

ORDER IN COUNCIL

**XIII
2013**

ratifying a Projet de Loi

ENTITLED

The Aviation Registry (Guernsey) Law, 2013

(Registered on the Records of the Island of Guernsey
on the 21st October, 2013.)



2013

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 21st day of October, 2013 before Richard James McMahon, Esquire, Deputy Bailiff; present:- Susan Mowbray, David Osmond Le Conte, John Ferguson, Peter Sean Trueman Girard, Terry George Snell, David Percy Langley Hodgetts L VO, Niall David McCathie, Terry John Ferbrache, Jonathan Grenfell Hooley, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 9th October, 2013 approving and ratifying a Projet de Loi entitled “The Aviation Registry (Guernsey) Law, 2013”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED that the said Order be registered on the records of this Island.



At the Court at Buckingham Palace

THE 9th DAY OF OCTOBER 2013

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolutions of 30th September 2011 and 1st November 2012, the States of Deliberation at a meeting on 26th June 2013 approved a *Projet de Loi* entitled the Aviation Registry (Guernsey) Law, 2013 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Aviation Registry (Guernsey) Law, 2013, and to order that it shall have force of law in the Island of Guernsey.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it”.

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Aviation Registry (Guernsey) Law, 2013

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PROJET DE LOI

ENTITLED

The Aviation Registry (Guernsey) Law, 2013

THE STATES, in pursuance of their Resolutions of the 30th September, 2011^a and 1st November, 2012^b, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

PART I

THE REGISTRY

Office and Functions of the Registrar

Establishment of the Office of Registrar.

1. (1) There is established an office to be known as the Office of the Aircraft Registrar ("**the Office of the Registrar**").

(2) The holder of that office shall be known as the Aircraft Registrar ("**the Registrar**").

(3) The Registrar shall be appointed by the States of Guernsey Commerce and Employment Department ("**the Department**").

^a Article XVI of Billet d'État No. XV of 2011.

^b Article V of Billet d'État No. XXI of 2012.

- (4) An appointment of the Registrar under this section -
- (a) may be periodic or for a fixed term,
 - (b) is subject to such terms and conditions as the Department may from time to time think fit, and
 - (c) may be varied or terminated at any time by the Department, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment.

(5) The Registrar shall, subject to the terms and conditions of appointment, exercise the functions assigned or transferred to the Registrar by or under the provisions of this Law, or by or under any other enactment.

(6) For the purposes of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^c -

- (a) the Office of the Registrar is a public office, and
- (b) the Registrar is an office holder.

(7) The provisions of Schedule 1 have effect with respect to the Office of the Registrar.

^c Ordres en Conseil Vol. XXXIII, p. 478.

Functions of the Registrar.

2. The functions of the Registrar are -
- (a) to advise the Department generally in relation to the registration of aircraft, including parts thereof, interests therein and the practice and procedures relating thereto,
 - (b) to administer the Office of the Registrar,
 - (c) to consult with the Department in relation to (see section 10(4)) -
 - (i) the fees payable (whether generally or in any particular case) in respect of the exercise of the Registrar's functions,
 - (ii) the interest payable in the event of default in the due payment of fees,
 - (iii) the persons by whom such fees and interest are to be payable, and
 - (d) to exercise, subject to the terms and conditions of his appointment, such other functions as may be assigned or transferred to the Registrar by or under the provisions of this Law.

Ancillary powers of the Registrar.

3. (1) The Registrar, having regard to the provisions of section 2, has power to do anything that appears to the Registrar to be necessary or expedient for the purpose of exercising the Registrar's functions including, without limitation, 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 (see also section 46),
- (b) subject to any provision to the contrary in this Law, or any other enactment, to publish information, reports and other documents,
- (c) to appoint any person or body to advise the Registrar in relation to the exercise of any of the Registrar's functions.

(2) For the purposes of exercising the Registrar's functions the Registrar may, having regard to the provisions of section 2 -

- (a) acquire, lease, use, dispose of, exchange or otherwise deal with any movable or immovable property and any interest in it, and
- (b) enter into any contract, including any contract of purchase, sale, insurance, hire or bailment, or make any arrangement with any person.

- (3) The Registrar may sue and be sued as Registrar.

Supplementary

Reports.

4. (1) The Registrar shall, whenever directed by the Department, submit to the Department a report on the exercise of the Registrar's functions in such form and in respect of such period as the Department may specify.

- (2) The Department -

- (a) shall submit the Registrar's report made under subsection (1) to the States, and

- (b) may at the same time or at any other time submit their own report to the States on the exercise by the Registrar of the Registrar's functions.

Financial and accounting provisions.

5. (1) All fees and similar sums received by the Registrar in the exercise of the Registrar's functions shall be paid to the Department for the general revenue account of the States.

- (2) Subsection (1) does not apply if and to the extent that, in accordance with agreed financial procedures, the Department directs otherwise.

- (3) The Registrar shall -

- (a) keep proper accounts and proper records in relation to

those accounts, and

- (b) submit to the Department, whenever the Department may direct but not less than once in any 12 month period, a statement of account giving a true and fair view of the state of affairs of the Office of the Registrar.

(4) Without prejudice to the preceding provisions of this section, the Registrar shall, whenever directed by the Department, submit to the Department, in respect of such period as the Department may specify, audited accounts of the Office of the Registrar together with the auditors' report thereon prepared by auditors appointed by the Registrar, with the approval of the Department.

Power to apply for directions.

6. (1) 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, in such manner as may be prescribed by order of the Royal Court, and on such an application the Royal Court may make such order as it thinks fit.

(2) An appeal from an order of the Royal Court under this section lies, with leave of the Royal Court or the Court of Appeal, to the Court of Appeal on a question of law.

- (3) Section 21 of the Court of Appeal (Guernsey) Law, 1961^d

^d Ordres en Conseil Vol. XVIII, p. 315.

("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Power to require use of forms.

7. (1) The Registrar may require the use of such forms as the Registrar may direct for any purpose relating to any registration on the Registers or any other proceedings before the Registrar under this Law.

(2) The forms, and any directions of the Registrar as to their use, shall be published in such manner as he thinks fit or as may be prescribed.

Confidentiality.

8. (1) Subject to the provisions of subsection (3), a person who -

- (a) under or for the purposes of this Law receives any document or information relating to the business or other affairs of any person, or
- (b) obtains any such document or information directly or indirectly from a person who has so received it,

shall not disclose the document or information without the consent of the person to whom it relates and (if different) the person from whom it was so obtained.

(2) A person who discloses any document or information in contravention of this section is guilty of an offence and liable -

- (a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding

twice level 5 on the uniform scale, or to both,

- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.
- (3) Subsection (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 the form of a summary or collection so framed as not to enable 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) where, in order to enable or assist the Registrar to discharge the Registrar's functions, the Registrar considers it necessary to seek advice from a qualified person on any matter of law or accountancy or any other matter requiring the exercise of professional skill, the disclosure by the Registrar to that person of such information as appears to the Registrar to be necessary to ensure that that person is properly

informed as to the matters on which that person's advice is sought,

- (d) 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 Guernsey, functions corresponding to those of the Registrar,
- (e) 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,
- (f) a disclosure of information which is authorised by or under this Law or any other enactment,
- (g) the disclosure of information -
 - (i) for the purposes of the investigation, prevention or detection of crime, or
 - (ii) with a view to the instigation of or otherwise for the purposes of any criminal proceedings,whether under this Law or otherwise,
- (h) the disclosure of information in connection with any other proceedings arising out of this Law,

- (i) the disclosure of information with a view to the instigation of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise of the professional functions of any person,
- (j) the disclosure of information in connection with the discharge of any international obligation to which Guernsey may from time to time be subject, or
- (k) the disclosure of information to comply with an order of a court.

Exclusion of liability.

9. (1) Subject to section 40, no liability is incurred by -
- (a) the States or any department thereof,
 - (b) the Registrar,
 - (c) any person to whom the Registrar has delegated any function,
 - (d) any person appointed as Deputy Registrar, or
 - (e) any officer, servant or member of the States or any officer or servant of the Registrar,

in respect of anything done or omitted to be done after the commencement of this Law in the discharge or purported discharge of their functions under this Law or any relevant Law, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000^e.

PART II
THE REGISTERS

General

The Registers.

10. (1) The Registrar shall establish and maintain the following registers –

- (a) a Register of Aircraft ("**the Aircraft Register**"),
- (b) a Register of Aircraft Engines ("**the Engine Register**"), and
- (c) a Register of Charges on Aircraft ("**the Charges Register**"),

together "**the Registers**", and references in this Law to registration are, unless the context otherwise requires, to registration in any of the Registers (and related expressions shall be construed accordingly).

^e Ordres en Conseil Vol. XL, p. 396; Order in Council No. I of 2005; Recueil d'Ordonnances Tome XXVIII, p. 493; Tome XXIX, p. 406; Tome XXXIII, p. 617 and Guernsey Statutory Instrument 2006 No. 27.

(2) The Registers shall be kept in such form and manner as the Registrar may determine or as may be prescribed.

(3) The Registrar –

- (a) when registering an aircraft, engine, priority notice or charge upon the Registers, and
- (b) when issuing a certificate of registration in relation to the same,

may rely upon the documents filed with the Registrar in all respects and shall not be bound to enquire further as to whether, in relation to the aircraft, engine, charge or priority notice, the formalities prescribed by this Law have been complied with.

(4) The Department may by regulations prescribe the fees to be charged by the Registrar on receipt of any application to the Registrar or on the exercise of any function by the Registrar under the provisions of this Law or in respect of such other matters, occasions, circumstances or events as may be prescribed, which fees may be set at such level that the Department considers appropriate.

(5) The Department may, in its discretion, determine that all registrations be subject to an annual renewal procedure; and if it does so, it must prescribe -

- (a) what information and fee (if any) are to be provided and in what form,

- (b) what procedure shall be followed (including an appeals procedure if it thinks fit), and
- (c) without prejudice to any other provision of this Law, what, if any, financial penalties shall be payable by such persons as may be prescribed for failure to comply with the renewal procedure and what other sanctions, remedies or consequences, if any, shall arise in respect of any such failure.

(6) The Registrar (in accordance with any regulations made by the Department) shall in particular make arrangements for -

- (a) public inspection of the Registers, and
- (b) subject to payment of the appropriate fee, the supply of certified or uncertified copies or extracts of entries in the Registers.

(7) The Registers shall be part of the public records of the Island of Guernsey.

Application for entry on registers.

11. (1) Only a qualified person may apply to register an aircraft or engine (see section 12 "qualified persons permitted to hold interests").

(2) A person wishing to effect the registration of -

- (a) an aircraft must apply in accordance with section 20 ("application for registration of an aircraft"),

- (b) an engine must apply in accordance with section 28 ("application for registration of an engine"), or
- (c) a charge or priority notice must apply in accordance with section 33 ("application for registration of a charge") or 34 ("application for registration of a priority notice"), as the case may be.

Qualified persons permitted to hold interests in aircraft or engines registered in Guernsey.

12. (1) Only those persons of a class or description prescribed by regulations of the Department under this section "**qualified persons**" may hold a legal or beneficial interest by way of ownership in an aircraft or engine registered in Guernsey or a share in such an aircraft or engine.

(2) If an aircraft is chartered by demise to a person qualified under subsection (1) the Registrar may, whether or not an unqualified person holds a legal or beneficial interest by way of ownership in the aircraft, register the aircraft in Guernsey in the name of the charterer by demise if it is satisfied that the aircraft may otherwise be properly registered.

(3) Subject to the provisions of this Part, an aircraft registered under subsection (2) may remain registered during the continuation of the charter.

(4) Regulations made under this section may also provide that where a qualified person is not resident in Guernsey (or Jersey, if the regulations so provide) that person must appoint a resident agent to liaise with the Registrar and to perform such functions as may be prescribed, and such regulations may also prescribe the agent's qualifications and functions.

Issue of certificate of registration.

13. (1) On registration of an aircraft (under section 20), engine (under section 28), charge (under section 33), or priority notice (under section 34) ("**the registered matters**"), the Registrar shall issue a certificate of registration to the applicant.

(2) The certificate must—

(a) state, in relation to the registered matter -

(i) the registration number,

(ii) the time and date of registration,

(iii) the registered particulars (see section 20(4) in relation to aircraft, section 28(4) in relation to engines, section 33(2) in relation to charges and section 34(2) in relation to priority notices),

(iv) the registration number of any other registered matter to which it relates,

(v) the name and address of the relevant person (the registered owner in relation to aircraft or engines, see sections 20(2)(d) and 28(2)(d) respectively, and see section 33(3) in relation to charges and section 34(3) in relation to priority notices), and

(b) be signed by the Registrar.

(3) The certificate 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 in the circumstances described in section 14 or 15 (amendment and rectification of registered particulars), section 16 (removal from Register) or section 22 or 29 (changes to the Register).

(5) A certificate of registration, or a copy thereof issued and sealed or certified by the Registrar, shall be received in evidence in all legal proceedings.

Amendment of registered particulars.

14. (1) If during the continuance of the registration of a registered matter there is a change in-

(a) any registered particular, or

(b) the details of the relevant person,

notice of the change shall, within a period of 21 days from the date of the change, be filed with the Registrar, and the change shall not be effective until the Registrar has issued a new certificate of registration or cancelled the registration, as the case may be, upon which the existing certificate shall cease to be valid.

(2) In default of compliance with subsection (1) -

- (a) the Registrar may impose such financial penalty to be paid of such amount and by such persons as the Department may prescribe, and
- (b) 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.

(3) Upon receipt of notice under subsection (1) or as soon as is reasonably practicable thereafter, the Registrar shall make the appropriate entry in the Registers, and shall notify the relevant person of this.

(4) In this section –

"the registered particulars" means the registered particulars as described in section 13(2)(a)(iii), and

"the relevant person" means the relevant person as described in section 13(2)(a)(v).

Rectification of registers.

15. (1) Any person may apply for the rectification of an error, defect or omission in the Registers.

(2) The Registrar may, in the Registrar's absolute discretion and on such terms and conditions as the Registrar thinks fit, on such an application authorise the rectification of any typographical error or formal defect or formal omission -

- (a) in the entries relating to the registered matter in the

relevant Register, or

- (b) in any declaration or other document filed with the Registrar in relation to it under or for the purposes of this Law.

(3) The Royal Court may, in its discretion and on such terms and conditions as it thinks fit, on such an application, by order authorise the rectification of any error, defect or omission -

- (a) in the entries relating to the registered matter in the relevant Register, or
- (b) in any declaration or other document filed with the Registrar in relation to the registered matter under or for the purposes of this Law.

(4) 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.

(5) The Registrar may remove from the Register any registered matter appearing to the Registrar to have ceased to have effect.

Removal of aircraft or engine from Register.

16. (1) Where a person wishes any registered aircraft or engine to be removed from a Register an application for removal from the Register shall be submitted to the Registrar.

- (2) An application for removal from the Register must –

- (a) state the reason for such application,
- (b) be accompanied by the consent of the registered owner (see section 20(2)(d) in relation to aircraft and section 28(2)(d) in relation engines), and
- (c) contain any further information that the Registrar may require.

(3) If the conditions of subsection (2) are satisfied, and the Registrar deems it appropriate to do so, then -

- (a) the registered aircraft or engine shall be removed from the relevant Register,
- (b) the Registrar shall file in the Register a notice stating that the registered aircraft or engine has, pursuant to the provisions of this section, been removed from the Register, and
- (c) the Registrar shall publish the fact that the registered aircraft or engine has been removed from the Register in such manner and for such period as he thinks fit.

Documents in a language other than English.

17. 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 must also be provided, unless the Registrar waives this requirement.

The Aircraft Register

Restriction on use of registered aircraft.

18. Save in the case of a transfer of functions under Article 83*bis* of the Chicago Convention, an aircraft registered in Guernsey shall not fly on any flight for the purpose of commercial air transport.

The Aircraft Register.

19. (1) The Registrar shall maintain the Aircraft Register and shall record in the Register the information specified in section 20(2).

(2) An aircraft must not be registered or continue to be registered in Guernsey if it appears to the Registrar that –

- (a) the aircraft is registered outside Guernsey and that such registration does not cease by operation of law when the aircraft is registered in Guernsey,
- (b) an unqualified person holds any legal or beneficial interest by way of ownership in the aircraft or any share in the aircraft,
- (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 or to continue to be registered in Guernsey.

(3) An aircraft may only be registered upon the Aircraft Register in accordance with the provisions of this Part.

(4) The Registrar shall make public the days on which and hours during which the Registrar's office is open for registering aircraft.

Application for registration of an aircraft.

20. (1) An application for the registration of an aircraft in Guernsey must be made to the Registrar in such form and manner as the Registrar requires and must -

- (a) 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 properly be registered in Guernsey,
- (b) include the proper description of the aircraft according to column 4 of the 'Classification of aircraft' in Schedule 1 of the Air Navigation Law,
- (c) include or be accompanied by such other documents or information as the Registrar may require or as may be prescribed, and
- (d) be accompanied by any applicable fee.

(2) If the Registrar receives an application for the registration of an aircraft in Guernsey in accordance with subsection (1), and is satisfied that the

aircraft may properly be so registered, the Registrar must register the aircraft, wherever it may be, and include 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 person who is entitled as owner to a legal interest in the aircraft or a share of the aircraft or, in the case of an aircraft which is the subject of a charter by demise, the name and address of the charterer by demise (in either case "**the registered owner**"), and
- (e) such other particulars as may be prescribed or as the Registrar may think fit.

(3) Subject to subsection (5) the Registrar must issue a certificate of registration to the registered owner in accordance with section 13.

(4) The "**registered particulars**" in respect of an aircraft are the matters prescribed in subsection (2)(a), (b), (c) and (e).

(5) The Registrar is not required to supply a certificate of registration if -

- (a) the registered owner is the holder of an aircraft dealer's certificate granted under this Law, and
- (b) the registered owner has made to the Registrar (and has not withdrawn) a statement of the registered owner's intention that the aircraft is to fly only in accordance with the conditions in an aircraft dealer's certificate set out in Schedule 2.

(6) If a statement under subsection (5)(b) has been made and not withdrawn, the aircraft must be flown only in accordance with the conditions in the aircraft dealer's certificate set out in Schedule 2.

(7) The Registrar may grant an aircraft dealer's certificate to any person who is qualified under section 12(1) if satisfied that that person has a place of business in Guernsey or Jersey for buying and selling aircraft.

Display of nationality marks.

21. Aircraft registered on the Register must display the nationality and registration mark allocated by the Registrar in the form required by Schedule 3.

Changes to the Register.

22. (1) Subject to sections 12(2) and 23(1), if, at any time after an aircraft has been registered in Guernsey, an unqualified person becomes entitled to a legal or beneficial interest by way of ownership in the aircraft or a share in the aircraft, 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 appropriate changes must be made to the Register.

except the engine of that aircraft where the engine is separately registered in the Engine Register.

(2) Upon separate registration of an aircraft's engine in the Engine Register, the Registrar must note in the Aircraft Register that the registration does not include the engine which is registered in the Engine Register.

(3) Upon removal of an aircraft from the Aircraft Register, any corresponding entry relating to an engine thereof in the Engine Register -

(a) must be removed at the same time, and

(b) ceases to be valid at the moment the aircraft is removed from the Aircraft Register.

General provisions concerning registration.

25. (1) The Department may, by regulations, adapt or modify the provisions of this Part as it deems necessary or expedient for the purpose of providing for the temporary transfer of aircraft to or from the Guernsey register, either generally or in relation to a particular case or class of cases.

(2) The reference in section 22(2) to the registered owner of an aircraft includes, in the case of a deceased person, their legal personal representative, and in the case of a legal person which has been terminated or dissolved, its successor.

(3) 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.

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General provisions concerning registration.

25. (1) The Department may, by regulations, adapt or modify the provisions of this Part as it deems necessary or expedient for the purpose of providing for the temporary transfer of aircraft to or from the Guernsey register, either generally or in relation to a particular case or class of cases.

(2) The reference in section 22(2) to the registered owner of an aircraft includes, in the case of a deceased person, their legal personal representative, and in the case of a legal person which has been terminated or dissolved, its successor.

(3) 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.

(4) 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.

The Engine Register

Restriction on registration of engines.

26. Only engines installed in registered aircraft may be registered upon the Engine Register.

The Engine Register.

27. (1) The Registrar shall maintain the Engine Register and shall record in the register the information specified in section 28(2).

(2) An engine must not be registered or continue to be registered in Guernsey if it appears to the Registrar that –

- (a) an unqualified person holds any legal or beneficial interest by way of ownership in the engine or any share in the engine,
- (b) it would not be in the public interest for the engine to be or to continue to be registered in Guernsey, or
- (c) it is not or is no longer installed in a registered aircraft.

(3) An engine may only be registered upon the Engine Register in accordance with the provisions of this Part.

(4) The Registrar shall make public the days on which and hours during which the Registrar's office is open for registering engines.

Application for registration of an engine.

28. (1) An application for the registration of an engine in Guernsey must be made to the Registrar in such form and manner as the Registrar requires and must -

- (a) include or be accompanied by such information and documents relating to the engine and the ownership and use thereof as the Registrar may require to enable the Registrar to determine whether the engine may properly be registered in Guernsey,
- (b) include the proper description of the engine and aircraft in which it is installed including the manufacturer, model and serial number of both,
- (c) include or be accompanied by such other documents or information as the Registrar may require or as may be prescribed, and
- (d) be accompanied by any applicable fee.

(2) If the Registrar receives an application for the registration of an engine in Guernsey in accordance with subsection (1), and is satisfied that the engine may properly be so registered, the Registrar must register the engine, wherever it may be, and include in the Register the following information -

- (a) the registration mark of the aircraft in which the engine is installed and the registration number assigned to the engine by the Registrar,
- (b) the name of the constructor of the engine and its designation,
- (c) the serial number of the engine,
- (d) the name and address of every person who is entitled as owner to a legal interest in the engine or a share of the engine ("**the registered owner**"), and
- (e) such other particulars as may be prescribed or as the Registrar may think fit.

(3) The Registrar must issue a certificate of registration to the registered owner in accordance with section 13.

(4) The "**registered particulars**" in respect of an engine are the matters prescribed in subsection (2)(a), (b), (c) and (e).

Changes to the Register.

29. (1) Subject to section 30(1), if at any time after an engine has been registered in Guernsey –

- (a) an unqualified person becomes entitled to a legal or beneficial interest by way of ownership in the engine or in the aircraft in which it is installed or a share in the engine or in that aircraft, or

- (b) the registered aircraft in which it is installed is removed from the Aircraft Register,

the registration of the engine becomes void and the certificate of registration must be returned immediately by the registered owner to the Registrar and the appropriate changes must be made to the Register.

(2) Any person who is the registered owner of an engine registered in Guernsey must immediately inform the Registrar in writing of the destruction of the engine, its removal from the registered aircraft or its permanent withdrawal from use.

(3) Subject to section 30(2), the Registrar may, whenever it appears 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 section 14, 15 or 16, amend the register or remove the registration of an engine.

(4) Subject to section 30, the Registrar must remove the registration of an engine within two months of being satisfied that there has been a change in the ownership of the engine if he has not been notified thereof in accordance with section 14.

Engines which are entered in the Register of Charges.

30. (1) The registration of an engine which is the subject of an undischarged charge entered in the Register of Charges does not become void by virtue of section 29(1).

(2) Subject to section 29(1), the Registrar must not cancel the registration of such an engine under section 16 or 29(3) or (4) unless all persons

shown in the Register of Charges as chargees of that engine have consented to the cancellation.

The Charges Register

Restriction on registration of Charges.

31. (1) A registered aircraft asset may be made security for a loan or other valuable consideration by way of a charge.

(2) Only a registered aircraft asset may be made subject to a charge registered upon the Register of Charges.

(3) For the purpose of this Law –

(a) an "**aircraft asset**" means an aircraft, together with any store of spare parts therefor, or an engine, together with any store of spare parts therefor,

(b) a "**charge**" means a prospective or actual interest in an aircraft asset (which extends to the proceeds thereof) –

(i) granted by the chargor over an aircraft asset under an agreement in writing, or

(ii) arising under an order of the Royal Court,

which may be subrogated, subordinated or assigned, and chargor and chargee shall be construed accordingly,

- (c) "**registered aircraft asset**" means an aircraft asset registered on either the Aircraft Register or the Engine Register.

The Charges Register.

32. (1) The Registrar shall maintain the Charges Register and shall record in the Register the information specified in section 33(2).

(2) In addition to a charge, a notice of intention to make an application to enter a charge of an aircraft asset in the Register, "**a priority notice**", may also be entered in the Register.

(3) A charge or priority notice may only be registered upon the Charges Register in accordance with the provisions of this Part.

(4) Where two or more aircraft assets are the subject of one charge or where the same aircraft asset is the subject of two or more charges, separate applications shall be made in respect of each aircraft asset or of each charge, as the case may be.

(5) Applications properly made shall be entered in the Register in order of their receipt by the Registrar.

(6) The Registrar shall make public the days on which and hours during which the Registrar's office is open for registering charges and priority notices. Any application submitted when the office is closed for that purpose shall be treated as having been received immediately after the office is next opened.

Application for registration of a charge.

33. (1) An application to enter a charge upon the Register shall be

made by or on behalf of the chargee to the Registrar in such form and manner as the Registrar may require and must include or be accompanied by –

- (a) a copy of the instrument creating the charge, which the applicant shall certify to be a true copy,
- (b) include or be accompanied by such information and documents relating to the charge as the Registrar may require to enable the Registrar to determine whether the charge may properly be registered in Guernsey
- (c) the names and addresses of the chargee and chargor,
- (d) details of the aircraft asset over which the charge is created (including registration numbers),
- (e) such other documents or information as the Registrar may require or as may be prescribed, and
- (f) any applicable fee.

(2) If the Registrar receives an application for the registration of a charge in accordance with subsection (1), and is satisfied that the charge may properly be so registered, the Registrar must register the charge, and include in the Register the following information -

- (a) the registration number of the charge,
- (b) name and address of the chargee and chargor,

- (c) the duration of the charge,
- (d) the date and time of registration of the charge,
- (e) details of the aircraft asset associated therewith,
- (f) the registration number of any other charges or priority notices over that asset, and
- (g) such other particulars as may be prescribed or as the Registrar may think fit,

together called "**the registered charge particulars**".

(3) The Registrar must issue a certificate of registration to the chargee ("**the relevant person**") in accordance with section 13 and must also issue a copy to the chargor.

Application for registration of a priority notice.

34. (1) An application to enter a priority notice upon the Register shall be made by or on behalf of the prospective chargee to the Registrar in such form and manner as the Registrar may require and must include or be accompanied by –

- (a) the names and addresses of the prospective chargee and chargor,
- (b) details of the aircraft asset over which the prospective charge is to be created (including registration numbers),

- (c) such other documents or information as the Registrar may require or as may be prescribed, and
- (d) any applicable fee.

(2) If the Registrar receives an application for the registration of a priority notice in accordance with subsection (1), and is satisfied that the priority notice may properly be so registered, the Registrar must register the priority notice, and include in the Register the following information -

- (a) the registration number of the priority notice,
- (b) names and addresses of the prospective chargee and chargor,
- (c) the date and time of registration of the priority notice,
- (d) details of the aircraft asset associated therewith,
- (e) the registration number of any other charges or priority notices over that asset, and
- (f) such other particulars as may be prescribed or as the Registrar may think fit,

together called "**the registered priority notice particulars**".

(3) The Registrar must issue a certificate of registration to the prospective chargee ("**the relevant person**"), in accordance with section 13 and

must also issue a copy to the prospective chargor.

Priority of charges and debts.

35. (1) Preferred taxes and preferred liens have priority over all charges over an aircraft asset.

(2) Charges over an aircraft asset rank in priority as follows –

(a) firstly, any registered charge, and

(b) secondly, any unregistered charge and all other debts.

(3) Subject to subsections (5) and (7), registered charges, as between themselves, rank in order of registration, with the first in time having priority.

(4) Subject to subsection (7), unregistered charges and all other debts, as between themselves, rank in accordance with the ordinary principles of Guernsey law.

(5) If, following registration of a priority notice –

(a) the charge contemplated therein is registered within the prescribed time, and

(b) provided the priority notice was continually registered up until the time at which the charge was registered

the charge shall be deemed to have been registered at the time of registration of the priority notice, and the Register shall record the date and time of the charge accordingly.

(6) The provisions of this section have effect notwithstanding any express, implied or constructive notice to the chargee.

(7) The priority of competing charges may be varied by agreement between the holders of those charges, but an assignee of a subordinated charge is not bound by an agreement to subordinate that charge unless at the time of the assignment a subordination had been registered relating to that agreement.

(8) Any priority given by this section to a charge over an aircraft asset extends to the proceeds of that asset.

Register as notice of facts appearing in it.

36. All persons shall at all times be taken to have express notice of all facts appearing in the Register, but the registration of a charge is not evidence of its validity.

Charge not affected by bankruptcy.

37. A registered charge of an aircraft shall not be affected by the bankruptcy of the chargor after the date on which the charge is registered, notwithstanding that at the commencement of his bankruptcy the chargor had the aircraft in his possession, order or disposition, or was reputed owner thereof, and the charge shall be preferred to any right, claim or interest therein of the other creditors of the bankrupt or any trustee or assignee on their behalf.

Discharge of charges and priority notices.

38. (1) Where a registered charge is discharged the chargor shall

notify the Registrar of the same by filing with the Registrar –

- (a) a copy of the discharge or receipt for the charge,
- (b) any applicable fee, and
- (c) such other documents or information as the Registrar may require.

(2) Where a prospective charge under a registered priority notice is not, or no longer intended to be, entered into, the prospective chargor shall notify the Registrar of the same by filing with the Registrar –

- (a) any applicable fee, and
- (b) such other documents or information as the Registrar may require.

(3) Upon receipt of the fee, documents and information specified in subsection (1) or (2), as the case may be, and provided that the Registrar is satisfied that the charge or priority notice properly ought to be discharged, the Registrar shall –

- (a) mark the relevant entries on the Charges Register as discharged, and
- (b) notify the chargee or prospective chargee, chargor or prospective chargor, and owner of the aircraft asset that this has been done.

(4) Notwithstanding subsection (1), and without prejudice to section 14 or 15, where a registration on the Charges Register ought not to have been made or is incorrect, the person in whose favour the registration was made shall, without undue delay, procure its discharge or amendment after written demand by the chargor.

Removal of aircraft asset from Registers.

39. The removal of an aircraft from the Aircraft Register or of an engine from the Engine Register shall not affect the rights of any chargee under any registered charge and entries shall continue to be made in the Register in relation to the charge as if the aircraft, or engine, as the case may be, had not been removed from the relevant Register.

Indemnity in respect of errors or omissions in the Charges Register.

40. (1) Subject to subsections (2) and (3), any person who suffers loss directly resulting –

- (a) from an error or omission of the Registrar or Deputy Registrar, any person to whom the Registrar has delegated any function, or the Registrar's officers and servants, or
- (b) from a malfunction of the registration system except where the malfunction is caused by an event of an inevitable and irresistible nature, which could not be prevented by using the best practices in current use in the field of electronic registry design and operation, including those related to back-up and systems security and networking,

may be indemnified by the Registrar.

- (2) No indemnity shall be payable under subsection (1) –
 - (a) for any factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which it received that information,
 - (b) for acts or circumstances for which the Registrar and its officers and employees are not responsible and arising prior to receipt of registration information at the Registry,
 - (c) where the person who has suffered loss has caused the loss by his fraud or has derived title from a person so 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 subsection (1) may be reduced to the extent that the person who suffered the loss caused or contributed to that loss.

(4) The Registrar may procure insurance or a financial guarantee covering the liability created by this section.

PART III

PROVISIONS OF GENERAL APPLICATION

*Jurisdiction and powers of Royal Court***Jurisdiction of Royal Court.**

41. Without prejudice to the Royal Court's inherent jurisdiction, and for the avoidance of doubt, the Royal Court sitting as an Ordinary Court ("**the Royal Court**") has jurisdiction in respect of any registered matter and all matters relating thereto.

Constitution of Royal Court.

42. For the purposes of this Law the Royal Court is properly constituted by the Bailiff sitting unaccompanied by the Jurats.

Appeals from decision of the Registrar.

43. (1) An appeal to the Royal Court lies from any decision of the Registrar under this Law.

For this purpose "**decision**" includes any act of the Registrar in exercise of a discretion vested in the Registrar by or under this Law.

(2) The grounds of an appeal under this section are that the Registrar's decision was *ultra vires*, unreasonable in law or wrong.

(3) An appeal under this section shall be instituted -

(a) within a period of 28 days immediately following the date of the Registrar's decision (or such other period as the Royal Court may in any particular case direct), and

- (b) by summons served on the Registrar stating the grounds and material facts on which the appellant relies.

(4) The Registrar may, where an appeal under this section has been instituted, apply to the Royal Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and, on hearing the application, the Royal Court may -

- (a) dismiss the appeal or dismiss the Registrar's application (in either case on such terms and conditions as the Royal Court may direct), or
- (b) make such other order as the Royal Court considers just,

and the provisions of this subsection are without prejudice to the inherent powers of the Royal Court or to the provisions of rule 52(3) of the Royal Court Civil Rules, 2007^f.

- (5) On an appeal under this section the Royal Court may -
 - (a) set the decision of the Registrar aside and, if the Royal Court considers it appropriate to do so, remit the matter to the Registrar with such directions as the Royal Court thinks fit, or

^f O.R.C. No. IV of 2007; amended by No. II of 2008.

- (b) confirm the decision of the Registrar, in whole or in part.

(6) An appeal from a decision of the Royal Court made on an appeal under this section lies, with leave of the Royal Court or Court of Appeal, to the Court of Appeal on a question of law.

(7) Section 21 of the Court of Appeal (Guernsey) Law, 1961⁸ ("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under subsection (6) as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Service of documents.

44. (1) Any document to be given or served under or for the purposes of this Law may be given or served -

- (a) on an individual, by being delivered to that individual, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) on a legal person with a registered office in Guernsey, by being left at, or sent by post or transmitted to, that office,
- (c) on a legal person without a registered office in Guernsey, by being left at, or sent by post or transmitted to, its principal or last known principal

⁸ Ordres en Conseil Vol. XVIII, p. 315.

place of business in Guernsey or, if there is no such place, its registered or principal office or last known registered or principal office elsewhere,

- (d) on an unincorporated body -
 - (i) by being served on any partner, member of the committee or other similar governing body, manager, director or other similar officer thereof in accordance with paragraph (a), or
 - (ii) by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or, if there is no such place, its principal or last known principal place of business elsewhere,
- (e) on a department of the States, by being left at, or sent by post or transmitted to, the principal offices of that department in Guernsey, or
- (f) on the Registrar, by being left at, or sent by post or transmitted to, the principal offices of the Registrar in Guernsey.

(2) If a person notifies the Registrar of an address for service within Guernsey for the purposes of this Law, any document to be served on that person under this Law may be served by being left at, or sent by post to or transmitted to, that address.

(3) Where this Law authorises or requires a document to be served on a person who is -

- (a) a minor, or
- (b) a person under legal disability,

the document may be served on his guardian; and if there is no guardian, the party wishing to effect service may apply to the Royal Court for the appointment of a person to act as guardian for the purposes of this Law.

(4) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published on two occasions in La Gazette Officielle.

(5) Subsections (2) to (4) are without prejudice to subsection (1); and subsections (1) to (4) are without prejudice to any other lawful method of service and to the provisions of section 45.

(6) Where a document is sent by post it shall, unless the contrary is shown, be deemed for the purposes of this Law to have been received -

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,
- (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any non-business day.

(7) For the purposes of this Law, service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(8) Notwithstanding the provisions of this section 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.

(9) In this section and in section 45 -

"by post" means by registered post, recorded delivery service or ordinary letter post,

"document" does not include a summons,

"non-business day" means -

- (a) a Saturday, a Sunday, Christmas Day and Good Friday, and
- (b) any day appointed as a public holiday by Ordinance of the States under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^h,

"served" includes given and submitted,

^h Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; Vol. XXXIV, p. 504; Vol. XXXV(1), p. 367 and modified by Vol. XXII, p. 560.

"**summons**" includes any document compelling a person's attendance before a court, and

"**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).

Documents to be submitted, etc, in electronic form.

45. (1) 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 served by such electronic means as the Registrar determines, whether in any particular case or class of cases or generally; and, without limitation, this section applies to any document to be filed with the Registrar, including any application, statement, consent, declaration or signature.

(2) Accordingly, where under this Law any information or document is required to be in such form or to be served by such means, or anything is required to be done in such manner, as (in whatever words) the Registrar may require, the Registrar may, without limitation, require the information or document to be in or, as the case may be, to be served, or the thing to be done, by electronic means.

(3) This section is without prejudice to the Electronic Transactions (Guernsey) Law, 2000ⁱ.

ⁱ Orders en Conseil Vol. XL, p. 263.

(4) For the purpose of this section "**electronic means**" means that it is sent and received at its destination by means of electronic equipment for the processing (which expression includes, without limitation, digital compression) or storage of data, and entirely transmitted and received by wire, by radio, by optical means or by other electromagnetic means.

Provision by others of information for the Registrar and the Department.

46. (1) The Registrar may, by a notice in writing served in the prescribed manner on any person with an interest in an aircraft, engine or charge registered, or intended to be registered, under this Law, require that person to furnish to the Registrar, in such form and at such times as may be specified in the notice, information of such descriptions as may be so specified, being -

- (a) in the case of a person with an interest in an aircraft or engine, descriptions of information which relate to the past, present or future activities of the aircraft or engine,
- (b) in the case of a person with an interest in a charge or proposed charge, information relating to the charge or proposed charge,

which is of a kind which the Registrar considers necessary for the purpose of performing any of the Registrar's functions.

(2) Provision may be made by regulations made by the Department for requiring a person of any description specified in subsection (1) to furnish the Department, in such form and at such times as may be prescribed, with information of such descriptions as may be prescribed, being descriptions of information relating to a registered matter which the Department considers that it

requires for the purpose of performing any of its functions or descriptions of information which it considers that it requires in order to facilitate the performance by the Registrar of any of the Registrar's functions.

(3) If a person required to furnish information by virtue of any of the preceding provisions of this section fails to comply with the requirement, then -

- (a) in the case of a failure to comply with the requirement he shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding twice level 3 on the uniform scale, and
- (b) if the requirement was made by virtue of subsection (1), the Registrar may, whether or not any proceedings in respect of the requirement have been brought under paragraph (a) of this subsection, revoke or refuse to issue, any registration which was given, or to be given, by the Registrar and to which the requirement related,

and a person who fails to comply with a requirement imposed on that person in pursuance of this section shall be guilty of an offence by virtue of paragraph (a) of this subsection notwithstanding that at any relevant time that person is outside Guernsey and is neither a resident person nor a body incorporated under the law of Guernsey.

Offences

False or misleading information.

47. (1) A person who -

- (a) in making any statement or providing any information or document to the Registrar, or to any officer, servant or agent of the Registrar, when acting in the exercise of the Registrar's functions, or

- (b) otherwise than as mentioned in paragraph (a) but in circumstances in which the person making the statement or providing the information or document knows or could reasonably be expected to know that the statement, information or document would or might be used by the Registrar for the purpose of exercising the Registrar's functions -
 - (i) makes a statement which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

 - (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,

 - (iii) produces or furnishes or causes or permits to be produced or furnished any information or document which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or

- (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable -
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding twice level 5 on the uniform scale, or to both,
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both.

Offences by legal persons, etc.

48. (1) Where an offence to which this section applies has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of -

- (a) any director, manager, secretary or other similar officer, or any foundation official of the legal person, or
- (b) any person who was purporting to act in any such capacity,

he as well as the legal person shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the legal person.

(3) Where an offence to which this section applies is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

he as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence to which this section applies is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence to which this section applies shall be paid from the funds of that body.

(6) Any offence to which this section applies shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

Defence of due diligence.

49. In any proceedings for an offence under this Law it is a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself and by any person under his control.

Powers to make subordinate legislation

Power to give effect to Cape Town Convention.

50. The States may by Ordinance 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.

Power of Department to make regulations.

51. (1) The Department may make regulations -
- (a) for the purposes of any provision of this Law authorising the making of regulations with respect to any matter, and
 - (b) for prescribing anything authorised or required by any provision of this Law to be prescribed,

and generally for regulating practice and procedure under this Law.

- (2) Provision may, in particular, be made -
- (a) as to the manner of filing of applications and other documents,
 - (b) requiring and regulating the translation of documents and the filing and authentication of any translation,
 - (c) as to the service of documents,
 - (d) authorising the rectification of irregularities of procedure,
 - (e) prescribing time limits for anything required to be done in connection with any proceeding under this Law,
 - (f) providing for the extension of any time limit so prescribed, or specified by the Registrar, whether or not it has already expired.

However, if regulations are not so made, the Registrar may adopt such practice and procedure as he thinks fit as to the matters in respect of which regulations may be made.

General provisions as to subordinate legislation.

52. (1) The States may by Ordinance -

- (a) amend Part II and section 53 of this Law, and
 - (b) make such other provision as they think fit for the purposes of carrying this Law into effect.
- (2) An Ordinance or regulation under this Law -
 - (a) may be amended or repealed by a subsequent Ordinance or regulation, as the case may be, hereunder, and
 - (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient including, in the case of an Ordinance, provision making consequential amendments to this Law and any other enactment.
- (3) Any power conferred by this Law to make an Ordinance or regulation may be exercised -
 - (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
 - (b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(4) Regulations under this Law shall be laid before a meeting of the States as soon as possible after being made; and, if at that or the next meeting the States resolve that the regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Supplementary

Interpretation.

53. (1) In this Law, unless the context otherwise requires –

"**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 asset**" has the meaning assigned to it in section 31(3)(a),

"**aircraft dealer's certificate**" means a certificate granted under section 20(7),

"**the Air Navigation Law**" means the Air Navigation (Bailiwick of Guernsey) Law, 2012^j,

"**Bailiff**" means the Bailiff, Deputy Bailiff, Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué,

"**bankrupt**" means -

- (a) that a declaration of insolvency has been made in respect of him by the Royal Court under the Law intituled Loi ayant rapport aux Débiteurs et à la Renonciation, 1929^k,
- (b) that a Commissioner or Committee of Creditors has been appointed by the Royal Court under that Law to supervise or secure his estate,
- (c) that his affairs have been declared to be in a state of "désastre" at a meeting of his arresting creditors held before a Commissioner of the Royal Court,
- (d) that an interim vesting order has been made against him in respect of any of his real property in the

^j Approved by the States of Deliberation on 13th December, 2012.

^k Ordres en Conseil Vol. VIII, p. 310.

Bailiwick,

- (e) in the case of a company, and otherwise than for the sole purpose of solvent amalgamation, solvent reconstruction or solvent winding up, that -
 - (i) a liquidator (provisional or otherwise) has been appointed to act, or
 - (ii) the company has passed a special resolution requiring that it be voluntarily wound up,
- (f) in the case of a company, that an administration order is in force in respect of the company or, if the company is a protected cell company, in respect of any of its cells,
- (g) in the case of a protected cell company, that a receivership order is in force in respect of any of its cells,
- (h) in the case of a foundation, that a winding up order has been made by the Royal Court in respect of the foundation pursuant to paragraph 24(1)(f) of Schedule 2 to the Foundations (Guernsey) Law, 2012¹,
- (i) that a composition, compromise or arrangement with

¹ Order in Council No. I of 2013.

creditors has been entered into in respect of him whereby his creditors will receive less than 100 pence in the pound,

- (j) that possession or control has been taken of any of his property or affairs by or on behalf of creditors or, in the case of a company, the holders of debentures issued by it,
- (k) that an event, measure or procedure has occurred outside Guernsey in relation to him which corresponds as nearly as may be to any event described in the above paragraphs,

and "**bankruptcy**" shall be construed accordingly,

"**charge**" has the meaning assigned to it in section 31(3)(b),

"**the Chicago Convention**" means the convention on International Civil Aviation which was signed on behalf of the Bailiwick at the International Civil Aviation Conference held at Chicago on 7th December 1944, and which came into force on 4th April, 1947,

"**contravention**" includes failure to comply, and related expressions shall be construed accordingly,

"**department**" means any department, council or committee (however called) of the States of Guernsey,

"**the Department**" means the Commerce and Employment

Department of the States of Guernsey,

"documents" means information recorded in any form (including, without limitation, in electronic form) and, in relation to information recorded otherwise than in legible form, references to its production, howsoever expressed, include references to the production of a copy of the information in legible form,

"enactment" means a Law, an Ordinance and subordinate legislation,

"flight" and **"to fly"** have the meanings respectively assigned to them in the Aviation Law,

"a function" includes a power and a duty and the carrying out of a function includes the exercise of a power and the performance of a duty,

"the Island of Guernsey" includes the Islands of Herm and Jethou,

"non-business day" has the meaning assigned to it in section 44(9),

"the Office of the Registrar" has the meaning assigned to it in section 1(1),

"preferred liens" means a lien created by the detention of an aircraft under the Detention of Aircraft (Guernsey and Alderney) Law, 1994^m,

^m Ordres en Conseil Vol. XXXV, p. 15.

"preferred taxes" means any taxes, fees or dues owed to the States of Guernsey in respect of that aircraft asset,

"prescribed" means prescribed by regulations made by the Department under this Law, and the expression **"prescribe"** shall be construed accordingly,

"priority notice" has the meaning assigned to it in section 32(2),

"provisions of this Law" includes the provisions of any Ordinance or regulations hereunder,

"qualified persons" has the meaning assigned to it in section 12(1),

"registered aircraft asset" has the meaning assigned to it in section 31(3)(c),

"registered matters" has the meaning assigned to it in section 13(1),

"the Registrar" has the meaning assigned to it in section 1(2),

"Royal Court" means the Royal Court sitting as an Ordinary Court, constituted in accordance with section 42,

"servant" includes a person employed under a contract of service or apprenticeship (whether written or oral, express or implied) and a person engaged on a consultancy or secondment basis,

"States" means the States of Guernsey,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any Law or Ordinance and having legislative effect,

"**uniform scale**" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989ⁿ, and

"**unqualified person**" means a person who is not within a class or description of qualified persons.

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(3) The Interpretation (Guernsey) Law, 1948^o applies to the interpretation of this Law.

Extent.

54. For the avoidance of doubt, unless the context requires otherwise, this Law extends to the Island of Guernsey.

Citation.

55. This Law may be cited as the Aviation Registry (Guernsey) Law, 2013.

ⁿ Ordres en Conseil Vol. XXXI, p. 278; Recueil d'Ordonnances Tome XXV, p. 344; Tome XXVIII, p. 89 and Tome XXXI, p. 542.

^o Ordres en Conseil Vol. XIII, p. 355.

S. M. SIMMONDS,
Her Majesty's Deputy Greffier.

SCHEDULE 1

Section 1(7)

OFFICE OF THE REGISTRAR**Salary or fees of Registrar.**

1. The Registrar shall be paid such salary or fees, emoluments and other allowances as the Department may determine.

Appointment of staff.

2. (1) The Registrar may -
- (a) subject to the approval of the Department, appoint such officers and servants, and
 - (b) appoint and instruct such other persons,

on such terms and conditions (whether as to remuneration, expenses, pensions or otherwise) as the Registrar thinks necessary for the exercise of the Registrar's functions.

(2) The Registrar may, subject to the approval of the Department, establish and maintain such schemes or make such other arrangements as the Registrar thinks fit for the payment of pensions and other benefits in respect of the Registrar's officers and servants.

Delegation of functions.

3. (1) Subject to paragraph (4), the Registrar may, by an instrument in writing, either generally or otherwise as specified in the instrument, arrange for

any of the Registrar's functions to be exercised in the Registrar's name by any person named or described in the instrument, other than this power of delegation.

(2) A function exercised by a delegate pursuant to an arrangement made under this paragraph is for all purposes exercised by the Registrar; and every decision taken or other thing done by a delegate pursuant to such an arrangement has the same effect as if taken or done by the Registrar.

(3) An arrangement made under this paragraph for the exercise of a function by a delegate -

(a) may be varied or terminated at any time by the Registrar, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement,

(b) does not prevent the exercise of the function by the Registrar while the arrangement subsists.

(4) Notwithstanding paragraph (1), a function may only be delegated to a company where the Registrar is a director of that company.

(5) The provisions of this paragraph, and of paragraph 4, are without prejudice to the provisions of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991.

Appointment of Deputy Registrar.

4. (1) Without prejudice to the generality of paragraph 3, the Department may, subject to such terms and conditions as it thinks fit, appoint any person as Deputy Registrar with authority to exercise the Registrar's functions

during any period in which the Registrar is unavailable.

(2) A function exercised by a Deputy Registrar pursuant to an appointment under this paragraph is for all purposes exercised by the Registrar; and every decision taken or other thing done by a Deputy Registrar pursuant to such an appointment has the same effect as if taken or done by the Registrar.

(3) An appointment under this paragraph of a Deputy Registrar -

(a) may be varied or terminated at any time by the Department, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment,

(b) does not prevent the exercise of the function by the Registrar while the appointment subsists.

Disclosure of interests.

5. (1) The Registrar shall, if the Registrar has any direct or indirect personal interest in the outcome of any matter of which the Registrar is seised under this Law, or under any other enactment, disclose the nature of that interest to the Department.

(2) For the purposes of this paragraph, a general notice given by the Registrar to the effect that the Registrar is a shareholder in, or a director of, a body corporate, and is to be regarded as interested in any matter concerning that body corporate, is a sufficient disclosure in relation to any such matter.

Official seal.

6. (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 official seal of the Registrar, and
 - (b) signed by the Registrar or by any person to whom, pursuant to paragraph 3, the Registrar has delegated authority to affix the Registrar's official seal,

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

Proof of documents.

7. (1) In any legal proceedings the provisions of subparagraph (2) apply in relation to any document purporting to be -

- (a) issued by or on behalf of the Registrar, or
- (b) signed by the Registrar, by any of the Registrar's officers or servants or by any person to whom, pursuant to paragraph 3, the Registrar has delegated authority to sign documents of that description.

- (2) The document -
 - (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) subject to subparagraph (3), is evidence of the matters stated therein.

(3) Notwithstanding subparagraph (2)(c), registration of a charge is not evidence of its validity.

SCHEDULE 2

Sections 20(5) and (6)

CONDITIONS IN AIRCRAFT DEALER'S CERTIFICATE

1. The operator of the aircraft must be the registered owner of the aircraft and the holder of an aircraft dealer's certificate granted under this Law.

2. The aircraft may fly only for the purpose of –

- (a) testing the aircraft,
- (b) demonstrating the aircraft with a view to the sale of that aircraft or of other similar aircraft,
- (c) proceeding to or from a place at which the aircraft is to be tested or demonstrated as aforesaid, or overhauled, repaired or modified,
- (d) delivering the aircraft to a person who has agreed to buy, lease or sell it, or
- (e) proceeding to or from a place for the purpose of storage.

3. Without prejudice to section 43 of the Air Navigation Law the operator of the aircraft must be satisfied before the aircraft takes off that the aircraft is in every way fit for the intended flight.

4. The aircraft may fly only within the Bailiwick of Guernsey.

SCHEDULE 3

Section 21

**NATIONALITY AND REGISTRATION MARKS OF
AIRCRAFT REGISTERED IN GUERNSEY****General**

1. (1) The nationality mark of the aircraft is the Arabic numeral '2'.
- (2) The registration mark is that prescribed by section 2 of the Air Navigation Law.
- (3) The letters and numerals must be without ornamentation.
- (4) A hyphen must be placed between the nationality mark and the registration mark.
- (5) The nationality and registration marks must be displayed to the best advantage, taking into consideration the constructional features of the aircraft and must always be kept clean and visible.
- (6) The letters and numerals constituting each group of marks must –
 - (a) be of equal height, and
 - (b) together with the hyphen, all be of the same single colour which must clearly contrast with the background on which they appear.

(7) The nationality and registration marks must also be inscribed on a fire-proof metal plate affixed in a prominent position –

- (a) in the case of a microlight aeroplane, either on the fuselage or car or on the wing,
- (b) in the case of a balloon, on the basket or envelope, or
- (c) in the case of any other aircraft, on the fuselage or car.

(8) The nationality and registration marks must be painted on the aircraft, or affixed to the aircraft by any other means ensuring a similar degree of permanence, in the manner specified in paragraphs 2, 3 and 4 of this Schedule.

Position and size of marks – heavier than air aircraft.

2. (1) The position and size of marks on heavier than air aircraft (excluding kites) must be as specified in this paragraph.

- (2) On such aircraft having a fixed wing surface -
 - (a) the marks must appear on the lower horizontal surface of the wing structure and on the port wing unless they extend across the whole surface of both wings,
 - (b) so far as is possible the marks must be located equidistant from the leading and trailing edges of the wings,

- (c) the tops of the letters and numerals must be towards the leading edge of the wing,
 - (d) the height of the letters and numerals must be –
 - (i) subject to sub-paragraph (ii), at least 50 centimetres,
 - (ii) if the wings are not large enough for the marks to be 50 centimetres in height, marks of the greatest height practicable in the circumstances.
- (3) On the fuselage (or equivalent structure) and vertical tail surfaces of such aircraft –
- (a) the marks must also appear either –
 - (i) on each side of the fuselage (or equivalent structure), and must, in the case of fixed wing aircraft be located between the wings and the horizontal tail surface, or
 - (ii) on the vertical tail surfaces,
 - (b) when located on a single vertical tail surface, the marks must appear on both sides,
 - (c) when located on multi-vertical tail surfaces, the marks must appear on the outboard sides of the outer-surfaces,

- (d) subject to sub-paragraphs (f) and (g), the height of the letters and numerals constituting each group of marks must be at least 30 centimetres,
- (e) if one of the surfaces authorised for displaying the required marks is large enough for those marks to be 30 centimetres in height (whilst complying with sub-paragraph (g)) and the other is not, marks of 30 centimetres in height must be placed on the largest authorised surface,
- (f) if neither authorised surface is large enough for marks of 30 centimetres in height (whilst complying with sub-paragraph (g)), marks of the greatest height practicable in the circumstances must be displayed on the larger of the two authorised surfaces,
- (g) marks on the vertical tail surfaces must be such as to leave a margin of at least five centimetres along each side of the vertical tail surface.

(4) On rotary wing aircraft where owing to the structure of the aircraft the greatest height practicable for the marks on the side of the fuselage (or equivalent structure) is less than 30 centimetres –

- (a) the marks must also appear on the lower surface of the fuselage as close to the line of symmetry as practicable,

- (b) they must be placed with the tops of the letters towards the nose,
- (c) the height of the letters and numerals constituting each group of marks must be –
 - (i) subject to sub-paragraph (ii), at least 50 centimetres, or
 - (ii) if the lower surface of the fuselage is not large enough for the marks to be of 50 centimetres in height, marks of the greatest height practicable in the circumstances.

(5) Wherever in this paragraph marks of the greatest height practicable in the circumstances are required, that height must be such as is consistent with compliance with paragraph 3 of this Schedule.

Width, spacing and thickness of marks.

3. (1) For the purposes of this paragraph –
- (a) "**standard letter**" means any letter other than the letters I, M and W,
 - (b) the width of each standard letter and the length of the hyphen between the nationality mark and the registration mark must be two thirds of the height of a letter,

- (c) the width of the letters M and W must be neither less than two thirds of their height nor more than their height, and
- (d) the width of the letter I must be one sixth of the height of the letter.

(2) The thickness of the lines comprising each letter, numeral and hyphen must be one sixth of the height of the letters and numerals forming the marks.

(3) Each letter, numeral and hyphen must be separated from the letter, numeral or hyphen which it immediately precedes or follows by a space equal to either one quarter or one half of the width of a standard letter.

(4) Each such space must be equal to every other such space within the marks.

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