

Island of



Guernsey

## Ordinance of the States

**XI**  
**2014**

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Made ..... 22nd January, 2014  
Coming into Operation ..... 23rd January, 2014  
Laid before the States ..... 26th March, 2014

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### **Aviation Registry (Guernsey) (Amendment) Ordinance, 2014**



## **The Aviation Registry (Guernsey) (Amendment) Ordinance, 2014**

**THE STATES LEGISLATION SELECT COMMITTEE**, in pursuance of the Resolutions of the States of the 30<sup>th</sup> September, 2011<sup>a</sup> and the 1<sup>st</sup> November, 2012<sup>b</sup>, and in exercise of the powers conferred on the States by section 52 of the Aviation Registry (Guernsey) Law, 2013<sup>c</sup> and all other powers enabling them in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>d</sup>, hereby orders:-

### **Amendment of 2013 Law.**

1. The Aviation Registry (Guernsey) Law, 2013 is amended as follows.
  
2. In the Arrangement of Sections, immediately after the entry in relation to section 35 ("Priority of charges and debts."), insert –  
  
"35A. Powers on default."
  
3. In section 31(3)(b), for the words "or assigned", substitute ", assigned or otherwise transferred".
  
4. Immediately after section 35, insert the following section –

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<sup>a</sup> Article XVI of Billet d'État No. XV of 2011.

<sup>b</sup> Article V of Billet d'État No. XXI of 2012.

<sup>c</sup> Order in Council No. XIII of 2013.

<sup>d</sup> Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

**"Powers on default.**

35A. (1) The provisions of this section, with such variations as may have been agreed by the chargor and the chargee, shall regulate the rights and powers of the parties under a registered charge over a registered aircraft asset.

(2) Where –

- (a) the chargor or the registered owner is in default within the meaning of subsection (3), and
- (b) the chargor and the chargee have at any time so agreed,

the chargee may exercise such of the rights conferred upon him by the following provisions of this section as he considers appropriate, and any such right shall be in addition to, and not in derogation from, any other remedy whether arising from the registered charge or any other agreement between the parties or otherwise.

(3) The chargor or the registered owner shall be in default if –

- (a) the chargee has required the discharge or performance of any debt, obligation or liability to which the registered charge relates and the chargor fails to meet that requirement,

- (b) the chargor or the registered owner has failed to comply with any other term or condition of the registered charge, or
- (c) any other event or circumstance specified by agreement between the chargor and the chargee to constitute a default or otherwise give rise to the rights and remedies specified in this section has occurred or arisen.

(4) Where the chargor or the registered owner is in default within the meaning of subsection (3), the chargee may take possession of the registered aircraft asset subject to the charge.

(5) The power of taking possession conferred by subsection (4) in respect of a registered aircraft asset which is an aircraft extends to any aircraft documents carried in it, and any such documents may, if the registered aircraft asset is sold or made subject of a lease under this section, be transferred by the chargee to the purchaser or the lessee, as the case may be; and for the purposes of this subsection "**aircraft documents**" means any certificate of registration, maintenance or airworthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document.

(6) Where a chargee has taken possession of a registered aircraft asset, the chargee may –

- (a) manage or use the asset,

- (b) collect or receive any income or profit arising from the management or use of the asset,
- (c) pay insurance premiums and expenses of such management or use,
- (d) effect repairs and make replacements of parts, and
- (e) recover all expenses, payments and disbursements incurred by him in relation to the exercise of these powers as sums due under his registered charge with interest thereon at the rate stipulated therein from the respective dates of payment or disbursement.

(7) Where the chargor or the registered owner is in default within the meaning of subsection (3), the chargee may sell or grant a lease over the registered aircraft asset subject to the registered charge in accordance with the following provisions of this subsection –

- (a) the registered chargee who intends to sell or grant a lease over the registered aircraft asset shall give not less than 60 days notice in writing of that intention to the chargor, the registered owner and every other person holding a prior registered charge over the registered aircraft asset, but the said period of notice may be dispensed with or shortened

with the consent of all the persons to whom notice is required to be given,

- (b) on the expiry of, or the dispensing with, the period of notice, or, as the case may be, of the shortened period of notice, the chargee may sell or grant a lease over the registered aircraft asset with the consent in writing of every other prior chargee holding a registered charge over the registered aircraft asset, and
- (c) in the event of any prior chargee who holds a registered charge over the registered aircraft asset withholding his consent, the chargee who has served the notice may apply to the Royal Court for permission to sell or grant a lease over the registered aircraft asset; any such application shall be served upon any chargee who has withheld his consent and may be granted by the Court, subject to such conditions as it thinks reasonable in all the circumstances.

(8) Upon a sale or grant of a lease under this section, the chargee must take all reasonable steps to ensure that the sale or lease is made at the best price reasonably obtainable at the time of sale or lease having regard to his own interests and the method of sale adopted.

(9) Moneys received by a chargee –

- (a) from the sale of or grant of a lease over, or
- (b) in accordance with subsection (6)(b) in relation to,

the registered aircraft asset shall, after payment of all expenses properly incurred by him in connection with any sale or grant of a lease, or any prior attempted sale or grant of a lease of the registered aircraft asset, be held by him in trust to be applied in accordance with the provisions of section 35, and any residue of the moneys so received shall be paid to the registered owner or to any person authorised by the chargor to give receipts therefor.

(10) If a registered charge provides that a power of sale, grant of a lease or power to act in accordance with subsection (6) shall be exercised only on the authority of an order of the Court, then the Court, on the application of the chargee –

- (a) shall grant such an order upon being satisfied that a power of sale, power to grant a lease or power to act in accordance with subsection (6) has arisen and has become enforceable under this Law, but
- (b) subject to subsection (8), may grant the order either unconditionally or on such conditions as the Court thinks fit, and
- (c) may order the chargor to do such acts and things as to the Court seem requisite for the effective execution of the power of sale, power to grant a lease or power to act in accordance with subsection (6)."

5. In section 37, after "and the charge shall" insert ", subject to the provisions of section 35,".

**Amendment of 1636 Ordinance.**

6. In the Ordinance concerning "Hypothèques etc" passed at the Chief Pleas after Easter 1636<sup>e</sup> after the words "la loi intitulée "the Security Interests (Guernsey) Law, 1992"" insert "ou dans un meuble anglicé "a registered aircraft asset" selon les provisions de la loi intitulée "the Aviation Registry (Guernsey) Law, 2013"".

**Citation.**

7. This Ordinance may be cited as the Aviation Registry (Guernsey) (Amendment) Ordinance, 2014.

**Commencement.**

8. This Ordinance shall come into force on the 23<sup>rd</sup> January, 2014.

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<sup>e</sup> Recueil d'Ordonnances, Tome I, p. 174.





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