of an aircraft registered in the United Kingdom” insert “, or a person who holds a registered interest under the Cape Town Convention,”.
- (7) In relation to the holder of a registered interest under the Cape Town Convention—
- (a) the reference in paragraph 9 of Schedule 2 to 60 days is to be taken as a reference to 10 days (unless a longer period is agreed between the parties), and
  - (b) the reference in paragraph 11(4) to 30 days is to be taken as a reference to 10 days (unless a longer period is agreed between the parties).
- (8) Nothing in Schedule 2 prevents the holder of a registered interest under the Cape Town Convention from exercising a remedy under these Regulations or in accordance with the Cape Town Convention or the Aircraft Protocol.

### **Civil Aviation (Chargeable Air Services) (Detention and Sale of Aircraft) Regulations 2001**

**2.—(1)** The Civil Aviation (Chargeable Air Services) (Detention and Sale of Aircraft) Regulations 2001<sup>(2)</sup> are amended as follows.

- (2) In regulation 2 (interpretation) after the definition of “authorised person” insert—

““the Cape Town Convention Regulations” means the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015;”.
- (3) In regulation 7 (application of proceeds of sale) at the end add “(with priority being given to any person or persons having an international interest within the meaning of the Cape Town Convention Regulations, in accordance with the rules set out in regulation 16 of those Regulations)”.
- (4) In the Schedule (notice of application to court)—
  - (a) in paragraph 1(1) (requirement to give notice) after paragraph (e) insert—

“(ea) any person who has an international interest in the aircraft in accordance with the Cape Town Convention Regulations;” and

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(2) [S.I. 2001/493](#).

- (b) in paragraph 2(2) for “shall be served” substitute “may be served by any reasonable electronic means or”.

### **Civil Aviation (Chargeable Air Services) (Detention and Sale of Aircraft for Eurocontrol) Regulations 2001**

**3.—**(1) The Civil Aviation (Chargeable Air Services) (Detention and Sale of Aircraft for Eurocontrol) Regulations 2001<sup>(3)</sup> are amended as follows.

- (2) In regulation 2 (interpretation) after the definition of “authorised person” insert—

““the Cape Town Convention Regulations” means the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015;”.

- (3) In regulation 8 (application of proceeds of sale) at the end add “(with priority being given to any person or persons having an international interest within the meaning of the Cape Town Convention Regulations, in accordance with the rules set out in regulation 16 of those Regulations)”.

- (4) In the Schedule (notice of application to court)—

- (a) in paragraph 1(1) (requirement to give notice) after paragraph (e) insert—

“(ea) any person who has an international interest in the aircraft in accordance with the Cape Town Convention Regulations;”; and

- (b) in paragraph 2(2) for “shall be served” substitute “may be served by any reasonable electronic means or”.

### **Air Navigation Order 2009**

**4.—**(1) The Air Navigation Order 2009<sup>(4)</sup> is amended as follows.

- (2) At the end of article 7 (changes to the register) add—

“(6) (The CAA must also cancel the registration of an aircraft as soon as reasonably practical if satisfied that a person wishes and is entitled to procure the de-registration of the aircraft in accordance with Article IX (modification of default remedies provisions) of the Aircraft Protocol (within the meaning of the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015).

(7) Paragraph (6) is subject to regulation 51 of the 2015 Regulations (disapplication in respect of pre-existing rights and interests).”

- (3) After article 8 (aircraft which are entered in the Register of Aircraft Mortgages) insert—

#### **“Aircraft subject to an international interest**

**8A.—**(1) This article applies to an aircraft—

- (a) which is the subject of a registered international interest within the meaning of the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015, and

- (b) in respect of which an irrevocable de-registration and export request authorisation is in force.

(2) The registration of an aircraft to which this article applies does not become void by virtue of article 7(1).

(3) The CAA may cancel the registration of an aircraft to which this article applies under article 7(4) only in pursuance of an application made by a person who is recorded,

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(3) S.I. 2001/494.

(4) S.I. 2009/3015.

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in accordance with regulation 22 of the 2015 Regulations, as the authorised party under an irrevocable de-registration and export request authorisation in respect of the aircraft.

(4) Article 8(2) does not apply to an aircraft to which this article applies (subject to regulation 51 of the 2015 Regulations (transitional provision)).

(5) Expressions used in this article have the same meaning as in the 2015 Regulations.”

### **Greenhouse Gas Emissions Trading Scheme Regulations 2012/3038**

5. At the end of paragraph 8(2)(g) of Schedule 9 to the Greenhouse Gas Emissions Trading Scheme Regulations 2012(5) (Detention and sale of aircraft: procedure for applying for leave to sell aircraft) add “(including an international interest within the meaning of the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015)”.

## **PART 2**

### **ACTS**

#### **Bills of Sale Act 1878**

6. The Bills of Sale Act 1878(6) (and any equivalent applying to Northern Ireland) is not to apply to a security agreement which creates or provides for an international interest.

#### **Bills of Sale Act (1878) Amendment Act 1882**

7. The Bills of Sale Act (1878) Amendment Act 1882(7) (and any equivalent applying to Northern Ireland) is not to apply to a security agreement which creates or provides for an international interest.

#### **Civil Aviation Act 1982**

8.—(1) Section 88 of the Civil Aviation Act 1982(8)(detention and sale of aircraft for unpaid airport charges: application of proceeds) is amended as follows.

(2) At the end of subsection (6) add “(with priority being given to any person or persons having an international interest within the meaning of the Cape Town Convention Regulations, in accordance with the rules set out in regulation 16 of those Regulations)”.

(3) After subsection (6) insert—

“(6A) In subsection (6) “the Cape Town Convention Regulations” means the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015.”

#### **Companies Act 2006**

9. Section 859A of the Companies Act 2006(9) (charges created by a company: registration) is not to apply to a charge which is an international interest.

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(5) [S.I. 2012/3038](#).

(6) [1878 c.31](#).

(7) [1882 c.43](#).

(8) [1982 c.16](#); section 88 is amended by the Transport Act [2000 \(c. 38\)](#) section 97, Schedule.8 (Part 3) paragraph.6(2) and 6(3), the Airports Act [1986 \(c.31\)](#), section 83(5), Schedule. 6 Part.1, the Local Government etc. (Scotland) Act [1994 \(c. 39\)](#) section 180(1), (2), Schedule 13 paragraphs 126(4), Schedule. 14, and the Civil Aviation Act [2006 \(c. 34\)](#) section 13, Schedule 2 paragraph 2.

(9) [2006 c.46](#); section 859A was inserted by the Companies Act 2006 (Amendment of Part 25) Regulations [S.I. 2013/600](#) Schedule.1 paragraph.1.

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