
STATUTORY INSTRUMENTS

2015 No. 912

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

PART 3

EFFECT OF INTERNATIONAL INTEREST

Insolvency

Remedies on insolvency

37.—(1) Upon the occurrence of an insolvency-related event, the insolvency office holder must, subject to paragraph (5), give possession of any aircraft object, in respect of which an international interest has been registered, to the creditor no later than the earlier of—

- (a) the end of the waiting period; and
- (b) the date on which the creditor would be entitled to possession of the aircraft object if this regulation did not apply.

(2) For the purposes of this regulation, the “waiting period” is 60 days from the date of the insolvency-related event.

(3) References in this regulation to the “insolvency office holder” are references to that person in an official, not in a personal capacity.

(4) Unless and until the creditor is given the opportunity to take possession under paragraph (1)—

- (a) the insolvency office holder must preserve the aircraft object and maintain it and its value in accordance with the agreement; and
- (b) the creditor is entitled to apply for any other forms of interim relief available under the law of the United Kingdom.

(5) Paragraph (4)(a) does not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.

(6) The insolvency office holder may retain possession of the aircraft object where, by the time specified in paragraph (1), it has cured all defaults other than a default constituted by the commencement of insolvency proceedings and has agreed to perform all continuing obligations under the agreement; and a second waiting period does not apply in respect of a default in the performance of such continuing obligations.

(7) With regard to the remedies in regulation 22(1)—

- (a) they must be made available by the Civil Aviation Authority, no later than five working days after the date on which the creditor notifies the Authority that it is entitled to procure those remedies in accordance with the Cape Town Convention; and

- (b) the Civil Aviation Authority must exercise its functions under the Civil Aviation Act 1982(1) and any other enactment in order expeditiously to co-operate with and assist the creditor in the exercise of such remedies.
- (8) No exercise of remedies permitted by these Regulations may be prevented or delayed after the date specified in paragraph (1).
- (9) No obligations of the debtor under the agreement may be modified without the consent of the creditor.
- (10) Nothing in paragraph (9) affects the authority, if any, of the insolvency office holder under the law of the United Kingdom to terminate the agreement.
- (11) No rights or interests, except for non-consensual rights or interests of a category covered by regulation 17, have priority in insolvency proceedings over registered interests.
- (12) In the application of this regulation—
- (a) the provisions of this regulation are in addition to the provisions of Part 1 of the Insolvency Act 1986 (in the case of company voluntary arrangements) and Schedule B1 to that Act (in the case of administration);
 - (b) paragraph 43 (moratorium on other legal process) and paragraph 44 (interim moratorium) of Schedule B1 do not apply after the end of the waiting period under this regulation;
 - (c) a payment made for the purpose of maintaining and preserving the aircraft object in accordance with paragraph (4) is an expense of administration;
 - (d) a payment made for the purpose of curing a default as mentioned in paragraph (6) for the purpose of retaining possession is an expense of administration;
 - (e) paragraphs 71 and 72 of Schedule B1 (court’s power to permit disposal of property subject to security or hire-purchase agreement) do not apply;
 - (f) the end of the waiting period under this regulation is without prejudice to the continuation of insolvency proceedings in respect of assets to which these Regulations do not apply;
 - (g) the notice under paragraph 46 of Schedule B1 must include a statement that this regulation applies, together with a statement of the effect of the application of this regulation;
 - (h) the statement of the administrator’s proposals under paragraph 49 of Schedule B1 must include details of what the administrator proposes in respect of assets to which this regulation applies;
 - (i) the application of Schedule A1 to the 1986 Act (moratorium where company voluntary arrangement proposed) is subject to paragraphs (a) to (h) (with any necessary modifications);
 - (j) sections 254(1)(b) and 256(4) and (5) of the 1986 Act (individual voluntary arrangements: interim orders) do not apply after the end of the waiting period under this regulation.
 - (k) the statement of information under section 256(2)(b)(ii) must include a statement that this regulation applies, together with a statement of the effect of the application of this regulation.
- (13) In this regulation “insolvency-related event” means the commencement of insolvency proceedings, or the declared intention to suspend or actual suspension of payments by the debtor where the creditor’s right to institute insolvency proceedings against the debtor or to exercise remedies under the Cape Town Convention is prevented or suspended by law or State action.
- (14) In this regulation references to the Insolvency Act 1986 include references to the equivalent provisions of the Insolvency (Northern Ireland) Order 1989(2).

(1) 1982 c.16.

(2) S.I. 1989/2405 (N.I. 19).

