

# STATES OF JERSEY



## DRAFT AIRCRAFT REGISTRATION (JERSEY) LAW 201-

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Lodged au Greffe on 29th April 2014  
by the Minister for Economic Development

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STATES GREFFE





Jersey

## **DRAFT AIRCRAFT REGISTRATION (JERSEY) LAW 201-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Economic Development has made the following statement –

In the view of the Minister for Economic Development, the provisions of the Draft Aircraft Registration (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator A.J.H. Maclean**

*Minister for Economic Development*

Dated: 28th April 2014

## REPORT

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### Introduction

The Aircraft Registration (Jersey) Law 201- (AR(J)L 201-) forms the major part of the aviation legislative bundle for the establishment and delivery of the Jersey Aircraft Registry (JAR). The following report gives a précis of the development to date of the JAR, as well as highlighting the salient points of the AR(J)L 201-.

In September 2013, the Minister for Economic Development made a policy decision to establish a Jersey Aircraft Registry (JAR) for the registration of aircraft, aircraft engines, aircraft mortgages and subsequently aircraft engine mortgages.

The structure which has been chosen is similar to that of the highly successful Isle of Man Aircraft Registry, in its functions. In this model, the Registrar's office remains directly under the responsibility of the Minister, whilst the airworthiness surveys, aircraft inspections, continuing airworthiness technical advice and flight operations advice are outsourced to an experienced, competent, efficient and reliable supplier of service-oriented regulatory services practices.

To enable the establishment and functioning of the JAR, it is necessary to introduce primary and secondary legislation whilst revoking an existing Order in Council. Accordingly, the Minister for Economic Development, along with the Ministers for External Affairs and Treasury and Resources, propose the introduction of the following pieces of legislation –

- (i) Aircraft Registration (Jersey) Law 201-;
- (ii) Civil Aviation (Amendment of Law) (Jersey) Regulations 201- (*see* P.51/2014);
- (iii) Public Finances (Transitional Provisions – States Trading Operations) (Amendment) (Jersey) Regulations 201- (*see* P.50/2014);
- (iv) States of Jersey (Transfer of Functions No. 7) (Economic Development to External Relations) (Jersey) Regulations 201- (*see* P.54/2014);
- (v) Air Navigation (Jersey) Law 201- (*see* P.63/2014);

and the revocation of –

- (vi) Air Navigation (Jersey) Order 2008 (*see* chapter 03.105 of the Revised Edition of the Laws of Jersey).

It must be noted that only (i) falls under the aegis of the Minister for Economic Development. Points (ii), (iv) and (v) fall under the responsibility of the Minister for External Relations, and point (iii) is the responsibility of the Minister for Treasury and Resources. Point (vi) is for information purposes, as the Order in Council was created by the UK Privy Council and, as such, the States of Jersey are not required to do anything about this.

### Background

Since 2011, a number of reports have been commissioned that looked at strategic outline cases for either a Jersey Aircraft Registry or else a joint aircraft registry with Guernsey. Both reports indicated significant income generation for the Islands, with estimates ranging from as much as £17 million to over £30 million, these figures being based on the pre-economic downturn of 2008. Recent statistics, however, from a

number of the larger aircraft manufacturers, are more encouraging in terms of new aircraft being built/ordered.

Following the findings of the Reports, a political decision was made to work towards establishing an aircraft registry to capture the economic opportunities provided by this large market, and to do so in conjunction with Guernsey to successfully further the political aims of greater inter-Island collaboration. However, following lengthy discussions over a number of years between Jersey and Guernsey as to the various models such a collaborative project could adopt, the decision was made by the Minister for Economic Development and Guernsey's Commerce and Employment Minister, in August 2013, to proceed individually.

As a consequence, Guernsey proceeded with the establishment and subsequent launch of its own aircraft registry in December 2013. In Jersey, the Minister for Economic Development formally announced Jersey's intention to establish the Jersey Aircraft Registry in September 2013 (*see* MD-E-2013-0089), with a target launch date of the end of Q2, 2014.

To draw up suitable terms of reference, co-ordinate the project and meet the anticipated target date, a Working Group (Jersey Aircraft Registry Working Group) (JARWG) was established, chaired by the Assistant Minister for Economic Development, Deputy J.P.G. Baker of St. Helier, and consisting of key stakeholders from both the public and private sector. In addition, the former Director of Civil Aviation for the Isle of Man, who established the Isle of Man Registry and who now heads up the Aviation Division of Appleby, was contracted to advise on the development of the JAR.

After extensive JARWG discussions, detailed Law Drafting instructions, under MD-E-2013-0103, were drawn up for the necessary introduction of a package of new legislation to create new Laws, amend existing provisions and revoke out-of-date Orders where necessary. The main piece of legislation to enable the aircraft registry to function, the draft AR(J)L 201- was distributed to Jersey Finance members as a closed consultation and to other stakeholders for comment in February 2014.

A review was then held, in early March, with a representative from the UK Department for Transport, to consider the draft AR(J)L 201- and other related legislation in an effort to provide comfort to the Ministry of Justice as to the content and objectives, and thus hopefully speed the later Royal Assent process. It should be noted that the JAR will at all times remain a sub-registry of the UK.

Subsequently, a meeting was held with independent legal representatives, from a number of local law firms, to finalise the finer details of the framework for the creation and subsequent enforcement of mortgages on tangible moveable assets over both aircraft and aircraft engines. The concept over a tangible moveable has not existed before, and the creation of the charges registry is seen as potentially one of the largest and most significant income-streams for the Island.

At this juncture, the business case for the JAR is still in the final stages of construction and will include the evaluation of pricing points aligned to the JAR's Unique Selling Points (USPs). In any event, publication of the business case prior to debate could potentially damage the JAR in that its competitors would be able to estimate its competitive position and respond accordingly.

However, by way of an update, the Invitation to Tender for the Aircraft Technical Service was advertised during the week of 17th March, and it is anticipated that the preferred provider will be selected during the week of 28th April. It is assumed that the contract should be cost-neutral to both parties once the Register is well-

established, and the revenue-generating opportunities for the Service Provider are likely to grow in value in line with increased numbers of aircraft and ancillaries on the Register. There are unlikely to be any upfront costs for the States of Jersey to meet with respect to the Service Provider, save possibly the synchronisation of IT systems.

A scheme of charges is currently being developed, and will be agreed with the preferred provider as to how much they will be paid and what the client will be charged. Estimations of the number of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages to be registered (and their annual re-registrations) are currently being considered, as are the likely income-streams from these activities. Other income generation will include revenues from intermediaries for the creation of financial structures, and technical services, for example, aircraft maintenance, and hangar space should the aircraft reside in Jersey. Consideration will also be given to the creation of job opportunities for professionals and craftsmen.

From the Jersey proposition perspective, the JAR will form part of a suite of offerings, including an enhanced shipping registry, targeting potential high-wealth residents and businesses moving to the Island, as well as being opened up to aircraft owners globally.

## **AR(J)L 201-**

### **General**

The ARJL 201- is the principal Law which allows the JAR to function. It sets out provisions dealing with –

- the appointment, functions and powers of the Registrar;
- the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages;
- the enforcement of aircraft mortgages and aircraft engine mortgages;
- the registration of births and deaths;
- miscellaneous provisions;
- qualified persons;<sup>1</sup> and
- classification of aircraft<sup>2</sup>.

Included in the provisions are relevant offences and penalties for contravention.

Part 1 (*‘Interpretation’*) defines “*aircraft*,” “*aircraft engine*,” “*aircraft mortgage*” and “*aircraft engine mortgage*” for the purposes of the JAR. It should be noted that the decision was taken to include the option to register an “*aircraft engine*” separately from an “*aircraft*” in order for Jersey to take advantage of the specifically engine-related sale and leasing sectors. This has been identified as a USP for the JAR, and allows for potential income generation without the usual regulatory needs attaching to registering an aircraft – particularly the requirement for the person applying to register to be a “qualified person.” It should be understood that, in its present form, a Jersey-registered aircraft shall not fly for the purposes of commercial air transport or aerial work, except in the case of a transfer of functions under Article 83<sup>3</sup>(bis) of the Chicago Convention.

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<sup>1</sup> Those eligible to register an aircraft.

<sup>2</sup> General classification.

<sup>3</sup> Allows for an agreement to be made between ICAO contracting States which transfers some regulatory and oversight functions from one State to another.

The concept of an “*aircraft mortgage*” and “*aircraft engine mortgage*” is completely new to the Island, as Jersey Norman customary law does not permit the creation of mortgages over ‘tangible movables’<sup>4</sup>. Accordingly, there is express reference in the Law that customary rules and the Loi 1880 sur la propriété foncière shall not apply<sup>5</sup>. Work being undertaken to amend the Security Interests (Jersey) Law 2012 (‘SIL12’) is presently looking to *include* ‘tangible movables’ and bring them under the governance of SIL12. However, after discussions between policy and legal advisers, it was concluded that this should be continued as a separate work-stream from the JAR. This decision was taken in the interests of both expediency and providing a simple framework for the end-user, and remains more consistent with the approach taken for the registration of Jersey ships (also outside the scope of SIL12).

Accordingly, provisions under the ARJL201- permit the registration of a mortgage in the form of a hypothec over a Jersey-registered aircraft or a Jersey-registered engine. Also included is the ability to register foreign law mortgages, although not expressly stated. The decision to adopt a ‘hypothec’ rather than an English-style mortgage was to allow title to remain with the mortgagee. Included in these provisions is thus an appropriate definition of “*mortgage agreement*”, as well as the appropriate enforcement powers (see Part 4), both of which have been closely based on SIL12 and the Security Interests (Jersey) Law 1983.

It is predicted that the major income-stream from the registry will come, not from aircraft/engines’ registrations, but from the ability to create and enforce Jersey mortgages in this context.

**The Registrar:** (Articles 2–8)

The Registrar of Aircraft shall be appointed by, and may be removed by, the Minister. He or she shall be responsible for administering the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages.

The Registrar’s functions, ancillary powers and powers to apply to the Royal Court for directions (in determining any question of fact, law or procedure) are set out.

**The Registry:** (Articles 9–38 and Schedule 1)

Only a “*qualified person*” may hold a legal or beneficial interest in a Jersey-registered aircraft. A “*qualified person*” is defined as a natural or legal person from the EEA, Commonwealth Countries<sup>6</sup> and Switzerland (see Schedule 1)<sup>7</sup>. An individual does not have to be a “*qualified person*” to hold a legal or beneficial interest in an aircraft engine.

There are also other restrictions on the registration and use of a Jersey-registered aircraft. These include where the aircraft is already registered in another jurisdiction,<sup>8</sup> could more suitably be registered elsewhere, or where it would not be in the public interest for the aircraft to be registered in Jersey.

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<sup>4</sup> See Article 29.

<sup>5</sup> See Article 29.

<sup>6</sup> Channel Islands are included in the Commonwealth.

<sup>7</sup> It should be noted that Article 23 provides that the registration of an aircraft which is the subject of an undischarged aircraft mortgage entered on the register does not become void (as it otherwise would) in the event that a person other than a qualified person becomes entitled to a legal or beneficial interest in the registered aircraft.

<sup>8</sup> And that registration does not cease by operation of law.

The form of application for the registration of an aircraft, engine, mortgage<sup>9</sup>, or priority notice<sup>10</sup> is provided for at Part 3. Also included are relevant provisions governing the discharge of mortgages;<sup>11</sup> indemnities provided by the States;<sup>12</sup> the creation of nationality/registration marks; public access; opening hours; the form of certificates of registration; amendments; rectification and cancellation of register entries.

**Liability:**

The ARJL 201- provides that, subject to Article 38 (*'Indemnities'*), no person or body shall be liable in damages for anything done or omitted in the discharge or functions under the Law, unless it can be shown that the act or omission was done in bad faith.

This Article applies to the Minister and the Registrar (and relevant officers, servants and agents).

**Regulation-making powers of the States:**

There are various Regulation-making powers of the States, which are set out below –

***General provisions concerning registration of aircraft:*** (Article 24)

1. The States may adapt or modify any provision of Part 3 (*'Registration'*) as it deems necessary or expedient for the purpose of providing for the temporary transfer of aircraft to or from the Register. This may be done either generally or in relation to a particular case or class of cases.

***Information required by the Registrar:*** (Article 59)

2. The States may require any person to provide the Registrar (in such form and at such times as may be prescribed), the information which the Registrar may reasonably require for the exercise of his functions.

***Power to give effect to the Cape Town Convention:*** (Article 63)

3. The States may give effect to the Convention on International Interests in Mobile Equipment and the associated Protocol<sup>13</sup>.

***Regulations:*** (Article 65)

4. The States may make other such provision as it thinks fit for carrying the Law into effect. It may amend Article 1 (*'Interpretation'*) and Part 2 (*'Appointment, Functions and Powers of the Registrar'*); create offences and penalties (not to exceed imprisonment for 2 years and a fine) and make consequential and incidental amendments.

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<sup>9</sup> Aircraft mortgages and aircraft engine mortgages as between themselves rank in order of registration, the first in time having priority.

<sup>10</sup> Preferred debts and preferred liens have priority over aircraft mortgages and aircraft engine mortgages. The ARJL 201- defines “preferred debt” as any taxes or fees owed to the States in respect of that aircraft or engine, and “preferred lien” means any lien created by the detention of an aircraft for unpaid fees, including airport fees, route charges and charges for working on an aircraft or aircraft engine.

<sup>11</sup> In the interests of mortgagee protections, it should be noted that the procedure at Article 15 (*'Cancellation of registration of aircraft or aircraft engine'*) does not include the ability to cancel a mortgage.

<sup>12</sup> Subject to the list of exceptions, a person who suffers loss directly resulting from an error or omission of the Registrar or any person authorised to perform a function of the Registrar – subject to Article 24 of the Public Finances (Jersey) Law 2005 – may be indemnified.

<sup>13</sup> Signed by the UK on 16th November 2001.

## **Order-making powers of the Minister for Economic Development:**

### ***Annual renewal procedure:*** (Article 10)

5. The Minister may provide that the registration of aircraft and aircraft engines is subject to an annual renewal procedure. It should be noted that the Order would not apply to annually renewing the registration of the aircraft mortgage.
6. The Order would specify information to be provided, the procedure to be followed, sanctions and remedies and the prescribed annual renewal fee.

### ***Restrictions on registration and use of registered aircraft:*** (Article 19)

7. The Minister may provide for additional exceptions to the provision that a Jersey-registered aircraft shall not fly on any flight for the purpose of commercial air transport or aerial work.

### ***Nationality mark and registration mark of aircraft:*** (Article 21)

8. The Minister may prescribe the nationality mark and registration mark to be assigned by the Registrar for a registered aircraft. The nationality mark assigned ID 'ZJ' followed by 3 characters, save the use of 'I', 'O' or 'S'<sup>14</sup>.

### ***Service of documents:*** (Article 57)

9. The Minister may make provision for the service of documents to be effected by means in addition to or instead of the methods described.

### ***Amendment of Schedules:*** (Article 64)

10. The Minister may by Order amend the Schedules. Schedule 1 sets out what is meant by "Qualified Persons". Schedule 2 sets out "Classification of Aircraft".

### ***Orders:*** (Article 66)

11. The Minister may by Order prescribe any matter which is to be prescribed under the Law or Regulations.

## **Financial and manpower implications**

The AR(J)L 201- enabling legislation allows for the establishment and delivery of the JAR. To fulfil the functions and responsibilities of the AR(J)L 201-, it will be necessary to appoint a Registrar of Aircraft to lead, direct and manage the Registry services on behalf of the Department and ensure that all relevant operational services are delivered in a cost-effective, compliant and timely manner.

At this stage, the job description has not been Hay Evaluated, but it is assumed that the salary range will be in the order of £66,000 to £83,000. While it is understood that this will be a net cost to the States, while the JAR is in its infancy, the intention is that the Registry will be cost-neutral once the JAR is well established.

## **Human Rights**

The notes on the human rights aspects of the draft Law in the Appendix have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

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<sup>14</sup> The Ministry of Defence (MOD) use the mark 'ZJ' followed by either 3 numbers, or 2 characters. The MOD are content to assign the mark 'ZJ', however the letters of 'I', 'O' and 'S' are not to be used, to prevent confusion with the numbers '1', '0' and '5'. This still yields 17,549 permutations.

## APPENDIX TO REPORT

### Human Rights Notes on the Draft Aircraft Registry (Jersey) Law 201-

These notes have been prepared in respect of the Draft Aircraft Registry (Jersey) Law 201- by the Law Officers' Department. They summarise the principle human rights issues arising from the contents of the draft Law and explain why, in the Law Officers' opinion, the draft Law is compatible with the European Convention on Human Rights ("ECHR") as implemented under the Human Rights (Jersey) Law 2000.

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

The draft Law potentially engages 3 Articles of the ECHR: Article 5, the right to liberty and security; Article 8, the right to private and family life; and Article 1 of the first Protocol (A1P1), the protection of property.

Article 5 of the ECHR is engaged because the draft Law provides 3 custodial sentences in relation to offences, in Articles 19(2), 54(3) and 60(1), and accordingly it provides for a person to be deprived of their liberty. However, Article 5 of the ECHR allows for a person to be deprived of their liberty if certain circumstances apply, which include following a person's conviction of an offence in a competent court, as is the case with respect to Articles 19, 54 and 60. The offences that may lead to a custodial sentence are clearly prescribed in the draft Law, and the procedural requirements of Article 5 ECHR are provided for in other domestic legislation. Therefore, the draft Law is considered to be compatible with Article 5 of the ECHR.

It has been considered whether the publication of particular information including information that may relate to a person's financial arrangements in the public register would engage Article 8 of the ECHR. However, as a person would need to consent to the relevant information being made public if they wished to register an aircraft or aircraft engine (or associated mortgage), there would in any event be no breach. Further, Article 54 of the draft Law provides for confidentiality with respect to any further information that the Registrar possesses where an individual has not consented for it to be made public. Therefore, the draft law is considered to be compatible with Article 8 of the ECHR.

The draft Law also potentially engages A1P1, as it provides for the deprivation of property rights in an aircraft or aircraft engine in the event of a mortgagor defaulting on their mortgage agreement or an owner being declared bankrupt. A1P1 specifically affords rights to both natural and legal persons, and therefore companies also benefit from the protection that it provides.

When a mortgagor is seeking to enforce a mortgage agreement, either privately or through the Royal Court, it is not considered that there is sufficient involvement of a public authority for A1P1 to be engaged, as the deprivation of property has been provided for within a private contractual arrangement. However, in bankruptcy proceedings, where a person is deprived of their property rights and those rights are vested in the Viscount, A1P1 is engaged. However, a deprivation of a person's property rights in such instances can be justified if it is in the public interest, be prescribed by law and subject to the principles international law. A person being deprived of property rights in the event of bankruptcy has been held to be in the public interest, and the provisions specifically in relation to appropriation of an aircraft or aircraft engine are prescribed in the draft Law. Further, the action is deemed to be

proportionate, and other jurisdictions that are party to the ECHR also have provisions that enable deprivation of property in the event of bankruptcy. Therefore, the draft Law is compatible with A1P1.

No further ECHR rights are engaged. Therefore, the draft Law is considered to be compatible with the ECHR.

## Explanatory Note

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The object of this Law is to provide for the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages in Jersey.

Part 1 of the Law comprises *Article 1* which sets out the definitions of the terms used in the Law.

Part 2 of the Law provides for the appointment, functions and powers of the Registrar.

*Article 2* provides for the Minister for Economic Development (the “Minister”) to appoint a person to hold the office of the Registrar of Aircraft. The person appointed is required to have relevant experience and expertise in civil aviation and be a fit and proper person to hold the office of Registrar. The Minister is empowered to appoint any person to perform on behalf of the Registrar such of the Registrar’s functions as the Minister or the Registrar may authorize. Provision is also made in *Article 2* for the Minister to discharge the functions of the Registrar where no Registrar is appointed by the Minister.

*Article 3* sets out the functions of the Registrar. The functions are conferred on the Registrar by the Law or any other enactment. The Registrar’s functions include the registering of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages, advising the Minister generally in relation to the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages and administering the office of the Registrar.

*Article 4* provides the Registrar with ancillary powers to do anything that appears to the Registrar to be necessary or expedient for the purpose of exercising the Registrar’s functions including power to request the production of, and otherwise obtain such documents, accounts and information from, such persons and within such periods and at such times and intervals as the Registrar thinks fit and to publish information, reports and other documents.

*Article 5* gives the Registrar the power to apply to the Royal Court for directions or for a determination of any question of fact, law or procedure if the Registrar believes that it would assist in the proper and lawful exercise of the Registrar’s functions. The Royal Court has the discretion to make such order as it thinks fit where an application for a direction is made.

By virtue of *Article 6*, the Registrar is empowered to require the use of such forms as the Registrar may direct for any purpose relating to registration or any other proceedings before the Registrar under the Law. The Registrar is required to publish the forms, and any directions of the Registrar as to their use in such manner as the Registrar thinks fit.

*Article 7* provides for the Registrar to have an official seal for the authentication of documents required for the purpose of exercising the Registrar’s functions. *Article 7* also provides for any document sealed with the Registrar’s official seal and signed by the Registrar or a person appointed and authorized under *Article 2(3)* to be deemed to be duly executed by or on behalf of the Registrar and effective in law to bind the Registrar.

*Article 8* provides for the proof of documents issued by or on behalf of the Registrar and signed by the Registrar or a person appointed and authorized to do so under *Article 2(3)* so that in any legal proceeding such a document may be received in evidence, is deemed to be the document which it purports to be and to have been

issued and signed accordingly (without proof of the person's identity, signature or official capacity) and is evidence of the matters stated in that document.

Part 3 of the Law provides for the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages.

*Article 9* provides for the Registrar to establish and maintain a register of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages to be known as the Jersey Aircraft Register (the "Register"). The Register is to be kept in such form and manner as may be prescribed (i.e. prescribed in an Order made by the Minister). *Article 9* also permits the Registrar, when registering an aircraft, aircraft engine, aircraft mortgage, aircraft engine mortgage or priority notice and when issuing a certificate of registration to rely upon the documents provided to the Registrar and not to be bound to enquire further as to whether, in relation to the aircraft, aircraft engine, aircraft mortgage, aircraft engine or priority notice, the formalities required by the Law have been complied with.

*Article 10* empowers the Minister to make an Order to provide for the registration of aircraft or aircraft engines under the Law to be subject to an annual renewal procedure and to specify that procedure, the information to be provided and the form in which such information is to be provided and the sanctions, remedies or consequences which are to arise in respect of any failure to comply with the renewal procedure as well as the prescribed annual renewal fees.

*Article 11* provides for public access to the Register and for the opening hours of the office of the Registrar. The Registrar is required to make arrangements for the public inspection of the Register and, subject to payment of the appropriate fee, the supply of certified or uncertified copies or extracts of entries in the Register. The Registers are specified to be part of the public records of Jersey. *Article 11* also provides for the Registrar to make public the days on which and hours during which the Registrar's office is open for registering aircraft, aircraft engines, aircraft mortgages, aircraft engine mortgages and priority notices and for inspecting the Register. Any application submitted when the Registrar's office is closed is to be treated as having been received immediately after the Registrar's office is next opened.

*Article 12* provides for a certificate of registration to be issued on registration of an aircraft, aircraft engine, aircraft mortgage, aircraft engine mortgage or priority notice stating the registration number, the time and date of registration, the registered particulars, the registration number of any other registered matter to which it relates and the name and address of the relevant person. The certificate of registration must be signed and sealed by the Registrar. *Article 12* also provides for a valid certificate of registration to be conclusive evidence of compliance with the requirements of the Law as to registration and of all matters stated in it. A certificate of registration ceases to be valid where registration is cancelled, has ceased or becomes void or where a new certificate is issued, as the case may be, in the circumstances described in *Article 13(2), 14(4), 15, 22, 28 or 33(4)*.

*Article 13* provides for notice of a change of any registered particular or the name or address of the relevant person to be provided to the Registrar within a period of 14 days from the date of the change. Provision is made for the Registrar to make the appropriate entry in the Register and to issue a new certificate of registration or cancel the registration. A change made is not effective until the Registrar has made the entry in the Register or cancelled the registration. In default of compliance with the requirement for notice the change may not be relied on by the relevant person or by any other person so as to affect adversely the rights of any third person.

*Article 14* permits a relevant person to apply to the Registrar for the rectification of an error, defect or omission in the Register. The Registrar has absolute discretion on such terms and conditions as the Registrar thinks fit, on application being made, to authorize the rectification of any error or defect or omission in the entries relating to the registered matter in the Register or in any declaration or other document provided to the Registrar in relation to it under or for the purposes of the Law. The Registrar has the option to refer the matter to the Inferior Number of the Royal Court, through the intermediary of the Attorney General and the Royal Court may order the rectification of any error, defect or omission in the entries relating to the registered matter in the Register or in any declaration or other document provided to the Registrar in relation to it under or for the purposes of the Law. Except where the Registrar or the Royal Court directs otherwise, the effect of rectification of the Register is that the error or omission in question shall be deemed never to have been made. The Registrar has the discretion to remove from the Register any registered matter in respect of which it appears to the Registrar that registration has ceased to have effect.

Provision is made in *Article 15* for the registration of an aircraft or aircraft engine to be cancelled on an application made to the Registrar. The application must state the reason for such application and be accompanied by the consent of the registered owner in relation to the aircraft or aircraft engine and must contain any further information that the Registrar may require. Subject to *Article 23(2)*, if the conditions for removal are satisfied, the Registrar is required to cancel the registration of an aircraft or aircraft engine and to file a notice in the Register stating that the registration of the aircraft or aircraft engine has been cancelled.

*Article 16* requires that where a document is provided to the Registrar in a language other than English, a translation of it in English verified or certified in such manner as the Registrar may require must also be provided to the Registrar.

*Article 17* provides that only a qualified person may hold a legal or beneficial interest in a registered aircraft. If an aircraft is chartered by demise to a qualified person the Registrar may, whether or not an unqualified person holds a legal or beneficial interest in the aircraft, register the aircraft in Jersey in the name of the charterer by demise if the Registrar is satisfied that the aircraft may be properly registered. Provision is also made in *Article 17(3)* for a registered aircraft chartered by demise to remain registered during the continuation of the charter.

*Article 18* permits the registration in Jersey of an aircraft that is not operating for the purposes of commercial air transport or aerial work.

*Article 19* imposes restrictions on the registration of aircraft and on the use of registered aircraft. An aircraft shall not be registered in Jersey if a person other than a qualified person holds a legal or beneficial interest in that aircraft. Further, an aircraft shall not be registered in Jersey if it appears to the Registrar that the aircraft is registered outside Jersey and that such registration would not cease by operation of law in the place in which it is registered if the aircraft was registered in Jersey; the aircraft could more suitably be registered in some other place or it would not be in the public interest for the aircraft to be registered in Jersey. *Article 19* also prohibits a registered aircraft from flying on any flight for the purpose of commercial air transport or aerial work except in the case of transfer of functions under Article 83(bis) of the Chicago Convention or in such other circumstances or for such other purposes as may be prescribed. The Minister has the power to prescribe additional exceptions to the prohibition on commercial air transport.

*Article 20* provides for the registration of aircraft in Jersey. An application for the registration of an aircraft in Jersey must be made to the Registrar in such form and

manner as the Registrar requires, and must include or be accompanied by such information and documents relating to the aircraft and the ownership and chartering of the aircraft as the Registrar may require to enable the Registrar to determine whether the aircraft may be registered in Jersey; the proper description of the aircraft according to column 4 of the “Classification of Aircraft” in Schedule 2; such other information or documents as may be prescribed and as the Registrar may require and the prescribed fee. The Registrar is required to register the aircraft if satisfied that the aircraft may be registered in Jersey, wherever it may be, by entering in the Register the nationality mark of the aircraft and the registration mark assigned to it by the Registrar; the name of the constructor of the aircraft and its designation; the serial number of the aircraft; the name and address of every owner; and such other information as may be prescribed and as the Registrar may think fit.

*Article 21* provides for the nationality mark and registration mark to be assigned by the Registrar and the manner in which the nationality mark and registration mark must be displayed on an aircraft to be as prescribed.

*Article 22* provides for changes to the Register in respect of aircraft. If, at any time after an aircraft has been registered in Jersey, a person other than a qualified person becomes entitled to a legal or beneficial interest in the registered aircraft or the aircraft is registered in a country other than Jersey, the registration of the aircraft becomes void and the certificate of registration must be returned immediately by the registered owner to the Registrar and the Registrar must make the appropriate changes to the Register. *Article 22* also makes provision for the registered owner of a registered aircraft to immediately inform the Registrar in writing of the destruction of the aircraft, or its permanent withdrawal from use or the termination of a charter by demise and the Registrar must make the appropriate changes in the Register. The Registrar is empowered to amend the Register or cancel the registration of an aircraft whenever it appears necessary or appropriate in order to give effect to Part 3 of the Law or to bring up to date or otherwise correct the Register. The Registrar is required to cancel the registration of an aircraft within 14 days of being satisfied that there has been a change in the ownership of the aircraft if the Registrar has not been notified of the change. Under *Article 22*, the reference to the registered owner of a registered aircraft includes, in the case of a deceased person, his or her legal personal representative, and in the case of a legal person which has been wound up or dissolved, its successor.

*Article 23* provides that the registration of an aircraft which is the subject of an undischarged registered aircraft mortgage entered in the Register shall not become void by virtue of *Article 22(1)* (which deals with changes to the Register in respect of aircraft) and requires that the Registrar shall not cancel the registration of such an aircraft unless all persons entered in the Register as mortgagee of that aircraft have consented to the cancellation.

*Article 24* makes general provisions concerning registration of aircraft. The States is empowered to make Regulations to modify the application of any provision of Part 3 of the Law as the States deems necessary or expedient for the purpose of providing for the temporary transfer of aircraft to or from the Register, either generally or in relation to a particular case or class of cases. Additionally, provision is made in *Article 24* for references to an interest in an aircraft not to include references to an interest in an aircraft to which a person is entitled only by virtue of the person’s membership of a flying club. Further, nothing in Part 3 of the Law requires the Registrar to cancel the registration of an aircraft if in the Registrar’s opinion it would not be in the public interest to do so.

*Article 25* permits the registration of an aircraft engine in Jersey under the Law.

*Article 26* prohibits the registration of an aircraft engine in Jersey if it would not be in the public interest for the aircraft engine to be registered in Jersey.

*Article 27* provides for the registration of an aircraft engine in Jersey. An application to register an aircraft engine in Jersey must be made to the Registrar in such form and manner as the Registrar requires and must include or be accompanied by such information and documents relating to the aircraft engine and the ownership and use of the aircraft engine as the Registrar may require to enable the Registrar to determine whether the aircraft engine may be registered in Jersey; the proper description of the aircraft engine and aircraft in which it is installed including the manufacturer, model and serial number of both; such other documents or information as may be prescribed and as the Registrar may require and the prescribed fee.

Under *Article 27*, the Registrar is required to register the aircraft engine if satisfied that the aircraft engine may be registered in Jersey, wherever it may be, by entering in the Register the registration number assigned to the aircraft engine by the Registrar; the name of the constructor of the aircraft engine and its designation; the serial number of the aircraft engine; the name and address of every owner of the aircraft engine and such other information as may be prescribed and as the Registrar may think fit.

*Article 27* also provides for the registration mark to be assigned by the Registrar for a registered aircraft engine and the manner in which a registration mark must be displayed on an aircraft engine to be as prescribed.

*Article 28* imposes an obligation on the registered owner of a registered aircraft engine to immediately inform the Registrar in writing of the destruction of the engine, or its permanent withdrawal from use. The Registrar has the discretion, whenever it appears to the Registrar to be necessary or appropriate in order to give effect to Part 3 of the Law or to bring up to date or otherwise correct the Register, to amend the Register or cancel the registration of an aircraft engine. The Registrar is under a duty to cancel the registration of an aircraft engine within 14 days of being satisfied that there has been a change in the ownership of the aircraft engine notwithstanding that the Registrar has not been notified of the change in accordance with *Article 13*. Under *Article 28*, the reference to the registered owner of a registered aircraft engine includes, in the case of a deceased person, his or her legal personal representative, and in the case of a legal person which has been wound up or dissolved, its successor.

*Article 29* enables the creation of an aircraft mortgage or aircraft engine mortgage over an aircraft or aircraft engine registered in Jersey by agreement and provides for an aircraft mortgage or aircraft engine mortgage, upon registration in Jersey under the Law, except as provided by the Law to be effective according to the terms of the mortgage agreement and enforceable. *Article 29* provides that an aircraft mortgage or aircraft engine mortgage may be created by the parties to a mortgage agreement to secure the obligation of a third party. *Article 29* also clarifies that nothing in the Loi (1880) sur la propriété foncière or the rule of law *donner et retenir ne vaut* (which means that a gift into trust will not be effective if the settlor retains the power to deal freely with the trust assets) shall affect the validity of an aircraft mortgage or aircraft engine mortgage. *Article 29* also makes provision for the form of the mortgage agreement.

*Article 30* clarifies that except as may be necessary for making the aircraft or aircraft engine available as security for the mortgage debt, the mortgagee shall not by reason of the aircraft mortgage or aircraft engine mortgage be deemed to be the owner of an aircraft or aircraft engine, nor shall the mortgagor be deemed to have ceased to be the owner of the aircraft or aircraft engine.

*Article 31* provides that an aircraft mortgage, aircraft engine mortgage or priority notice may be registered in Jersey under the Law. Applications properly made for the registration of aircraft mortgages, aircraft engine mortgages or priority notices must be entered in the Register in order of their receipt by the Registrar.

*Article 32* provides for the registration of aircraft mortgages and aircraft engine mortgages. An application to register an aircraft mortgage or aircraft engine mortgage in Jersey must be made by or on behalf of the mortgagee to the Registrar in such form and manner as the Registrar may require and must include or be accompanied by a copy of the instrument creating the aircraft mortgage certified by the applicant as being a true copy. The application must also include or be accompanied by such information and documents relating to the aircraft mortgage or aircraft engine mortgage as the Registrar may require to enable the Registrar to determine whether the aircraft mortgage may be registered in Jersey, the names and addresses of the mortgagee and mortgagor, details of the aircraft or aircraft engine over which the aircraft mortgage or aircraft engine mortgage is created (including registration numbers); such other documents or information as may be prescribed and as the Registrar may require and the prescribed fee. The Registrar must register an aircraft mortgage or aircraft engine mortgage if satisfied that the aircraft mortgage or aircraft engine mortgage may properly be registered and enter in the Register the registration number of the aircraft mortgage or aircraft engine mortgage; the name and address of the mortgagee and mortgagor; the date and time of registration of the aircraft mortgage or aircraft engine mortgage; details of the aircraft or aircraft engine associated with it; the registration number of any other aircraft mortgages, aircraft engine mortgages or priority notices over that aircraft or aircraft engine and such other information as may be prescribed and as the Registrar may think fit. The Registrar is required to provide the mortgagor with a copy of the certificate of registration.

*Article 33* provides for the registration of priority notices. An application to register a priority notice must be made by or on behalf of the prospective mortgagee to the Registrar in such form and manner as the Registrar may require and shall include or be accompanied by the names and addresses of the prospective mortgagee and mortgagor; details of the aircraft or aircraft engine over which the prospective aircraft mortgage is to be created (including registration numbers); such other documents or information as maybe prescribed and as the Registrar may require and the prescribed fee. The Registrar must register the priority notice if satisfied that the priority notice may properly be registered and enter in the Register the registration number of the priority notice; the names and addresses of the prospective mortgagor and mortgagee; the date and time of registration of the priority notice; details of the aircraft or aircraft engine associated with the priority notice; the registration number of any other aircraft mortgages, aircraft engine mortgages or priority notices over that aircraft or aircraft engine and such other information as may be prescribed and as the Registrar may think fit. The Registrar is required to provide the prospective mortgagor with a copy of the certificate of registration.

*Article 34* provides for the priority of preferred debts and preferred liens over aircraft mortgages and aircraft engine mortgages and for aircraft mortgages or aircraft engine mortgages, as between themselves, to rank in order of registration, with the first in time having priority. Aircraft engine mortgages, as between themselves, rank in order of registration, with the first in time having priority. If, following registration of a priority notice, the aircraft mortgage or aircraft engine mortgage contemplated in the priority notice is registered before the expiry of the priority notice, the aircraft mortgage or aircraft engine mortgage shall be deemed to have been registered at the

time of registration of the priority notice, and the Registrar shall record the date and time of registration of the aircraft mortgage or aircraft engine mortgage accordingly.

*Article 34* has effect despite any express, implied or constructive notice to the mortgagee. The priority of competing aircraft mortgages may be varied by agreement between the holders of those aircraft mortgages or aircraft engine mortgages, but an assignee of a subordinated mortgage is not bound by an agreement to subordinate that aircraft mortgage or aircraft engine mortgage unless at the time of the assignment a subordination relating to that agreement had been filed with the Registrar and entered in the Register by the Registrar. Any priority given by *Article 34* to an aircraft mortgage or aircraft engine mortgage over an aircraft or aircraft engine extends to the proceeds of sale that aircraft or aircraft engine.

*Article 35* clarifies that registration of an aircraft mortgage or aircraft engine mortgage shall not constitute constructive notice of the existence of the aircraft mortgage or aircraft engine mortgage (or its terms) to any person, or constructive knowledge of the existence of the aircraft mortgage or aircraft engine mortgage (or its terms) by any person.

*Article 36* imposes a duty on the mortgagor to notify the Registrar of the discharge of an aircraft mortgage or aircraft engine mortgage by providing the Registrar with a copy of the discharge or receipt for the aircraft mortgage or aircraft engine mortgage, such other documents or information as may be prescribed and as the Registrar may require and the prescribed fee. If the Registrar is satisfied that the aircraft mortgage or aircraft engine mortgage ought to be discharged, the Registrar must mark the relevant entries in the Register as discharged and notify the mortgagee and the mortgagor that this has been done.

Under *Article 37*, the cancellation of the registration of an aircraft or aircraft engine does not affect the rights of any mortgagee under any aircraft mortgage or aircraft engine mortgage and entries may continue to be made in the Register in relation to the aircraft mortgage or aircraft engine mortgage as if the registration of the aircraft or aircraft engine had not been cancelled.

*Article 38* entitles a person to indemnity for loss directly resulting from an error or omission of the Registrar or any person who is authorized to perform any of the Registrar's functions under this Law. *Article 38* prohibits the payment of indemnity for any factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which the Registrar received that information; for acts or circumstances for which the Registrar is not responsible and arising prior to receipt of registration information by the Registrar; where the person who has suffered loss has caused the loss by his or her fraud or has derived title from a person committing fraud; or on account of costs or expenses incurred in taking or defending any legal proceedings without the consent of the Registrar. Any compensation payable may be reduced to the extent that the person who suffered the loss caused or contributed to that loss. The States has the power to procure insurance or a financial guarantee covering the liability created by *Article 40*.

Part 4 of the Law provides for the enforcement of aircraft mortgages and aircraft engine mortgages.

*Article 39* provides for Part 4 of the Law to apply in respect of an aircraft mortgage and aircraft engine mortgage registered in Jersey under the Law.

*Article 40* makes provision for the power to enforce an aircraft mortgage or aircraft engine mortgage to become exercisable when an event of default has occurred in relation to the aircraft mortgage or aircraft engine mortgage and the mortgagee has served on the mortgagor written notice specifying the event of default. The

mortgagee's power of enforcement in respect of an aircraft mortgage or aircraft engine mortgage includes appropriating the aircraft or aircraft engine; selling the aircraft or aircraft engine; taking control or possession of the aircraft or aircraft engine, exercising any rights of the mortgagor in relation to the aircraft or aircraft engine; instructing any person who has an obligation in relation to the aircraft or aircraft engine to carry out the obligation for the benefit of the mortgagee and applying any remedy that the aircraft mortgage or aircraft engine mortgage provides for as a remedy that is exercisable pursuant to the power of enforcement.

*Article 40* does not prevent the mortgagee from taking such other action in respect of the aircraft or aircraft engine as is permitted by the aircraft mortgage or aircraft engine mortgage and is not in conflict with the Law, whether before or after the power of enforcement becomes exercisable.

*Article 41* provides for notice of appropriation or sale of aircraft to be given by a mortgagee who appropriates or sells an aircraft or aircraft engine to the mortgagor or any person who, 21 days before the appropriation, has an aircraft mortgage or aircraft engine mortgage over the aircraft or aircraft engine.

*Article 42* makes provision for a mortgagee to effect a sale of an aircraft or aircraft engine by auction, public tender, private sale, or another method. A mortgagee is not prevented from buying an aircraft or aircraft engine that the mortgagee sells.

*Article 43* imposes a duty on the mortgagee to obtain a fair valuation or fair price. The mortgagee must take all reasonable steps to determine the fair market value of the aircraft or aircraft engine, as at the time of the appropriation, and to act in other respects in a reasonable manner in relation to the appropriation. A mortgagee who sells an aircraft or aircraft engine owes a duty to take all reasonable steps to obtain fair market value for the aircraft or aircraft engine, as at the time of the sale, to act in other respects in a reasonable manner in relation to the sale and to enter any agreement for or in relation to the sale only on reasonable terms. The duty is owed to the mortgagor, and any person who has an aircraft mortgage or aircraft engine mortgage over the aircraft or aircraft engine immediately before the appropriation or sale.

*Article 44* provides for all aircraft mortgages or aircraft engine mortgages in an aircraft or aircraft engine that are subordinate to the aircraft mortgage or aircraft engine mortgage of the mortgagee who appropriated or sold the aircraft or aircraft engine to be extinguished on the appropriation or sale of the aircraft or engine.

*Article 45* provides for the mortgagee to give the mortgagor and other persons referred to in *Article 46(1)(a)* and *(b)* a statement within the 14 days after the day on which the aircraft or aircraft engine is appropriated or sold showing the gross value realized by virtue of the appropriation or the amount of the gross proceeds of sale, the amount of the mortgagee's reasonable costs incurred in relation to the appropriation or sale, the amount of any other reasonable expenses incurred by the mortgagee in enforcing the aircraft mortgage or aircraft engine mortgage after the event of default, the net value of the aircraft or aircraft engine and the surplus owing by, or debt owing to, the mortgagee.

*Article 46* makes provision, subject to *Article 34*, for the distribution of the surplus on the sale of an aircraft or aircraft engine mortgage, firstly in payment, in due order of priority, of mortgagees whose aircraft mortgages or aircraft engine mortgages were registered after the aircraft mortgage or aircraft engine mortgage of the mortgagee exercising the power of sale was registered. The balance (if any remains) is to be distributed in payment to the mortgagor or, in the event that the mortgagor has become insolvent or been subjected to any other judicial arrangement consequent upon insolvency, to the Viscount, liquidator or other proper officer.

*Article 47* gives the mortgagee an alternative to discharging its obligation under *Article 46* by paying any amount of resulting surplus into the Royal Court. The surplus may then only be paid out if the Royal Court so orders on application by a person entitled to the surplus and that entitlement to the surplus shall be determined in accordance with *Article 46*.

*Article 48* clarifies that a surplus exists if the net value of the aircraft or aircraft engine which has been appropriated by the mortgagee exceeds the amount of the debt owed to the mortgagee by the mortgagor or the monetary value of the obligation owed to the mortgagee. A surplus also exists where a mortgagee has sold the aircraft or aircraft engine and the net proceeds of the sale exceed the amount of the debt owed to the mortgagee by the mortgagor or the monetary value of the obligation owed to the mortgagee.

Under *Article 49* the Royal Court has the power, on application by the mortgagee when an event of default occurs in relation to an aircraft mortgage or aircraft engine mortgage, to make an order for delivery of an aircraft or aircraft engine to the mortgagee; an order transferring the aircraft or aircraft engine into the name of the mortgagee or the mortgagee's nominee; an order vesting title to the aircraft or aircraft engine in the mortgagee or the mortgagee's nominee free of the right of redemption under *Article 51*; an order enforcing an instruction given under *Article 40(2)(c)(iii)* or any other order.

Under *Article 50* a purchaser for value and in good faith of an aircraft or aircraft engine appropriated or sold by a mortgagee takes the aircraft or aircraft engine free from the interest of the mortgagor, any interest subordinate to that of the mortgagor; and any interest subordinate to that of the mortgagee.

*Article 51* provides for an aircraft or aircraft engine to be redeemed at any time before a mortgagee who appropriates the aircraft or aircraft engine enters into any agreement to sell the aircraft or aircraft engine, or has otherwise acted irrevocably in relation to the aircraft or aircraft engine, after an event of default. The mortgagor's right to redeem the aircraft or aircraft engine has priority over any other person's right to redeem the aircraft or aircraft engine.

*Article 52* provides that upon the mortgagor becoming bankrupt, to the extent that the value of the aircraft or aircraft engine is sufficient, the amount due to a mortgagee in respect of an aircraft mortgage or aircraft engine mortgage shall be paid in priority to all other claims. Nothing in the Law affects the vesting in the Viscount or other body or person, under the law relating to bankruptcy, of the title of the mortgagor to the aircraft or aircraft engine. If the mortgagor of a registered aircraft or registered aircraft engine becomes bankrupt or the mortgagor or the mortgagor's property is subjected, whether in Jersey or elsewhere, to any other judicial arrangement or proceeding consequent upon insolvency, the power of a mortgagee who has an aircraft mortgage or aircraft engine mortgage over the aircraft or aircraft engine to appropriate or sell, or otherwise act in relation to the aircraft or aircraft engine shall not be affected.

*Article 52* also provides that where the property of the mortgagor has been declared *en désastre*, the Viscount may apply to the Court for an order vesting in the Viscount the rights of the mortgagee to the aircraft or aircraft engine and directing that it be sold and, if the Royal Court makes such an order, the proceeds of such sale of the aircraft or aircraft engine shall be applied by the Viscount in the order specified in *Article 52(3)(c)*. The Royal Court has the power to make an order directing such vesting and sale upon such terms and subject to such conditions as the Royal Court may think fit.

Part 5 of the Law contains *Article 53* which empowers the States to make Regulations to provide for the recording and registration of births and deaths occurring on aircrafts registered in Jersey.

Part 6 of the Law contains miscellaneous provisions.

*Article 54* provides for the confidentiality of documents or information relating to the business or other affairs of any person or obtained directly or indirectly from a person who has so received it. Such document or information must not be disclosed without the consent of the person to whom it relates and (if different) the person from whom it was so obtained. The disclosure in contravention of *Article 54* is an offence punishable with imprisonment for a term of 2 years and a fine. *Article 54* does not preclude the disclosure of information which at the time of disclosure is or has already been made available to the public from other sources, or which is in the form of a summary or collection so framed as not to enable information relating to any particular person to be ascertained from it. Disclosure of information is not precluded in certain other circumstances including, for the purpose of enabling or assisting the Registrar in the discharge the Registrar's functions, the investigation, prevention or detection of crime, or to comply with an order of a court.

*Article 55* limits the liability of the Minister or any person who is, or is acting as, an officer, servant or agent in an administration of the States for which the Minister is assigned responsibility, the Registrar and a person appointed under *Article 2(3)* to perform the functions of the Registrar. The limitation of liability extends to anything done or omitted in the discharge or purported discharge of any functions under this Law or any enactment made under the Law. The limitation of liability does not apply if it was shown that the act was done in bad faith or so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000.

*Article 56* entitles a person aggrieved by a decision of the Registrar under the Law to appeal to the Royal Court against that decision within 28 days of that decision or within such further time as the Royal Court allows.

*Article 57* describes how service of documents may be effected under the Law and gives power to the Minister by Order to make provision for service by other methods.

*Article 58* applies to any document to be served on the Registrar, including any application, statement, consent, declaration or signature. *Article 58* gives the Registrar the discretion to require or permit any document to be served on the Registrar under or for the purposes of the Law to be in such electronic form and be served by such electronic means as the Registrar may determine.

*Article 59* imposes a requirement to provide information required by the Registrar and creates an offence for failure to comply. The offence created is punishable with a fine of level 4 on the standard scale. Where a person fails to comply with a requirement to provide the Registrar with information, the Registrar may, whether or not any proceedings in respect of the requirement have been brought, revoke or refuse to issue, any registration which was given, or to be given, by the Registrar and to which the requirement related.

*Article 60* creates an offence where a person makes a statement in any document, material, evidence or information which is required to be provided to the Registrar under the Law that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or that omits to state any material fact the omission of which makes the statement false or misleading. A person shall not be guilty of the offence if the person did not know that the statement was

false or misleading and with the exercise of all due diligence could not have known that the statement was false or misleading.

*Article 61* sets out the circumstances in which partners, directors and officers of a body corporate, a separate limited partnership or a limited liability partnership or other partnership with separate legal identity may be criminally liable where an offence under the Law is proved against such a body corporate or partnership.

*Article 62* provides that in any proceedings for an offence under *Article 19(3)*, *54(3)* or *59(3)* it is a defence for the defendant to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of an offence by himself or herself by any person under his or her control.

*Article 63* gives the States the power by Regulations to give effect to the Convention on International Interests in Mobile Equipment and the associated Protocol to the Convention on Matters Specific to Aircraft Equipment (the “Cape Town Convention”) which was signed on 16th November 2001 by the United Kingdom.

*Article 64* gives the States power by Regulations to make such other provision as the States think fit for the purposes of carrying the Law into effect; to amend Article 1 and Part 2; to create offences for breach of any provision of any Regulations made under the Law and to specify penalties for such offences not exceeding imprisonment for 2 years and a fine and to make such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient for the purposes of the Regulations.

*Article 65* empowers the Minister by Order to make provision for any matter which is to be prescribed under the Law; as to the manner of filing of applications and other documents; requiring and regulating the translation of documents and the filing and authentication of any translation; as to the service of documents; authorizing the rectification of irregularities of procedure; for time limits for anything required to be done in connection with any proceeding under the Law and for the extension of any such time limit, whether or not it has already expired or for the fees for any application to the Registrar.

*Article 66* provides that the power to make Rules of Court under the Royal Court (Jersey) Law 1948 includes a power to make Rules for the purposes of the Law.

*Article 67* provides for the Law to be cited as the Aircraft Registration (Jersey) Law 201- and provides that it shall come into force on such day or days as the States may by Act appoint.

*Schedule 1* lists the countries in respect of qualified persons.

*Schedule 2* contains the classification of aircraft.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, level 1 is £50, level 2 is £500, level 3 is £2,000 and level 4 is £5,000.



Jersey

## DRAFT AIRCRAFT REGISTRATION (JERSEY) LAW 201-

### Arrangement

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Jersey

## DRAFT AIRCRAFT REGISTRATION (JERSEY) LAW 201-

A **LAW** to provide for the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages in Jersey and for connected purposes.

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### PART 1

#### PRELIMINARY

#### 1 Interpretation

(1) In this Law –

“aerial work” means any purpose (other than commercial air transport) for which an aircraft is flown for valuable consideration if valuable consideration is given or promised in respect of the flight or for the purpose of the flight, except where the valuable consideration consists only of remuneration for the services of the pilot;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“aircraft engine” means the component of the propulsion system for an aircraft that generates mechanical power;

“aircraft mortgage” means an interest in an aircraft being an interest which under the agreement creating the interest secures payment or the performance of an obligation;

“aircraft engine mortgage” means an interest in an aircraft engine being an interest which under the agreement creating the interest secures payment or the performance of an obligation;

“charter by demise” means the charter of an aircraft for a fixed period of time under which the charterer –

- (a) has possession of the aircraft;
- (b) has operational control of the aircraft;
- (c) has the power to appoint and dismiss the flight crew of the aircraft; and
- (d) is responsible to third parties as if the charterer was the owner of the aircraft,

but has no right to sell or mortgage the aircraft;

“Chicago Convention” means the Convention on International Civil Aviation which was signed on behalf of the Jersey at the International Civil Aviation Conference held at Chicago on 7th December 1944 and which came into force on 4th April 1947;

“commercial air transport” shall be construed in accordance with the laws of Jersey relating to air navigation;

“documents” means information recorded in any form (including in electronic form) and, in relation to information recorded otherwise in legible form, references to its production, however expressed, include references to the production of a copy of the information in legible form;

“Minister” means the Minister for Economic Development;

“mortgage agreement” means an agreement creating an aircraft mortgage or aircraft engine mortgage under the provisions of this Law;

“mortgagor” means a person who causes or permits an aircraft mortgage or aircraft engine mortgage to be created in an aircraft or aircraft engine in which the person has an interest and includes the person’s successors and assigns;

“mortgagee” means a person who holds an aircraft mortgage or aircraft engine mortgage and includes the person’s successors and assigns;

“owner” means –

- (a) in the case of an aircraft or aircraft engine, a person who is entitled to a legal interest or beneficial interest in the aircraft or aircraft engine; or
- (b) in the case of an aircraft or an aircraft engine which is the subject of a charter by demise, the charterer by demise;

“prescribed” means prescribed by Order made by the Minister;

“priority notice” means a notice of intention to make an application to register an aircraft mortgage or aircraft engine mortgage in Jersey;

“qualified person” means –

- (a) a body incorporated or undertaking established in; or
- (b) a citizen or resident of,

a country specified in Schedule 1;

“Register” means the Jersey Aircraft Register established and maintained under Article 9;

“registered aircraft” means an aircraft registered in Jersey under this Law;

“registered aircraft engine” means an aircraft engine registered in Jersey under this Law;

“registered aircraft mortgage” means an aircraft mortgage registered in Jersey under this Law;

“registered aircraft engine mortgage” means an aircraft engine mortgage registered in Jersey under this Law;

“registered matter” means an aircraft, aircraft engine, aircraft mortgage, aircraft engine mortgage or priority notice that is registered under this Law;

“registered owner” means –

- (a) in the case of a registered aircraft, an owner whose name is entered in the Register under Article 20(2)(d); or
- (b) in the case of a registered aircraft engine, an owner whose name is entered in the Register under Article 27(2)(d);

“registered particulars” means, in respect of –

- (a) an aircraft, the information specified in Article 20(2)(a), (b), (c) and (e);
- (b) an aircraft engine, the information specified in Article 27(2)(a), (b), (c) and (e);
- (c) an aircraft mortgage or aircraft engine mortgage, the information specified in Article 32(2)(a), (c), (d), (e) and (f); or
- (d) a priority notice, the information specified in Article 33(2) (a), (c), (d), (e) and (f);

“registered priority notice” means a priority notice registered under this Law;

“Registrar” means the person appointed as Registrar of Aircraft under Article 2;

“relevant person” means –

- (a) in the case of an aircraft or aircraft engine, the registered owner;
- (b) in the case of an aircraft mortgage or aircraft engine mortgage, the mortgagee; or
- (c) in the case of a priority notice, the prospective mortgagee;

“serve” includes provide;

“summons” includes any document compelling a person’s attendance before a court;

“surface” means the earth’s surface;

“transmitted” means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication (in which event the document shall be regarded as served when it is received);

“unqualified person” means a person who is not a qualified person.

- (2) For the purposes of this Law, an aircraft is deemed to be in flight –
- (a) in the case of a piloted flying machine, from the moment when, after the embarkation of its crew for the purpose of taking off, it first moves under its own power until the moment when it next comes to rest after landing;
  - (b) in the case of a pilotless flying machine, or a glider, from the moment when it first moves for the purpose of taking off until the moment when it next comes to rest after landing;
  - (c) in the case of an airship, from the moment when it first becomes detached from the surface until the moment when it next becomes attached to the surface or comes to rest on the surface;
  - (d) in the case of a free balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface until the moment it next comes to rest on the surface; and
  - (e) in the case of a captive balloon, from the moment when the balloon, including the canopy and basket, becomes separated from the surface, apart from a restraining device attaching it to the surface, until the moment when it next comes to rest on the surface,
- and the words “flight” and “fly” are construed accordingly.

## **PART 2**

### **APPOINTMENT, FUNCTIONS AND POWERS OF REGISTRAR**

#### **2 Registrar**

- (1) The Minister may appoint a person to hold the office of Registrar of Aircraft.
- (2) The person appointed under paragraph (1) shall –
  - (a) have relevant experience and expertise in civil aviation; and
  - (b) be a fit and proper person to hold the office of Registrar.
- (3) The Minister may appoint any person to perform on behalf of the Registrar such of the Registrar’s functions, as the Minister or the Registrar may authorize.
- (4) Where no appointment is made by the Minister under paragraph (1), the Minister shall discharge the functions of the Registrar.

#### **3 Functions of Registrar**

- (1) The Registrar shall exercise the functions conferred on the Registrar by this Law or any other enactment and shall keep records and perform other duties as the Minister may direct.
- (2) Without prejudice to the generality of paragraph (1), the Registrar’s functions include –

- (a) registering aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages under this Law;
- (b) advising the Minister generally in relation to the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages; and
- (c) administering the office of the Registrar.

#### **4 Ancillary powers of Registrar**

The Registrar shall have power to do anything that appears to the Registrar to be necessary or expedient for the purpose of exercising the Registrar's functions including power –

- (a) to request the production of, and otherwise obtain such documents, accounts and information from, such persons and within such periods and at such times and intervals as the Registrar thinks fit; and
- (b) subject to any provision to the contrary in this Law or any other enactment, to publish information, reports and other documents.

#### **5 Power to apply for directions**

The Registrar may, if the Registrar believes that it would assist in the proper and lawful exercise of the Registrar's functions, apply to the Royal Court for directions, or for a determination of any question of fact, law or procedure and on such an application the Royal Court may make such order as it thinks fit.

#### **6 Power to require use of forms**

- (1) The Registrar may require the use of such forms as the Registrar may direct for any purpose relating to registration or any other proceedings before the Registrar under this Law.
- (2) The Registrar shall publish the forms, and any directions of the Registrar as to their use, in such manner as the Registrar thinks fit.

#### **7 Official seal**

- (1) The Registrar shall have an official seal for the authentication of documents required for the purpose of exercising the Registrar's functions.
- (2) Any document –
  - (a) sealed with the Registrar's official seal; and
  - (b) signed by the Registrar or by any person appointed and authorized to do so under Article 2(3),

is deemed to be duly executed by or on behalf of the Registrar and is effective in law to bind the Registrar.

**8 Proof of documents**

- (1) In any legal proceeding, paragraph (2) applies in relation to any document purporting to be –
  - (a) issued by or on behalf of the Registrar; or
  - (b) signed by the Registrar or by any person appointed and authorized to do so under Article 2(3).
- (2) A document referred to in paragraph (1) –
  - (a) may be received in evidence;
  - (b) unless the contrary is proved, is deemed –
    - (i) to be the document which it purports to be, and
    - (ii) to have been issued by or on behalf of the Registrar or, as the case may be, to have been signed by the person by whom it purports to have been signed, without proof of that person's identity, signature or official capacity; and
  - (c) is evidence of the matters stated in that document.

**PART 3****REGISTRATION***General***9 Jersey Aircraft Register**

- (1) The Registrar shall establish and maintain a register of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages to be known as the Jersey Aircraft Register.
- (2) The Register shall be kept in such form and manner as may be prescribed.
- (3) The Registrar –
  - (a) when registering an aircraft, aircraft engine, aircraft mortgage or aircraft engine mortgage or a priority notice; and
  - (b) when issuing a certificate of registration,may rely upon the documents provided to the Registrar in all respects and shall not be bound to enquire further as to whether, in relation to the aircraft, aircraft engine, aircraft mortgage, aircraft engine mortgage or priority notice, the formalities required by this Law have been complied with.

**10 Annual renewal procedure**

The Minister may by Order provide for the registration of aircraft or aircraft engine under this Law to be subject to an annual renewal procedure and in the Order may specify that procedure and –

- (a) the information to be provided and the form in which such information is to be provided;

- (b) without prejudice to any other provision of this Law, the sanctions, remedies or consequences which shall arise in respect of any failure to comply with the annual renewal procedure; and
- (c) the annual renewal fees.

## **11 Public access to Register and opening hours**

- (1) The Registrar shall make arrangements for –
  - (a) public inspection of the Register; and
  - (b) subject to payment of the appropriate fee, the supply of certified or uncertified copies or extracts of entries in the Register.
- (2) The Register shall be part of the public records of Jersey.
- (3) The Registrar shall make public the days on which and hours during which the Registrar's office is open for registering aircraft, aircraft engines, aircraft mortgages, aircraft engine mortgages and priority notices and for inspecting the Register.
- (4) Any application submitted under this Law when the Registrar's office is closed shall be treated as having been received immediately after the Registrar's office is next opened.

## **12 Certificate of registration**

- (1) On registration of –
  - (a) an aircraft under Article 20;
  - (b) an aircraft engine under Article 27;
  - (c) an aircraft mortgage or aircraft engine mortgage under Article 32; or
  - (d) a priority notice under Article 33,the Registrar shall issue a certificate of registration to the relevant person.
- (2) A certificate of registration shall –
  - (a) state, in relation to the registered matter –
    - (i) the registration number,
    - (ii) the time and date of registration,
    - (iii) the registered particulars,
    - (iv) the registration number of any other registered matter to which it relates, and
    - (v) the name or address of the relevant person; and
  - (b) be signed and sealed by the Registrar.
- (3) A certificate of registration is, unless it has ceased to be valid, conclusive evidence of compliance with the requirements of this Law as to registration and of all matters stated in it.
- (4) A certificate of registration shall cease to be valid where registration is cancelled, has ceased or becomes void or where a new certificate is

issued, as the case may be, in the circumstances described in Article 13(2), 14(4), 15, 22, 28 or 33(4).

### **13 Amendment of registered particulars or relevant person**

- (1) If during the continuance of the registration of a registered matter there is a change in –
  - (a) any registered particular; or
  - (b) the name and address of the relevant person,notice of the change shall, within the period of 14 days from the date of the change, be provided to the Registrar.
- (2) Upon receipt of notice under paragraph (1) or as soon as is reasonably practicable after that, the Registrar shall make the appropriate change in the Register and issue a new certificate of registration or cancel the registration, as the case may be.
- (3) A change made under paragraph (2) shall not be effective until the Registrar has made the entry in the Register.
- (4) In default of compliance with paragraph (1), the change may not be relied on by the relevant person or by any other person so as to affect adversely the rights of any third person.

### **14 Rectification of Register**

- (1) A relevant person may apply to the Registrar for the rectification of an error, defect or omission in the Register.
- (2) The Registrar, on application made under paragraph (1), may –
  - (a) in the Registrar's absolute discretion and on such terms and conditions as the Registrar thinks fit, order the rectification of any error, defect or omission –
    - (i) in the entries relating to the registered matter in the Register, or
    - (ii) in any declaration or other document provided to the Registrar in relation to it under or for the purposes of this Law; or
  - (b) refer the matter to the Inferior Number of the Royal Court, through the intermediary of the Attorney General and the Royal Court may order the rectification of any error, defect or omission –
    - (i) in the entries relating to the registered matter in the Register, or
    - (ii) in any declaration or other document provided to the Registrar in relation to it under or for the purposes of this Law.
- (3) Except where the Registrar or the Royal Court directs otherwise, the effect of rectification of the Register is that the error or omission in question shall be deemed never to have been made.

- (4) The Registrar may remove from the Register any registered matter in respect of which it appears to the Registrar that registration has ceased.

#### **15 Cancellation of registration of aircraft or aircraft engine**

- (1) Where a person wishes the registration of any aircraft or aircraft engine to be cancelled, an application for cancellation shall be made to the Registrar.
- (2) An application under paragraph (1) shall –
- (a) state the reason for such application;
  - (b) be accompanied by the consent of the registered owner in relation to the aircraft or aircraft engine; and
  - (c) contain any further information that the Registrar may require.
- (3) Subject to Article 23(2), if the conditions of paragraph (2) are satisfied, and the Registrar deems it appropriate to do so –
- (a) the registration of the aircraft or aircraft engine shall be cancelled; and
  - (b) the Registrar shall enter in the Register a notice stating that the registration of the aircraft or aircraft engine has, under this Article, been cancelled.

#### **16 Documents in a language other than English**

Where a document provided to the Registrar under this Law is not in English, a translation of it in English verified or certified in such manner as the Registrar may require shall also be provided to the Registrar.

#### *Registration of aircraft*

#### **17 Qualified person permitted to hold legal or beneficial interests in registered aircraft**

- (1) Only a qualified person may hold a legal or beneficial interest in a registered aircraft.
- (2) If an aircraft is chartered by demise to a qualified person, the Registrar may, whether or not an unqualified person holds a legal or beneficial interest in that aircraft, register the aircraft in Jersey in the name of the charterer by demise if the Registrar is satisfied that the aircraft may be properly registered.
- (3) Subject to this Part, an aircraft registered under paragraph (2) shall remain registered during the continuation of the charter.

#### **18 Registration of aircraft permitted in Jersey**

An aircraft that is not operating for the purposes of commercial air transport or aerial work may be registered in Jersey in accordance with this Law.

**19 Restrictions on registration of aircraft and use of registered aircraft**

- (1) An aircraft shall not be registered in Jersey if the Registrar is satisfied that –
  - (a) subject to Article 17(2) and 23(1), a person other than a qualified person holds any legal or beneficial interest in the aircraft;
  - (b) the aircraft is registered outside Jersey and that such registration would not cease by operation of law in the place it is registered if the aircraft was registered in Jersey;
  - (c) the aircraft could more suitably be registered in some other place; or
  - (d) it would not be in the public interest for the aircraft to be registered in Jersey.
- (2) A registered aircraft shall not fly on any flight for the purpose of commercial air transport or aerial work except in the case of a transfer of functions under Article 83(bis) of the Chicago Convention or in such other circumstances or for such other purposes as may be prescribed.
- (3) The owner of a registered aircraft who contravenes paragraph (2) shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine of level 4 on the standard scale.

**20 Registration of aircraft**

- (1) An application for the registration of an aircraft in Jersey shall be made to the Registrar in such form and manner as the Registrar requires and shall include or be accompanied by –
  - (a) such information and documents relating to the aircraft and the ownership and chartering of the aircraft as the Registrar may require to enable the Registrar to determine whether the aircraft may be registered in Jersey;
  - (b) the proper description of the aircraft according to column 4 of the ‘Classification of Aircraft’ in Schedule 2;
  - (c) such other documents or information as may be prescribed and as the Registrar may require; and
  - (d) the prescribed fee.
- (2) If the Registrar receives an application for the registration of an aircraft in Jersey in accordance with paragraph (1) and is satisfied that the aircraft may be registered in Jersey, the Registrar shall register the aircraft, wherever it may be, by entering in the Register the following information –
  - (a) the nationality mark of the aircraft and the registration mark assigned to it by the Registrar;
  - (b) the name of the constructor of the aircraft and its designation;
  - (c) the serial number of the aircraft;
  - (d) the name and address of every owner; and
  - (e) such other information as may be prescribed and as the Registrar may think fit.

**21 Nationality mark and registration mark of aircraft**

The nationality mark and registration mark to be assigned by the Registrar for registered aircraft and the manner in which the nationality mark and registration mark shall be displayed on a registered aircraft shall be as prescribed.

**22 Changes to the Register in respect of aircraft**

(1) Subject to Articles 17(2) and 23(1), if, at any time after an aircraft has been registered in Jersey –

- (a) a person other than a qualified person becomes entitled to a legal or beneficial interest in the registered aircraft; or
- (b) the aircraft is registered outside Jersey,

the registration of the aircraft becomes void at the same time of the occurrence of the event in sub-paragraph (a) or (b) and the certificate of registration shall be returned immediately by the registered owner to the Registrar, and the Registrar shall make the appropriate changes to the Register.

(2) The registered owner of a registered aircraft shall immediately inform the Registrar in writing of –

- (a) the destruction of the aircraft, or its permanent withdrawal from use; or
- (b) in the case of an aircraft registered under Article 17(2), the termination of the charter by demise,

and shall return the certificate of registration immediately to the Registrar, and the Registrar cancel the registration of the aircraft and shall make the appropriate changes to the Register.

(3) Subject to Article 23(2), the Registrar may, whenever it appears to the Registrar to be necessary or appropriate in order to give effect to this Part or to bring up to date or otherwise correct the Register and, without prejudice to Article 13, 14 or 15, amend the Register or cancel the registration of an aircraft.

(4) Subject to Article 23(2), the Registrar shall cancel the registration of an aircraft within 14 days of being satisfied that there has been a change in the ownership of the aircraft notwithstanding that the Registrar has not been notified of the change in accordance with Article 13.

(5) The reference in paragraph (2) to the registered owner of a registered aircraft includes, in the case of a deceased person, his or her personal representative, and in the case of a legal person which has been wound up or dissolved, its successor.

**23 Aircraft for which an aircraft mortgage is registered**

(1) The registration of an aircraft which is the subject of an undischarged registered aircraft mortgage does not become void by virtue of Article 22(1).

- (2) The Registrar shall not under Article 15, or Article 22(3) or (4) cancel the registration of an aircraft that is the subject of an undischarged aircraft mortgage unless all persons shown in the Register as mortgagee of that aircraft have consented to the cancellation.

#### **24 General provisions concerning registration of aircraft**

- (1) The States may by Regulations modify the application of any provision of this Part as the States deems necessary or expedient for the purpose of providing for the temporary transfer of aircraft to or from the Register, either generally or in relation to a particular case or class of cases.
- (2) In this Part, references to an interest in an aircraft do not include references to an interest in an aircraft to which a person is entitled only by virtue of the person's membership of a flying club.
- (3) Nothing in this Part requires the Registrar to cancel the registration of an aircraft if in the Registrar's opinion it would not be in the public interest to do so.

#### *Registration of aircraft engines*

#### **25 Registration of aircraft engine permitted in Jersey**

An aircraft engine may be registered in Jersey under this Law.

#### **26 Restriction on registration of aircraft engines**

An aircraft engine shall not be registered or continue to be registered in Jersey if the Registrar is satisfied that it would not be in the public interest for the aircraft engine to be registered in Jersey.

#### **27 Manner of registration, and registration mark, of aircraft engine**

- (1) An application for the registration of an aircraft engine in Jersey shall be made to the Registrar in such form and manner as the Registrar requires and shall include or be accompanied by –
  - (a) such information and documents relating to the aircraft engine and the ownership and use of the aircraft engine as the Registrar may require to enable the Registrar to determine whether the aircraft engine may be registered in Jersey;
  - (b) the proper description of the aircraft engine including the manufacturer, model and serial number of both;
  - (c) such other documents or information as may be prescribed and as the Registrar may require; and
  - (d) the prescribed fee.
- (2) If the Registrar receives an application for the registration of an aircraft engine in Jersey in accordance with paragraph (1), and is satisfied that the aircraft engine may be registered in Jersey, the Registrar shall register the

aircraft engine, wherever it may be, by entering in the Register the following information –

- (a) the registration number assigned to the aircraft engine by the Registrar;
  - (b) the name of the constructor of the aircraft engine and its designation;
  - (c) the serial number of the aircraft engine;
  - (d) the name and address of every owner of the aircraft engine; and
  - (e) such other information as may be prescribed and as the Registrar may think fit.
- (3) The registration mark to be assigned by the Registrar for a registered aircraft engine and the manner in which a registration mark shall be displayed on an aircraft engine shall be as prescribed.

## **28 Changes to the Register in respect of aircraft engine**

- (1) The registered owner of a registered aircraft engine shall immediately inform the Registrar, in writing, of the destruction of the aircraft engine or its permanent withdrawal from use.
- (2) The Registrar may, whenever it appears to the Registrar to be necessary or appropriate in order to give effect to this Part or to bring up to date or otherwise correct the Register, and without prejudice to Article 13, 14 or 15, amend the Register or cancel the registration of an aircraft engine.
- (3) The Registrar shall cancel the registration of an aircraft engine within 14 days of being satisfied that there has been a change in the ownership of the aircraft engine notwithstanding that the Registrar has not been notified of the change in accordance with Article 13.
- (4) The reference in paragraph (1) to the registered owner of a registered aircraft engine includes, in the case of a deceased person, his or her legal personal representative, and in the case of a legal person which has been wound up or dissolved, its successor.

### *Registration of aircraft mortgages, aircraft engine mortgages and priority notices*

## **29 Creation of aircraft mortgages and aircraft engine mortgages**

- (1) An aircraft mortgage or aircraft engine mortgage in the nature of a hypothec over a registered aircraft or registered aircraft engine may be created by a mortgage agreement and upon registration in Jersey under this Law shall, except as otherwise provided by this Law, be effective according to the terms of the mortgage agreement and enforceable –
  - (a) as between the parties to the mortgage agreement;
  - (b) against purchasers of the aircraft or aircraft engine;
  - (c) against creditors of the mortgagor;
  - (d) against the Viscount (or a liquidator or administrator); and

- 
- (e) against third parties generally.
  - (2) An aircraft mortgage or aircraft engine mortgage may be created by the parties to a mortgage agreement to secure the obligation of a third party.
  - (3) Nothing in –
    - (a) the Loi (1880) sur la propriété foncière<sup>1</sup>; or
    - (b) the rule of law *donner et retenir ne vaut*,shall affect the validity of an aircraft mortgage or aircraft engine mortgage.
  - (4) For the purposes of this Law, a mortgage agreement shall –
    - (a) be in writing;
    - (b) be dated;
    - (c) identify and be signed by the mortgagor;
    - (d) identify the mortgagee;
    - (e) contain the information specified in Article 20(2) or 27(2) in respect of the aircraft or aircraft engine, as the case may be;
    - (f) specify the events which are to constitute events of default; and
    - (g) contain provisions regarding the obligation payment or performance of which is to be secured sufficient to enable it to be identified.
  - (5) Subject to paragraph (4), a mortgage agreement may be in such form, and contain or refer to such matters, as shall be agreed between the parties to such agreement.

### **30 Mortgagee not treated as owner**

Except as far as may be necessary for making an aircraft or aircraft engine available as security for the mortgage debt, the mortgagee shall not by reason of the aircraft mortgage or aircraft engine mortgage be deemed to be the owner of the aircraft or aircraft engine, nor shall the mortgagor be deemed to have ceased to be the owner of the aircraft or aircraft engine.

### **31 Registration of aircraft mortgage, aircraft engine mortgage or priority notice**

- (1) An aircraft mortgage, aircraft engine mortgage or a priority notice may be registered in Jersey under with this Law.
- (2) Applications properly made for the registration of aircraft mortgages, aircraft engine mortgages or priority notices shall be entered in the Register in the order of their receipt by the Registrar.

### **32 Registration of aircraft mortgage or aircraft engine mortgage**

- (1) An application to register an aircraft mortgage or aircraft engine mortgage in Jersey shall be made by or on behalf of the mortgagee to the

Registrar in such form and manner as the Registrar may require and shall include or be accompanied by –

- (a) a copy of the mortgage agreement creating the aircraft mortgage or aircraft engine mortgage, which the applicant shall certify to be a true copy;
  - (b) the names and addresses of the mortgagee and mortgagor;
  - (c) details of the aircraft or aircraft engine over which the aircraft mortgage or aircraft engine mortgage is created (including registration numbers);
  - (d) such other documents or information as may be prescribed and as the Registrar may require; and
  - (e) the prescribed fee.
- (2) If the Registrar receives an application for the registration of an aircraft mortgage or aircraft engine mortgage in accordance with paragraph (1), and is satisfied that the aircraft mortgage or aircraft engine mortgage may be registered in Jersey, the Registrar shall register the aircraft mortgage or aircraft engine mortgage, by entering in the Register the following information –
- (a) the registration number of the aircraft mortgage or aircraft engine mortgage;
  - (b) the names and addresses of the mortgagee and mortgagor;
  - (c) the date and time of registration of the aircraft mortgage or aircraft engine mortgage;
  - (d) details of the aircraft or aircraft engine over which the aircraft mortgage or aircraft engine mortgage is created;
  - (e) the registration number of any other aircraft mortgages or aircraft engine mortgages or priority notices over that aircraft or aircraft engine; and
  - (f) such other information as may be prescribed and as the Registrar may think fit.
- (3) The Registrar shall provide the mortgagor with a copy of the certificate of registration issued to mortgagee under Article 12.

### **33 Registration of priority notice**

- (1) An application to register a priority notice shall be made by or on behalf of the prospective mortgagee to the Registrar in such form and manner as the Registrar may require and shall include or be accompanied by –
  - (a) the names and addresses of the prospective mortgagee and mortgagor;
  - (b) details of the aircraft or aircraft engine over which the prospective aircraft mortgage or aircraft engine mortgage is to be created (including registration numbers);
  - (c) such other documents or information as may be prescribed and as the Registrar may require; and
  - (d) the prescribed fee.

- 
- (2) If the Registrar receives an application for the registration of a priority notice in accordance with paragraph (1), and is satisfied that the priority notice may be registered, the Registrar shall register the priority notice, and enter in the Register the following information –
    - (a) the registration number of the priority notice;
    - (b) names and addresses of the prospective mortgagor and mortgagee;
    - (c) the date and time of registration of the priority notice;
    - (d) details of the aircraft or aircraft engine associated with the priority notice;
    - (e) the registration number of any other aircraft mortgages, aircraft engine mortgages or priority notices over that aircraft or aircraft engine; and
    - (f) such other information as may be prescribed and as the Registrar may think fit.
  - (3) The Registrar shall provide the prospective mortgagor with a copy of the certificate of registration issued to the prospective mortgagee under Article 12.
  - (4) The registration of a priority notice shall expire 14 days after the date of issue of the certificate of registration.

#### **34 Priority of aircraft mortgages and aircraft engine mortgages**

- (1) Preferred debts and preferred liens have priority over aircraft mortgages and aircraft engine mortgages and the person enjoying such a preferred debt or preferred lien shall not be required to release the aircraft or aircraft engine over which the preferred debt or preferred lien attaches until the sums due to that person are unconditionally discharged.
- (2) Aircraft mortgages as between themselves rank in order of registration, with the first in time having priority.
- (3) Aircraft engine mortgages as between themselves rank in order of registration, with the first in time having priority.
- (4) If, following registration of a priority notice, the aircraft mortgage or aircraft engine mortgage contemplated in the priority notice is registered before the expiry of the priority notice, the aircraft mortgage or aircraft engine mortgage shall be deemed to have been registered at the time of registration of the priority notice, and the Registrar shall record the date and time of the registration of the aircraft mortgage or aircraft engine mortgage accordingly.
- (5) This Article shall have effect despite any express, implied or constructive notice to the mortgagee.
- (6) The priority of aircraft mortgages or aircraft engine mortgages may be varied by agreement between the holders of those aircraft mortgages or aircraft engine mortgages, but an assignee of a subordinated aircraft mortgage or subordinated aircraft engine mortgage is not bound by an agreement to subordinate that aircraft mortgage unless at the time of the assignment a subordination relating to that agreement had been filed with

the Registrar in the form approved by the Registrar and entered in the Register by the Registrar.

(7) Any priority given by this Article to an aircraft mortgage or aircraft engine mortgage over an aircraft or aircraft engine extends to the proceeds of sale of that aircraft or aircraft engine.

(8) In this Article –

“preferred debt” means any taxes or fees owed to the States in respect of the aircraft or aircraft engine to which the debt attaches;

“preferred lien” means any lien created by the detention of an aircraft for unpaid fees including airport fees, route charges and charges for working on an aircraft or aircraft engine.

### **35 Registration not to constitute constructive notice**

Registration of an aircraft mortgage or an aircraft engine mortgage shall not constitute constructive notice of the existence of the aircraft mortgage or aircraft engine mortgage (or its terms) to any person, or constructive knowledge of the existence of the aircraft mortgage or aircraft engine mortgage (or its terms) by any person.

### **36 Discharge of aircraft mortgage or aircraft engine mortgage**

(1) Where an aircraft mortgage or aircraft engine mortgage is discharged, the mortgagor shall notify the Registrar of the same by providing the Registrar with –

- (a) a copy of the discharge or receipt for the aircraft mortgage or aircraft engine mortgage;
- (b) such other documents or information as may be prescribed and as the Registrar may require; and
- (c) the prescribed fee.

(2) Upon receipt of the documents, information and the prescribed fee specified in paragraph (1), if the Registrar is satisfied that the aircraft mortgage or aircraft engine mortgage is discharged, the Registrar shall –

- (a) mark the relevant entries in the Register as discharged; and
- (b) notify the mortgagee, mortgagor and owner (if different) of the aircraft or aircraft engine that this has been done.

### **37 Cancellation of registration of aircraft or aircraft engine not to affect rights of mortgagee**

The cancellation of the registration of an aircraft or aircraft engine shall not affect the rights of any mortgagee under any aircraft mortgage or aircraft engine mortgage and entries shall continue to be made in the Register in relation to the aircraft mortgage or aircraft engine mortgage as if the registration of the aircraft or aircraft engine had not been cancelled.

**38 Indemnity in respect of errors or omissions in Register**

- (1) Subject to paragraphs (2) and (3), any person who suffers loss directly resulting from an error or omission of the Registrar or any person authorized to perform a function of the Registrar under Article 2(3) may be indemnified by the States.
- (2) No indemnity shall be payable under paragraph (1) –
  - (a) for any factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which the Registrar received that information;
  - (b) for acts or circumstances for which the Registrar is not responsible and arising prior to receipt of registration information by the Registrar;
  - (c) where the person who has suffered loss has caused the loss by his or her fraud or has derived title from a person committing fraud; or
  - (d) on account of costs or expenses incurred in taking or defending any legal proceedings without the consent of the Registrar.
- (3) Any compensation payable under paragraph (1) may be reduced to the extent that the person who suffered the loss caused or contributed to that loss.
- (4) The States may procure insurance or a financial guarantee covering the liability created by this Article.

**PART 4****ENFORCEMENT OF AIRCRAFT MORTGAGES AND AIRCRAFT  
ENGINE MORTGAGES****39 Part 4 to apply to aircraft mortgage or aircraft engine mortgage registered in Jersey**

This Part shall apply in respect of an aircraft mortgage or aircraft engine mortgage registered in Jersey under this Law.

**40 Enforcement**

- (1) The power to enforce an aircraft mortgage or aircraft engine mortgage shall become exercisable when –
  - (a) an event of default has occurred in relation to the mortgage agreement; and
  - (b) the mortgagee has served on the mortgagor written notice specifying the event of default.
- (2) Subject to Article 34(1) and 51(3), a mortgagee may exercise powers of enforcement in respect of an aircraft mortgage or aircraft engine mortgage by doing any of the following in relation to the aircraft or aircraft engine that is subject to the aircraft mortgage or aircraft engine mortgage –

- (a) appropriating the aircraft or aircraft engine;
  - (b) selling the aircraft or aircraft engine;
  - (c) taking any of the following actions –
    - (i) taking control or possession of the aircraft or aircraft engine,
    - (ii) exercising any rights of the mortgagor in relation to the aircraft or aircraft engine,
    - (iii) instructing any person who has an obligation in relation to the aircraft or aircraft engine to carry out the obligation for the benefit of the mortgagee; or
  - (d) applying any remedy that the mortgage agreement provides for as a remedy that is exercisable pursuant to the power of enforcement,
- to the extent that such action is not in conflict with this Law.
- (3) This Article does not prevent the mortgagee from taking such other action in respect of the aircraft or aircraft engine as is permitted by the aircraft mortgage or aircraft engine mortgage and is not in conflict with this Law, whether before or after the power to enforce the aircraft mortgage or aircraft engine mortgage becomes exercisable.

#### **41 Notice of appropriation or sale of aircraft**

- (1) A mortgagee shall, not less than 14 days before appropriating the aircraft or aircraft engine under Article 40(2)(a), give written notice of the default and intention to appropriate the aircraft or aircraft engine to the following persons –
- (a) the mortgagor; and
  - (b) any person who, 21 days before the appropriation, has a registered aircraft mortgage or registered aircraft engine mortgage over the aircraft or aircraft engine.
- (2) A mortgagee shall, not less than 14 days before selling the aircraft or aircraft engine, under Article 40(2)(b) give written notice of the default and intention to sell to the following persons –
- (a) the mortgagor; and
  - (b) any person who, 21 days before the sale, has a registered aircraft mortgage or registered aircraft engine mortgage over the aircraft or aircraft engine.
- (3) Paragraph (2) does not apply to the extent that the Royal Court orders, on an ex parte application, that notice need not be given under paragraph (2).
- (4) If the mortgagee and another person have agreed in writing in one or both of the following terms –
- (a) that notice need not be given under this Article to the other person; or
  - (b) for notice under this Article to be given to the other person within a period different from that specified in this Article,

this Article shall, in relation to that person, have effect subject to that term or those terms.

**42 Methods of sale of aircraft engine**

- (1) A mortgagee may effect a sale of an aircraft or aircraft engine under Article 40(2)(b) by auction, public tender, private sale, or any other method.
- (2) A mortgagee is not prevented by this Part from buying an aircraft or aircraft engine that the mortgagee sells under this Part.

**43 Duty to obtain fair valuation or fair price**

- (1) A mortgagee who appropriates an aircraft or aircraft engine under this Part owes a duty –
  - (a) to take all reasonable steps to determine the fair market value of the aircraft or aircraft engine, as at the time of the appropriation; and
  - (b) to act in other respects in a reasonable manner in relation to the appropriation.
- (2) A mortgagee who sells an aircraft or aircraft engine under this Part owes a duty –
  - (a) to take all reasonable steps to obtain a fair market value for the aircraft or aircraft engine, as at the time of the sale;
  - (b) to act in other respects in a reasonable manner in relation to the sale; and
  - (c) to enter any agreement for or in relation to the sale only on reasonable terms.
- (3) A duty under this Article is owed to the following persons –
  - (a) the mortgagor; and
  - (b) any person who has a registered aircraft mortgage or registered aircraft engine mortgage over the aircraft or aircraft engine immediately before the appropriation or sale.

**44 Extinction of subordinate aircraft mortgages and aircraft engine mortgages on appropriation or sale**

If an aircraft or aircraft engine is appropriated under Article 40(2)(a) or sold under Article 40(2)(b), all aircraft mortgages or aircraft engine mortgages in the aircraft or aircraft engine that are subordinate to the aircraft mortgage or aircraft engine mortgage of the mortgagee who appropriated or sold the aircraft or aircraft engine shall be extinguished on the appropriation or sale of the aircraft or aircraft engine.

**45 Mortgagee to give statement of account to mortgagor and others**

If an aircraft or aircraft engine is appropriated under Article 40(2)(a) or sold under Article 40(2)(b) by a mortgagee, the mortgagee shall, within the 14 days after the day on which the aircraft or aircraft engine is appropriated or sold, give the persons referred to in Article 46(1)(a) and (b) a statement of account in writing, showing –

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- (a) the gross value realized by virtue of the appropriation or the amount of the gross proceeds of sale;
  - (b) the amount of the mortgagee's reasonable costs incurred in relation to the appropriation or sale (being the costs referred to in Article 48(2) or (3));
  - (c) the amount of any other reasonable expenses incurred by the mortgagee in enforcing the aircraft mortgage or aircraft engine mortgage after the event of default;
  - (d) the net value, or net proceeds of the sale, of the aircraft or aircraft engine, referred to in Article 48(2) or (3); and
  - (e) the surplus owing by, or debt owing to, the mortgagee, as the case may be.

#### **46 Distribution of surplus**

- (1) Subject to Article 34, if a mortgagee has appropriated an aircraft or aircraft engine under Article 40(2)(a) or sold an aircraft or aircraft engine under Article 40(2)(b), the mortgagee shall pay the following persons the amount of any resulting surplus by satisfying the claims of those persons in the following order –
  - (a) in payment, in due order of priority, of mortgagees whose aircraft mortgages or aircraft engine mortgages were registered after the aircraft mortgage or aircraft engine mortgage of the mortgagee exercising the power of sale was registered, if paragraph (2) applies to such subsequently registered aircraft mortgages or aircraft engine mortgages; and
  - (b) as to the balance (if any remains) in payment to the mortgagor, or in the event that the mortgagor has become insolvent or been subjected to any other judicial arrangement consequent upon insolvency, to the Viscount, liquidator or other proper officer.
- (2) This paragraph applies to the aircraft mortgage or aircraft engine mortgage of any mortgagee on whose behalf (as well as on his or her own behalf) the mortgagee exercising the power of sale was, immediately before the exercise of such power, holding possession of or exercising control over the aircraft or aircraft engine.

#### **47 Surplus may be paid into the Royal Court**

- (1) The mortgagee may alternatively discharge its obligation under Article 46 to pay any amount of resulting surplus by paying that amount into the Royal Court.
- (2) The surplus may then only be paid out if the Royal Court so orders on application by a person entitled to the surplus.
- (3) That entitlement to the surplus shall be determined in accordance with Article 46.

**48 Existence of surplus**

- (1) For the purposes of Articles 46 and 47, a surplus exists if –
  - (a) a mortgagee has appropriated the aircraft or aircraft engine under this Part, and the net value of the aircraft or aircraft engine exceeds –
    - (i) the amount of the debt owed to the mortgagee by the mortgagor (where the aircraft or aircraft engine secures payment), or
    - (ii) the monetary value of the obligation owed to the mortgagee (where the aircraft or aircraft engine secures performance of a non-monetary obligation); or
  - (b) a mortgagee has sold the aircraft or aircraft engine under this Part, and the net proceeds of the sale exceed –
    - (i) the amount of the debt owed to the mortgagee by the mortgagor (where the aircraft or aircraft engine secures payment), or
    - (ii) the monetary value of the obligation owed to the mortgagee (where the aircraft or aircraft engine secures performance of a non-monetary obligation).
- (2) In paragraph (1)(a), “net value of the aircraft or aircraft engine” means the value of the aircraft or aircraft engine, minus the mortgagee’s reasonable costs incurred in, and incidental to, the appropriation.
- (3) In paragraph (1)(b), “net proceeds of the sale” means the proceeds of the sale minus the mortgagee’s reasonable costs incurred in, and incidental to, taking possession or control of, holding, valuing, and preparing the sale of, and selling, the aircraft or aircraft engine.

**49 Realization of aircraft facilitated by Royal Court**

The Royal Court may, on application by the mortgagee when an event of default occurs in relation to an aircraft mortgage or aircraft engine mortgage, make any of the following orders if it appears to the Court to be reasonably necessary to do so in order to make it possible or practicable for the mortgagee to exercise his or her rights under this Part –

- (a) an order for delivery of an aircraft or aircraft engine to the mortgagee;
- (b) an order transferring the aircraft or aircraft engine into the name of the mortgagee or the mortgagee’s nominee;
- (c) an order vesting title to the aircraft or aircraft engine in the mortgagee or the mortgagee’s nominee free of the right of redemption under Article 51;
- (d) an order enforcing an instruction given under Article 40(2)(c)(iii); or
- (e) any other order.

**50 Effect of disposal of aircraft or aircraft engine to purchaser for value and in good faith**

- (1) A purchaser, for value and in good faith, of an aircraft or aircraft engine appropriated or sold by a mortgagee takes the aircraft or aircraft engine free from the following interests –
  - (a) the interest of the mortgagor;
  - (b) any interest subordinate to that of the mortgagor; and
  - (c) any interest subordinate to that of the mortgagee.
- (2) Paragraph (1) applies whether or not –
  - (a) there has been compliance with this Part in relation to the aircraft or aircraft engine; or
  - (b) the registration of aircraft mortgages or aircraft engine mortgages relating to an aircraft or aircraft engine that are subordinate to the aircraft mortgage or aircraft engine mortgage of the mortgagee appropriating or selling the aircraft or aircraft engine has been removed from the Register.

**51 Entitled persons may redeem aircraft**

- (1) Paragraphs (2) and (3) apply at any time before a mortgagee who appropriates an aircraft or aircraft engine under Article 40(2)(a), enters into any agreement to sell the aircraft or aircraft engine under this Part, or has otherwise acted irrevocably in relation to the aircraft or aircraft engine, after an event of default.
- (2) A person who is listed in Article 41(1)(a) or (b) may redeem the aircraft or aircraft engine by –
  - (a) tendering fulfilment of the obligations secured by the aircraft or aircraft engine; and
  - (b) paying a sum equal to the reasonable costs incurred referred to in Article 48(2) or (3), as the case requires, and any other reasonable expenses incurred by the mortgagee in enforcing the aircraft mortgage or aircraft engine mortgage after the event of default.
- (3) The mortgagor's right to redeem the aircraft or aircraft engine has priority over any other person's right to redeem the aircraft or aircraft engine.

**52 Effect of subsequent bankruptcy of mortgagor**

- (1) Subject to Article 34(1), upon the mortgagor becoming bankrupt –
  - (a) to the extent that the proceeds of sale of the aircraft or aircraft engine is sufficient, the amount due to a mortgagee in respect of an aircraft mortgage or aircraft engine mortgage shall be paid in priority to all other claims; and
  - (b) nothing in this Law shall affect the vesting in the Viscount or other body or person, under the law relating to bankruptcy in Jersey, of the rights of the mortgagor to the aircraft or aircraft engine.

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- (2) If the mortgagor of a registered aircraft or registered aircraft engine becomes bankrupt or the mortgagor or the mortgagor's property is subjected, whether in Jersey or elsewhere, to any other judicial arrangement or proceeding consequent upon insolvency, the power of a mortgagee who has an aircraft mortgage or aircraft engine mortgage over the aircraft or aircraft engine to appropriate or sell, or otherwise act in relation to the aircraft or aircraft engine, under this Part shall not be affected.
- (3) Subject to paragraphs (1) and (2) and Article 40, where the property of the mortgagor has been declared *en désastre* –
- (a) the Viscount may apply to the Royal Court for an order vesting in the Viscount the rights of the mortgagee in the aircraft or aircraft engine and directing that it be sold;
  - (b) subject to sub-paragraph (c), the Royal Court may make an order applied for under paragraph directing such vesting and sale upon such terms and subject to such conditions as the Royal Court may think fit; and
  - (c) if the Royal Court makes an order under paragraph (b), the proceeds of such sale of the aircraft or aircraft engine shall be applied by the Viscount in the following order –
    - (i) in payment of the reasonable costs incurred in, and incidental to, taking possession or control of, holding, valuing and preparing the sale of, and selling, the aircraft or aircraft engine,
    - (ii) in the discharge of any preferred debts and preferred liens,
    - (iii) in the discharge of the aircraft mortgages or aircraft engine mortgages registered in the order of priority provided for under Article 34, and
    - (iv) as to the balance (if any remains) in payment of all other debts proved in the *désastre*.
- (4) In this Article references to a person becoming bankrupt shall, unless the contrary intention appears, be construed as references to either –
- (a) the grant by the Royal Court of an application made by that person to place the person's property under the control of the Court (*de remettre ses biens entre les mains de la Justice*);
  - (b) the declaring of the property of that person to be *en désastre*;
  - (c) the grant by the Royal Court of an application made by that person to make a general cession of the person's property (*de faire cession générale de tous ses biens-meubles et héritages*);
  - (d) a decision of the Royal Court adjudging the property of that person to be renounced (*adjudée renoncée*); or
  - (e) the winding up of –
    - (i) a company by means of a creditors' winding up under Chapter 4 of Part 21 of the Companies (Jersey) Law 1991<sup>2</sup> or a winding up under Article 155 of that Law,
    - (ii) a limited liability partnership under the Limited Liability Partnerships (Jersey) Law 1997<sup>3</sup> and the Limited Liability

- Partnerships (Insolvent Partnerships) (Jersey) Regulations 1998<sup>4</sup>,
- (iii) an incorporated limited partnership under Parts 3 and 4 of the Incorporated Limited Partnerships (Jersey) Regulations 2011<sup>5</sup>, or
  - (iv) an insolvent foundation under Chapter 3 of Part 2 of the Foundations (Winding Up) (Jersey) Regulations 2009<sup>6</sup> or a foundation on just and equitable grounds under Part 4 of those Regulations.

and references to “bankruptcy” shall be construed accordingly.

## PART 5

### RECORDING AND REGISTRATION OF BIRTHS AND DEATHS

#### 53 Recording and registration of births and deaths

- (1) The States may by Regulations provide for such persons as may be specified in the Regulations to keep records and make returns to the Registrar of –
  - (a) births and deaths occurring in any part of the world in any aircraft registered in Jersey; and
  - (b) the death outside Jersey of any person who, being a traveller on such an aircraft, is killed on the journey in consequence of an accident,

and for the keeping by the Registrar of a record of any returns made to the Registrar in accordance with any such requirement.

- (2) Where Regulations made under paragraph (1) provide for the keeping of records by the Registrar, the Regulations shall also provide for the transmission of certified copies of those records to the Superintendent Registrar in Jersey.
- (3) The Superintendent Registrar shall cause the records received under paragraph (1) to be filed and preserved in books to be kept by the Superintendent Registrar for the purpose, and to be called respectively the Register of Births on Jersey Registered Aircraft and the Register of Deaths on Jersey Registered Aircraft.
- (4) Regulations made under paragraph (1) shall provide for the rectification of any records kept by the Registrar pursuant to the Regulations and for the transmission of certified copies of any corrected entry in the records to the Superintendent Registrar.
- (5) The Marriage and Civil Status (Jersey) Law 2001<sup>7</sup> shall have effect as if the Register of Births on Jersey Registered Aircraft and the Register of Deaths on Jersey Registered Aircraft were certified copies or duplicate registers transmitted to the Superintendent Registrar in accordance with that Law.
- (6) The States may by Regulations provide –

- (a) for the keeping by the Registrar of a record of persons reported to the Registrar as missing, being persons with respect to whom there are reasonable grounds for believing that they have died in consequence of an accident to an aircraft registered in the Jersey;
  - (b) for the rectification of any such record; and
  - (c) for the transmission of information as to the matters for the time being entered on the record to the Superintendent Registrar.
- (7) In this Article “Superintendent Registrar” has the meaning assigned to it by Article 1 of the Marriage and Civil Status (Jersey) Law 2001<sup>8</sup>.

## PART 6

### MISCELLANEOUS

#### 54 Confidentiality

- (1) A person who –
- (a) under or for the purposes of this Law receives any information relating to the business or other affairs of any person; or
  - (b) obtains information referred to in sub-paragraph (a) directly or indirectly from a person who has so received it,
- shall not disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was so obtained.
- (2) Paragraph (1) does not preclude –
- (a) the disclosure of information –
    - (i) which at the time of disclosure is or has already been made available to the public from other sources, or
    - (ii) which is in a form which prevents information relating to any particular person to be ascertained from it;
  - (b) the disclosure of information for the purpose of enabling or assisting the Registrar to discharge the Registrar’s functions;
  - (c) the disclosure of information for the purpose of assisting, in the public interest, any authority appearing to the Registrar to exercise, in a place outside Jersey, functions corresponding to those of the Registrar;
  - (d) the disclosure of information in compliance with, or for the purposes of enabling or assisting a person to comply with, any requirement imposed by or under this Law or any other enactment;
  - (e) a disclosure of information which is authorized by or under this Law or any other enactment;
  - (f) the disclosure of information –
    - (i) for the purposes of the investigation, prevention or detection of crime, or

- (ii) with a view to the institution of, or otherwise for, the purposes of any criminal proceedings, whether under this Law or otherwise;
  - (g) the disclosure of information in connection with any other proceedings arising out of this Law;
  - (h) the disclosure of information with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise of the professional functions of any person;
  - (i) the disclosure of information in connection with the discharge of any international obligation to which Jersey may from time to time be subject; or
  - (j) the disclosure of information to comply with an order of a court.
- (3) A person who discloses any information in contravention of this Article shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

## **55 Limitation of liability**

- (1) Subject to Article 38 –
- (a) the Minister or any person who is, or is acting as, an officer, servant or agent in an administration of the States for which the Minister is assigned responsibility;
  - (b) the Registrar; and
  - (c) a person appointed under Article 2(3) to perform the functions of the Registrar,
- are not liable in damages for any act done in the discharge, or purported discharge, of any function of the Registrar.
- (2) Paragraph (1) does not apply –
- (a) if it was shown that the act was done in bad faith; or
  - (b) so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000<sup>9</sup>.

## **56 Appeal**

A person aggrieved by a decision of the Registrar under this Law may, within 28 days of that decision or within such further time as the Royal Court allows, appeal to the Royal Court against that decision.

## **57 Service of documents**

- (1) Subject to paragraph (5), a document may be served under this Law in any of the following ways –
- (a) on an individual, by delivering it to the individual personally or by leaving it at the individual's proper address or by sending it by recorded delivery post to the individual at that address;

- 
- (b) on a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body;
    - (c) on a partnership, by serving it in accordance with sub-paragraph (a) on a partner or a person having the control or management of the partnership business; or
    - (d) on an unincorporated body or unincorporated association of persons, by serving it in accordance with sub-paragraph (a) on any person having the control or management of its affairs.
  - (2) For the purposes of this Article, and of Article 7 of the Interpretation (Jersey) Law 1954<sup>10</sup> in its application to this Article, the proper address of any person on whom a document is to be served is the person's last known address, except that –
    - (a) in the case of service on a body corporate or its secretary or clerk, it is the address of the registered or principal office of the body; or
    - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the address of the principal office of the partnership.
  - (3) In the case of a body incorporated outside Jersey or of a partnership carrying on business outside Jersey, its principal office within Jersey is its principal office for the purposes of this Article.
  - (4) If a person who is to be served under this Law with any document has specified an address within Jersey other than the person's proper address (as determined in accordance with paragraph (2)) as the one at which the person or someone on his or her behalf will accept service of documents, that address may be treated as the proper address for the purposes of this Article.
  - (5) This Article does not apply to any document for which provision for service is made by Rules of Court, but it does not prevent service by any other mode that is permitted by any other enactment or rule of law.
  - (6) Despite the other provisions of this Article and of any other rule of law in relation to the service of documents, no document to be served on the Registrar under or for the purposes of this Law shall be deemed to have been served until it is received.
  - (7) The Minister may by Order make provision for the service of documents to be effected by means in addition to or instead of the methods described in this Article.

## **58 Documents to be submitted in electronic form**

- (1) This Article applies to any document to be served on the Registrar, including any application, statement, consent, declaration or signature.
- (2) The Registrar may require or permit any document to be served on the Registrar under or for the purposes of this Law to be in such electronic form and be served by such electronic means as the Registrar may determine, whether in any particular case or class of cases or generally.
- (3) This Article is without prejudice to the Electronic Communications (Jersey) Law 2000<sup>11</sup>.

- (4) This Article does not apply to any document for which provision for service is made by Rules of Court, but it does not prevent service by any other mode that is permitted by any other enactment or rule of law.
- (5) In this Article “electronic” has the meaning given to it under Article 1 of the Electronic Communications (Jersey) Law 2000<sup>12</sup>.

### **59 Information required by Registrar**

- (1) The Registrar may, by written notice require a relevant person to provide the Registrar, in such form and at such times as may be specified in the notice, such information as the Registrar may reasonably require for the exercise of the Registrar’s functions under this Law.
- (2) The Minister may by Order require any person to provide the Registrar, in such form and at such times as may be prescribed, with information which the Registrar may reasonably require for the exercise of the Registrar’s functions under this Law.
- (3) A person who fails to comply with a requirement to provide information under paragraph (1) or (2) that is in the person’s control or possession shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (4) Where a person fails to comply with a requirement to provide information under paragraph (1) or (2), the Registrar may, whether or not any proceedings in respect of the requirement have been brought under paragraph (3), revoke or refuse to issue, any registration which was given, or to be given, by the Registrar and to which the requirement related.

### **60 False or misleading information**

- (1) A person who makes a statement in any document, material, evidence or information which is required to be provided to the Registrar under this Law that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or that omits to state any material fact the omission of which makes the statement false or misleading, shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (2) A person shall not be guilty of the offence if the person did not know that the statement was false or misleading and with the exercise of all due diligence could not have known that the statement was false or misleading.

### **61 Criminal liability of partners, directors and other officers**

- (1) Where an offence under this Law is committed by a limited liability partnership, a separate limited partnership, any other partnership having separate legal personality or a body corporate is proved to have been committed with the consent or connivance of –

- 
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,
- the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to acts and defaults of a member in connection with the member's functions of management as if he or she were a director of the body corporate.

## **62 Defence of due diligence**

In any proceedings for an offence under Article 19(3), 54(3) or 59(3) it is a defence for the defendant to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or herself and by any person under his or her control.

## **63 Power to give effect to Cape Town Convention**

The States may by Regulations give effect to the Convention on International Interests in Mobile Equipment and associated Protocol to the Convention on Matters Specific to Aircraft Equipment (the "Cape Town Convention") which was signed on 16th November 2001 by the United Kingdom.

## **64 Regulations**

The States may by Regulations –

- (a) make such other provision as the States think fit for the purposes of carrying this Law into effect;
- (b) amend Article 1 and Part 2;
- (c) create offences for breach of any provision of Regulations made under this Law, and specify penalties for such offences not exceeding imprisonment for 2 years and a fine;
- (d) make such consequential, incidental, supplementary and transitional provision as appear to the States or the Minister, as the case requires, to be necessary or expedient for the purposes of the Regulations.

## **65 Orders**

The Minister may, by Order, make provision –

- (a) for any matter which is to be prescribed under this Law;
- (b) as to the manner of filing of applications and other documents;
- (c) requiring and regulating the translation of documents and the filing and authentication of any translation;
- (d) for the service of documents;

- (e) authorizing the rectification of irregularities of procedure;
- (f) for time limits for anything required to be done in connection with any proceeding under this Law and for the extension of any such time limit whether or not it has already expired;
- (g) for the fees for any application to the Registrar;
- (h) amending the Schedules.

**66 Rules of Court**

The power to make Rules of Court under the Royal Court (Jersey) Law 1948<sup>13</sup> shall include the power to make Rules for the purposes of this Law.

**67 Citation and commencement**

This Law may be cited as the Aircraft Registration (Jersey) Law 201- and shall come into force on such day or days as the States may by Act appoint.

**SCHEDULE 1**

(Article 1(1))

**QUALIFIED PERSONS**

**List of Countries**

- (1) European Economic Area Countries.
- (2) Commonwealth Countries.
- (3) Switzerland.

**SCHEDULE 2**

(Article 20(1)(b))

**CLASSIFICATION OF AIRCRAFT**

Table of general classification of aircraft

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	
Aircraft	Lighter than air aircraft	Non-power driven	Free Balloon Captive Balloon	
		Power driven	Airship	
		Non-power driven	Glider Kite	
	Heavier than air aircraft	Power driven (flying machines)	Aeroplane (Landplane)	
			Aeroplane (Seaplane)	
			Aeroplane (Amphibian)	
Aeroplane (Self-launching Motor Glider)				
		Powered Lift (Tilt Rotor)		
		Rotorcraft	Helicopter Gyroplane	

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- 1 chapter 18.495*  
*2 chapter 13.125*  
*3 chapter 13.475*  
*4 chapter 13.475.10*  
*5 chapter 13.370.30*  
*6 chapter 13.265.90*  
*7 chapter 12.600*  
*8 chapter 12.600*  
*9 chapter 15.350*  
*10 chapter 15.360*  
*11 chapter 04.280*  
*12 chapter 04.280*  
*13 chapter 07.770*