

Irish Aviation Authority Implements New 'Notification of Charge' System in Ireland

What is the new system and when was it created?

The Irish Aviation Authority (the "IAA") has implemented a new system for the notification of mortgages, charges and liens over aircraft registered with the Irish Civil Register (the "Register").

The system went live on 8 April 2022 and will be applicable to certain aircraft that are registered in Ireland only.

What transactions are affected?

The original intention was for the new system to cover certain aircraft, depending on their category and weight, in particular those aircraft that are not covered by the 2001 Cape Town Convention and its Aircraft Equipment Protocol ("Cape Town").

Examples of the types of aviation assets not covered by Cape Town include:

- Aircraft certificated to transport less than eight persons (including crew), or transport goods weighing less than 6,050 lbs (2,750 kilograms).
- Helicopters certificated to transport less than five persons (including crew), or transport goods weighing less than 990 lbs (450 kilograms).

However, it is now understood that the IAA will extend the remit applicability to reach to larger commercial aircraft that are already covered by Cape Town.

What is the process?

In order to notify the IAA of a mortgage, charge or lien, the registered owner of the aircraft must complete a Form G17 and submit, along with the relevant fee, to the IAA. In addition to the charge being noted against the aircraft on the Register, the relevant lender named on the Form G17 may also obtain a deregistration power of attorney. It will be possible to file an irrevocable de-registration and export request authorisation ("IDERA") pursuant to Cape Town as well as a Form G17 with the IAA in respect of the same aircraft interest.

It should be noted that the filing of a Form G17 does not have any bearing on perfection of the security created by the underlying security document, nor is the name of the charge holder specifically referred to on the register; just the existence of a charge against the aircraft.

What is the benefit of the new system?

The new system provides lenders with a publicly noted power to deregister aircraft from the Register. It also puts creditors and the public on notice of the existence of security over an aircraft registered on the Register. The practical result of the system is the creation of a framework that assists lenders with the export of aircraft from Ireland in the event of a repossession.

Should a lender wish to repossess and deregister an aircraft from the Register under this new system, it should provide the IAA with a notice or certificate of default, in relation to the financing arrangements and security over the aircraft, and instruct the IAA to proceed with deregistration. There is no prescribed form for this instruction,

but it is likely that the IAA would also expect formal evidence of a court order in relation to the default, unlike to the protection provided to a lender by filing an IDERA where the IAA will act without a court order. However, like the IDERA a mortgagor who ensures that a Form G17 is filed with the IAA in relation to aircraft that are not covered by Cape Town, can control the deregistration process with the IAA and protect the residual value of the aircraft.

Where the debt being secured is repaid the charge notified to the IAA be can removed upon the charge holder filing the prescribed IAA discharge form.

Conclusion

This new notification process for charges over aircraft on the Register will provide lenders with comfort that they would otherwise not have been afforded by virtue of Cape Town for aircraft outside of Cape Town and will serve to enhance the protections afforded by Cape Town for larger aircraft

This new system highlights the attraction of Ireland as a jurisdiction for aircraft registration and strengthens Ireland's reputation as a global centre for leasing in the aviation industry. Coupled with Ireland's reputable legal regime and courts system, the new notification system is a welcomed development by the IAA.

How can Maples Group help?

The Maples Group's aviation legal services team would be happy to advise on the applicability of this new notification system to your transaction and can also assist with all documentation to be submitted including correspondence with the IAA and entitlement to register aircraft on the Register.

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