



BERMUDA

MORTGAGING OF AIRCRAFT AND AIRCRAFT ENGINES ACT 1999

1999 : 16

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WHEREAS it is expedient to make provision for the mortgaging of aircraft and aircraft engines:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

Citation

1 This Act may be cited as the Mortgaging of Aircraft and Aircraft Engines Act 1999.

Interpretation

2 (1) In this Act—

“aircraft” means airframes with aircraft engines installed thereon and includes helicopters and gyroplanes;

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“aircraft engine” means an aircraft engine powered by jet propulsion or turbine technology that—

- (a) in the case of a jet propulsion engine, has at least 1750 lbs of thrust or its equivalent;
- (b) in the case of a turbine powered aircraft engine, has at least 550 rated takeoff shaft horsepower or its equivalent,

together with all modules and other installed, incorporated or attached accessories, parts and equipment and data, manuals and records relating to them;

“Authority” means the Bermuda Civil Aviation Authority established by section 3 of the Bermuda Civil Aviation Authority Act 2016;

“Bermuda nationality register” means the register of aircraft maintained in Bermuda in pursuance of the Air Navigation (Overseas Territories) Order 2013;

“Minister” means the Minister responsible for civil aviation;

“mortgage of an aircraft” includes a mortgage which extends to any store of spare parts for that aircraft but does not otherwise include a mortgage created as a floating charge;

“mortgage of an aircraft engine” includes a mortgage which extends to any store of spare parts for that aircraft engine but does not otherwise include a mortgage created as a floating charge;

“owner” means the person shown as the owner of a mortgaged aircraft or aircraft engine on the form of application for registration of that aircraft in the Bermuda nationality register or on such other documentation as may evidence conclusive title to the aircraft or aircraft engine.

(2) A reference in this Act to an aircraft or aircraft engine includes a share in an aircraft or aircraft engine.

*[Section 2 subsection (1) "Authority" inserted by 2016 : 28 s. 30 effective 1 October 2016; subsection (1) "Bermuda nationality register" amended by 2017 : 26 s. 2 effective 2 June 2017]*

### Mortgage of aircraft and aircraft engine

3 The following may be made security for a loan or other valuable consideration—

- (a) an aircraft registered in the Bermuda nationality register or capable of being so registered;
- (b) an aircraft engine—
  - (i) which is attached to an aircraft referred to in paragraph (a); or
  - (ii) for an aircraft referred to in paragraph (a), which engine is owned by, or leased to, the owner of such aircraft.

*[Section 3 amended by 2013 : 24 s. 2 effective 23 July 2013; paragraph (b) repealed and substituted by 2017 : 26 s. 3 effective 2 June 2017]*

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### Mortgagee not treated as owner

4 Except as far as may be necessary for making a mortgaged aircraft or aircraft engine available as security for the mortgage debt, the mortgagee shall not by reason of the 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 thereof.

### Registers of aircraft and aircraft engine mortgages

5 (1) The Authority shall, on behalf of the Minister, continue to maintain—

- (a) a register of aircraft mortgages; and
- (b) a register of aircraft engine mortgages.

(2) Any mortgage of an aircraft registered in the Bermuda nationality register or capable of being so registered may be entered in the register maintained under subsection (1)(a).

(3) Any mortgage of an aircraft engine referred to in section 3(b) may be entered in the register maintained under subsection (1)(b).

(4) *[repealed by 2017 : 26]*

*[Section 5 subsection (4) amended by 2013 : 24 s. 3 effective 23 July 2013; subsection (1) amended by 2016 : 28 s. 30 effective 1 October 2016; subsection (2) amended, subsection (3) repealed and substituted and subsection (4) repealed by 2017 : 26 s. 4 effective 2 June 2017]*

### Responsibilities of Minister

6 (1) The Minister is responsible for the administration of this Act and shall—

- (a) have the general administration, control and management of the register of aircraft mortgages and register of aircraft engine mortgages;
- (b) provide such services and facilities as are in the opinion of the Minister necessary or desirable for the proper and efficient operation of the registers;
- (c) in exercising and discharging his functions have regard to the reasonable aims and requirements of the aviation industry and shall use his best endeavours to give effect to such aims and requirements.

(2) The Minister shall exercise his functions in a manner consistent with—

- (a) any provision of law in force in Bermuda relating to civil aviation or any direction, order or notice made, given or issued under any such provision of law;
- (b) any international convention relating to civil aviation adhered to for the time being by Her Majesty's Government in the United Kingdom or by Her Majesty's Government in Bermuda, insofar as such provisions apply in relation to civil aviation in Bermuda;
- (c) any agreement relating to civil aviation in Bermuda entered into and for the time being subsisting between Her Majesty's Government in the United

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Kingdom or Her Majesty's Government in Bermuda and Her Majesty's Government in any of Her Majesty's overseas territories or the government of any foreign state.

### Regulations

- 7 (1) The Minister may make regulations—
- (a) for the administration of the registers of aircraft mortgages and aircraft engine mortgages and for all procedural matters associated with it;
  - (b) prescribing fees and charges to be paid to the Authority in respect of services provided under this Act.
- (2) The regulations may, in particular—
- (a) include provisions which correspond (subject to such modifications as appear to the Minister to be necessary or expedient) to any of the provisions of the Merchant Shipping Act 1894 relating to the mortgaging of ships;
  - (b) make provision as respects the rights and liabilities of mortgagors and mortgagees of aircraft or aircraft engines between them, and as respects the priority of such rights and the relationship of such rights to other rights in or over such aircraft or aircraft engines, including possessory liens for work done to such aircraft or aircraft engines;
  - (c) make provision as respects the operation, in relation to aircraft or aircraft engines, of any of the enactments in force in Bermuda relating to bills of sale or the registration of charges on the property or undertaking of companies;
  - (d) provide for the rights of mortgagees of aircraft or aircraft engines to be exercisable, in such circumstances as may be specified in the regulations, in relation to payments for the use of the aircraft or aircraft engines;
  - (e) confer on courts in Bermuda powers in respect of the registers maintained in pursuance of this Act and in respect of transactions affecting aircraft or aircraft engines registered therein.
- (3) Regulations made under subsections (1)(a) and (2) are subject to the negative resolution procedure.
- (4) Regulations made under subsection (1)(b) are subject to the affirmative resolution procedure.

*[Section 7 subsection (1)(b) amended by 2016 : 28 s. 30 effective 1 October 2016]*

### False statements

8 Any person who, for any purpose related to the administration of this Act or the regulations, knowingly or recklessly makes any statement which is false in a material particular is guilty of an offence and is liable on summary conviction to a fine of \$5,000 or imprisonment for a term of 6 months.

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### Commencement

9 This Act comes into force on such date as the Minister may appoint by notice published in the Gazette.

[Assent Date: 18 June 1999]

[Operative Date: 1 July 1999]

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### *Amended by*

2013 24

2016 28

2017 26]