
STATUTORY INSTRUMENTS

2015 No. 912

**The International Interests in Aircraft Equipment
(Cape Town Convention) Regulations 2015**

PART 3

EFFECT OF INTERNATIONAL INTEREST

Assignment

Effect of assignment

27.—(1) Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with regulation 28 also transfers to the assignee—

- (a) the related international interest; and
- (b) all the interests and priorities of the assignor under these Regulations and the Cape Town Convention.

(2) Nothing in these Regulations prevents a partial assignment of the assignor's associated rights.

(3) In the case of a partial assignment the assignor and assignee may agree as to their respective rights concerning the related international interest assigned under paragraph (1) but not so as adversely to affect the debtor without its consent.

(4) Subject to paragraph (5), the applicable law determines the defences and rights of set-off available to the debtor against the assignee.

(5) The debtor may at any time by agreement in writing waive all or any of the defences and rights of set-off referred to in paragraph (4) other than defences arising from fraudulent acts on the part of the assignee.

(6) In the case of an assignment by way of security, the assigned associated rights re-vest in the assignor, to the extent that they are still subsisting, when the obligations secured by the assignment have been discharged.

Formal requirements of assignment

28.—(1) An assignment of associated rights transfers the related international interest only if it—

- (a) is in writing;
- (b) enables the associated rights to be identified under the contract from which they arise; and
- (c) in the case of an assignment by way of security, enables the obligations secured by the assignment to be determined in accordance with the Aircraft Protocol but without the need to state a sum or maximum sum secured.

(2) An assignment of an international interest created or provided for by a security agreement is not valid unless some or all related associated rights also are assigned.

(3) These Regulations do not apply to an assignment of associated rights which is not effective to transfer the related international interest.

Debtor's duty to assignee

29.—(1) To the extent that associated rights and the related international interest have been transferred in accordance with regulations 27 and 28, the debtor in relation to those rights and that interest is bound by the assignment and has a duty to make payment or give other performance to the assignee, if (but only if)—

- (a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor,
- (b) the notice identifies the associated rights, and
- (c) the debtor has consented in writing (whether or not the consent is given in advance of the assignment or identifies the assignee).

(2) Irrespective of any other ground on which payment or performance by the debtor discharges the latter from liability, payment or performance is effective for this purpose if made in accordance with paragraph (1).

(3) Nothing in this regulation affects the priority of competing assignments.

Default remedies in respect of assignment by way of security

30. In the event of default by the assignor under the assignment of associated rights and the related international interest made by way of security, regulations 18, 19, 20, 23, 25 and 48 apply in the relations between the assignor and the assignee (and, in relation to associated rights, apply in so far as those provisions are capable of application to intangible property) as if references—

- (a) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;
- (b) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;
- (c) to the holder of the international interest were references to the assignee; and
- (d) to the aircraft object were references to the assigned associated rights and the related international interest.

Priority of competing assignments

31.—(1) Where there are competing assignments of associated rights, and—

- (a) at least one of the assignments includes the related international interest, and
- (b) the assignment of the international interest is registered,

the provisions of regulation 16 apply as if—

- (a) references to a registered or unregistered interest were references to a registered or unregistered assignment, and
- (b) references to a registered interest were references to a prospective assignment of the associated rights.

(2) Regulation 36 applies to an assignment of associated rights as if the references to an international interest were references to an assignment of the associated rights and the related international interest.

Assignee's priority with respect to associated rights

32.—(1) The assignee of associated rights and the related international interest whose assignment has been registered only has priority under regulation 31(1) over another assignee of the associated rights—

- (a) if the contract under which the associated rights arise states that they are secured by or associated with the aircraft object; and
- (b) to the extent that the associated rights are related to an aircraft object.

(2) For the purposes of paragraph (1)(b), associated rights are related to an aircraft object only to the extent that they consist of rights to payment or performance that relate to—

- (a) a sum advanced and utilised for the purchase of the aircraft object;
- (b) a sum advanced and utilised for the purchase of another aircraft object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;
- (c) the price payable for the aircraft object;
- (d) the rentals payable in respect of the aircraft object; or
- (e) other obligations arising from a transaction referred to in any of sub-paragraphs (a) to (d).

(3) In all other cases, the priority of the competing assignments of the associated rights is to be determined by the applicable law.

Effect of assignor's insolvency

33. The provisions of regulation 36 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

Subrogation

34.—(1) Subject to paragraph (2), nothing in these Regulations affects the acquisition of associated rights and the related international interest by legal or contractual subrogation under the applicable law.

(2) The priority between any interest within paragraph (1) and a competing interest may be varied by agreement in writing between the holders of the respective interests; but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

Application to Scotland

35. In the application of regulation 16(7) and regulations 27 to 34 to Scotland—

- (a) a reference to an assignment means a contract or conveyance or any other form of transfer which, whether by security or otherwise, confers on the assignee associated rights with or without a transfer of the related international interest,
- (b) a reference to assignment is a reference to assignation,
- (c) a reference to an assignor is a reference to a cedent, and
- (d) a reference to intangible property is a reference to incorporeal property.