

Consolidated Act on Registration of Rights to Aircraft

Act on registration of rights to aircraft is hereby notified, cf. Consolidation Order no. 620 of 15 September 1986 with the amendments following § 14 of Act no. 396 of 13 June 1990, Act no. 1088 of 23 December 1992, § 13 of Act no. 1082 of 20 December 1995 and § 2 of Act no. 655 of 12 June 2013.

Chapter 1

§ 1. Rights to aircraft entered in the Register of Danish Aircraft referred to in the Danish Air Navigation Act, shall be registered to acquire protection of agreements regarding the aircraft and against prosecution. The registration shall be made by entrance in a register of rights to aircraft common to the entire Kingdom and kept by the Danish Transport Authority.

(2) Any right that shall supersede an unregistered right must be registered and the acquirer according to agreement in good faith.

(3) If the owner of a registered right to aircraft is or is declared incapable of managing his/her own affairs, this shall be registered in order that the incapability can be pleaded in relation to agreements regarding aircraft which are made in good faith with the incapable person.

§ 2. In order to be registered according to its contents, a private document shall be to the effect that one of the following rights can be determined, founded, changed or repealed:

- 1) the ownership, whether it is unconditional or conditional on payment of the purchase sum or of other circumstances,
- 2) lease rights, when these are given for a period of 6 months or more,
- 3) mortgage and similar secured rights to aircraft which, according to agreement, serve as guarantee for the fulfillment of an obligation, the amount of which is either fixed at a

determined sum or with a certain maximum. Mortgage rights and secured rights not already acknowledged in Danish law can only be registered if they meet the above conditions and have been approved by the Minister of Justice for registration.

§ 3. If a mortgage right or similar secured right is registered, a renewed registration is unnecessary in case of transfer of the right.

§ 4. Right of priority for claims regarding public charges in aircraft registered in this country is valid towards any third party without registration if the right of priority following Danish law.

§ 5. The claims for salvage money and remuneration of expenses for preservation of aircraft dealt with in the Danish Air Navigation are ensured by mortgage in the aircraft.

(2) Such mortgage right shall have priority to all other rights in the aircraft. The mortgage right shall no longer be valid if it has not been registered within three months of the emergence of the claim.

(3) If there are more rights of the mentioned nature, they shall be met in reverse order of the events that caused them.

§ 6. Secured rights prescribed by law other than the ones mentioned in § 5 cannot be registered.

§ 7. Documents handed in for registration shall be entered in a day list the same day on which registration is applied for, with information on the aircraft that the application concerns, including its registration marks, the nature of the right and the applicant's name and place of residence. The Danish Transport Authority shall refuse documents that do not meet

the conditions for being registered in pursuance of § 16. The document shall be endorsed as regards the date of the entry.

§ 8. After entry into the day list it shall be checked whether the document can be registered. If the document concerns a right that cannot be registered in pursuance of the preceding provisions, or if the applicant has not provided the necessary proof for his right to claim registration, it shall be refused from registration and struck off the day list. The Danish Transport Authority may, however, determine a deadline for providing the mentioned proof so that the document will not be refused unless the proof has not been provided before the expiry of the deadline. The document shall then be entered in the register with statement of the deadline.

(2) The entry into the register or the refusal of the document shall be made as soon as possible and not later than 10 days after the application for registration.

§ 9. Registration of a right to an aircraft entered in the Register of Danish Aircraft or corresponding register in a state that has acceded the Geneva Convention of 1948 can be made on the basis of:

- 1) transfer document appearing to have been issued by the one authorized, according to the relevant register, to dispose of the aircraft, or as issued with his consent, or
- 2) certificate of representation according to which the one whose right is requested to be registered, has been given the registered owner's estate to retain undivided possession of the estate or administration of the deceased person's estate by an executor or out of court, or
- 3) transcript of a judgment or other public judicial act by which the one whose right is requested to be registered, has been granted the ownership of the aircraft or established in relation to the registered owner.

(2) If the aircraft is not registered in the Register of Rights to Aircraft or corresponding register in foreign convention state, registration of the right can only be made on the basis of evidence proving that the one whose right is requested to be registered, has had the aircraft

built on his own expense or, if the aircraft has been acquired in another way, documentation deemed adequate by the Danish Transport Authority stating that the aircraft has been acquired in the indicated way.

§ 10. Registration of other rights can be made on the basis of:

- 1) document concerning the right appearing to have been issued by the one who according to the Register of Rights to Aircraft – or by mortgage according to transportation – has been authorized to have the disposal of the right in question, or as issued with his consent, or
- 2) transcript of judgment, distress or other public judicial act by which the one whose right is requested to be registered has been given the right or proven in relation to the person authorized under the provisions in no. 1).

(2) If the right and its amount has not been established by judgment or agreement, the registration of the mortgages mentioned in § 5 may be made on the basis of documentation stating that legal proceedings have been instituted against the registered owner of the accomplishment of the right. It shall appear from the documentation for which amount the legal proceedings have been instituted.

§ 11. If an aircraft entered in the Register of Danish Aircraft is sold by order of the court or has been taken over by distraint without an order of the court, the bailiff shall immediately send a notification to the Danish Transport Authority to be recorded in the register. If the owner's estate is administered in bankruptcy or other public administration of the estate, it shall be the responsibility of the bankruptcy court (executor) to induce this to be noted in the register.

(2) The same notification duty shall rest with the guardian if a minor acquires an aircraft by inheritance or in any other way. The notification shall contain information on the minor's date of birth.

§ 12. If there is no hindrance for the registration of the notified document, it shall be entered in the register and endorsed regarding the registration. If the document does not mention the entitled person's preferential position

or mention this in a way that is against the contents of the register, or if there are minor discrepancies between the contents of the document and the proofs presented or the contents of the register, the document shall be annotated and the contents of the annotation shall be entered in the Register.

§ 13. Each aircraft shall have its own page in the Register of Rights to Aircraft, arranged according to its registration number in the Register of Danish Aircraft. Each page shall be divided into 3 parts containing 1) rights, 2) mortgages and other security rights, including retention of title, and 3) pre-emption rights, lease rights and other rights.

(2) In connection with the registration a short statement of the document's contents shall be entered in the register from which shall appear the names and addresses of the applicant and possessor of the right, the nature of the right, including any conditions and time-limits attached, and the dates for the issuance and application for registration of the document. As regards mortgages and other security rights, also the amount of the debt or maximum amount as well as the preferential position of the mortgage deed, and whether the right includes spare parts, cf. § 24.

§ 14. Decisions regarding the registration can be appealed to the Danish Eastern High Court within two weeks from the notification of the decision to the person in question. When circumstances call for it, the Danish Eastern High Court may then, however not after the expiry of 6 months, permit that notice of appeal be instituted within 2 weeks after the notification of the decision. If appeal is instituted, a notification shall immediately be made in the day list or register.

(2) The decisions of the Danish Eastern High Court under (1), 1st and 2nd sentences, cannot be appealed. The Danish Board of Appeal Permission may, however, permit appeal of the decisions of the High Court, if the appeal concerns questions of a fundamental nature. § 392 (2) of the Administration of Justice Act shall be equally applicable.

§ 15. A copy of the registered document shall be deposited in the Register archives with the same annotation notified in the registered document.

§ 16. The Minister of Transport may lay down regulations on the keeping the Register of Rights to Aircraft and on publication of the registered, on the information to be notified about the aircraft before registration and on the further proof to accompany a document when application for registration is made. The Minister of Transport may further lay down regulations on the form of the documents and which requirements should be made regarding the proof for the identity and authority of the issuer and the proof for the authenticity of the document and the proofs presented.

§ 17. Deletion from the Register of Rights to Aircraft of a registered right requires the consent of the one entered in the Register as entitled, or proof that the right has been annulled by its contents or by judgment or other public judicial act.

(2) Cancellation of mortgages requires presentation of the mortgage duly receipted or proof that the mortgage has been annulled by court decision.

(3) Deletion shall be made by crossing out the entry in the Register in such a way that the original contents are still legible.

§ 18. Upon request the Danish Transport Authority shall be under the obligation to grant copies of the Register and the day list or copies of the registered documents notified in the day list. The authenticity of such copies and transcripts shall be confirmed by the signature of the Danish Transport Authority. Until the incorrectness of the copy or transcript is proven, the signature of the Danish Transport Authority indicates proof of the correctness.

§ 19. When an aircraft is removed from the Register of Danish Aircraft, it shall also be removed from the Register of Rights to Aircraft. If a matter that would have led to deletion in case there were no rights registered to the aircraft is noted, the same note shall be made in the Register of Rights to Aircraft.

§ 20. If not otherwise decided, the legal effect of the registration shall be calculated from the day application for registration of the document is made. Applications for registration of documents made the same day shall be given equal rights.

(2) Rights of the nature mentioned in § 2 to an aircraft that hitherto has been registered in a state that has acceded to the Geneva Convention of 1948 shall, however, maintain their preferential position up til then when the aircraft is transferred to the Register in this country. The mentioned rights shall be entered in the Register at the same time as the title is registered.

§ 21. When a document has been registered, no objection can be made against its validity towards acquirers in good faith according to registered agreement. The objection shall, however, be maintained if the document is forgery or forged, or if its issue has unlawfully been provoked by personal violence or threat to immediately use violence, or if the issuer was under age at the time of the issue. If the aircraft previously has been entered in the register of rights to aircraft in a state that has acceded the Geneva Convention of 1948, the entry of the aircraft in the Danish Register of Rights to Aircraft does not imply that the objections which it has been possible up till then to be made towards acquires in good faith of the aircraft or of registered rights to this are repealed.

§ 22. The rights mentioned in §§ 2 and 5 also include the equipment fitted in the aircraft, including engines, propellers, radio equipment, instruments and fittings of the mentioned nature that have temporarily been separated from the aircraft.

(2) Special rights cannot be established or reserved as regards such equipment or such parts of an aircraft mentioned in (1).

§ 23. If several aircraft collectively are given as security for the same claim, each of them shall be responsible for the entire amount of the mortgage debt.

(2) Mortgaging or other security of a share of an aircraft cannot be registered.

§ 24. A mortgage or similar security which also covers spare parts belonging to the owner of the aircraft and not already mortgaged separately, can be registered when the spare parts are stored in this kingdom or in a state that has acceded the Geneva Convention of 1948, and their nature, approximate number and place of storage are mentioned in the document or an appendix to the document. At any such store there shall be reference book from which the encumbrance and the name of the creditor appear and where the right is registered.

(2) If such mortgaging has taken place, the mortgagor shall be liable to see to it that the size of the stock is not substantially depreciated. Legal proceedings against parts of the stock cannot take place without the consent of better mortgaged rights holders.

(3) The security interest in the store of spare parts shall be repealed not later than three months after its expiry as regards the aircraft, unless the holder of the security interest has instituted legal proceedings before the expiry of this period of time arising out of his claim and without unnecessary delay proceeds this to obtain satisfaction.

(4) Spare parts include parts of aircraft, engines, propellers, radio equipment, instruments and other things that are stored with the purpose of being fixed in aircraft as replacement for parts or fittings to be replaced.

§ 25. As regards the access to satisfaction for mortgagees and holders of similar security rights in aircraft before other creditors, the rules on mortgage in real estate shall be equally applicable with the exemptions following the special nature of such security rights.

(2) The regulations in § 40 of the Danish Land Registration Act shall be equally applicable.

Chapter 2

Special provisions regarding foreign aircraft

§ 26. The provisions in §§ 22, 27-30 and 33-35 shall be applicable to rights to aircraft registered in a state that has acceded the Geneva Convention of 1948.

§ 27. On the assumption that a right has been established in accordance with the relevant rules in the state where the aircraft was entered in the register of aircraft at the time in question, and that the right has legally been entered in a public register in a state that has acceded the Geneva Convention of 1948, the following rights shall enjoy protection in this kingdom:

- 1) the ownership of an aircraft,
- 2) the right for the possessor of an aircraft to acquire this by purchase,
- 3) the right to lease as regards an aircraft if it has been acknowledged within a period of time of at least 6 months, and
- 4) mortgages and similar security rights to aircraft which according to agreement serve as security for the fulfillment of an obligation the amount of which is fixed at a certain amount or with a certain maximum. As regards interest, the protection shall, however, only be applicable to interest accrued in a period of time for up to 3 years before the institution of legal proceedings or during the actual legal proceedings.

(2) Where nothing else has been fixed in this Act or in the Administration of Justice Act as regards the aircraft mentioned in § 26, the contents of the protection of rights shall be decided in accordance with the applicable rules in the state where the right is registered.

(3) If any rights of the nature mentioned in (1), numbers 1-4, as regards the same aircraft have been registered in different states which have acceded the Geneva Convention of 1948, the legality of each registration shall be decided in accordance with the legislation in the state where the aircraft was entered in the register of aircraft at the time in question.

(4) If a stock of spare parts situated in this kingdom has been given as security in connection with one or more aircraft entered in the register of aircraft in a state that has acceded the Geneva Convention of 1948, the provisions in § 24 (1) shall be observed.

§ 28. If the owner of an aircraft has transferred or contracted any of the rights mentioned in § 27 (1), numbers 2-4, or if the owner of one of these rights have transferred his right to a third party knowing that the aircraft of the

mentioned right, respectively, have been subject to arrest, execution or sale by order of the court, the acquirer shall not be given any legal protection towards the creditor instituting legal proceedings or towards the purchaser at the sale by order of the court.

§ 29. If there is a claim for salvage money or for refund of extraordinary expenses which have been absolutely necessary in order to preserve the aircraft, and the measures in question have been ended in a state that has acceded the Geneva Convention of 1948, and the claim has been secured in the aircraft according to the existing provisions of the state in question such mortgage shall have preference to the rights mentioned in § 27.

(2) If more such rights rest in the aircraft, they shall be met in reverse order of the events that have caused them.

(3) If more than 3 months have passed after the termination of the measures mentioned in (1), the right shall be repealed, unless it has been noted in the Register of Rights to Aircraft and the amount of the claim has been established by mutual agreement or legal proceedings have been instituted. Whether the mentioned 3 months' time-limit shall be interrupted or suspended, relies on the legislation in the country where the legal proceedings have been instituted.

§ 30. If any other right rests in an aircraft registered in a state that has acceded the Geneva Convention of 1948, it shall be inferior to the rights mentioned in § 27 even though it may have been given better priority than these in the state in question.

(2) The provisions in § 551 (4) no. 5 of the Danish Administration of Justice Act shall apply to implementation of claims for damage to persons or goods in this Kingdom by foreign aircraft by legal proceedings against these.

Chapter 3

§ 31. The Minister of Transport may determine that the costs connected with the keeping of the Register of Rights to Aircraft mentioned in § 1 (1), second sentence, shall be paid by the person in whose interest the business is made.

§ 32. (Repealed).

Chapter 4

§ 33. A state that has acceded the Geneva Convention of 1948 shall in this Act mean a state which has acceded the convention done in Geneva on 19 June 1948 on international recognition of rights in aircraft, or an area the relations of which to foreign countries are handled by such state, unless this state has exempted this particular area from the provisions of the convention.

§ 34. The provisions in this Act shall not prevent the use of the remedies authorized in the legislation on customs and aviation as well as entry to this country.

§ 35. The Act shall not apply to aircraft used to military, customs or police services.

§ 36. The Minister of Transport may lay down such amendments for Greenland in the above-mentioned provisions that may be appropriate in consideration of the special conditions in this part of the country.

§ 37. The time for the coming into force of this Act shall be determined by royal decree.

(2) This Act shall not apply to the Faeroe Islands, but it may become applicable to the islands by royal decree after negotiation with the Faeroese Home Rule, with the amendments that may be appropriate in consideration of the special Faeroese conditions.

Danish Transport Authority, 28 August 2013

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