

*Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,657, 11 ta' Ottubru, 2016*  
*Taqsim C*

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## **Nru. 169**

11. 10. 2016

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

#### **HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Ligi mressaq mill-Onorevoli Chris Cardona, M.P., Ministru għall-Ekonomija, Investiment u Intraprizi Żgħar, f'isem il-Ministru għat-Turiżmu, u moqri għall-Ewwel darba fis-Seduta tal-10 ta' Ottubru, 2016.

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ABILL introduced by the Honourable Chris Cardona, M.P., Minister for the Economy, Investment and Small Business, on behalf of the Minister for Tourism, and read the First time at the Sitting of the 10th October, 2016.

**ATT biex jemenda l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru, Kap. 503, u liġijiet oħra li huma ancillari għal dak l-Att.**

**AN ACT to amend the Aircraft Registration Act, Cap. 503, and ancillary laws thereto.**

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RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

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RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



### **Abbozz ta' Liġi msejjah**

*ATT biex jemenda l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru, Kap. 503, u liġijiet oħra li huma anċillari għal dak l-Att.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, harget b'liġi dan li ġej:-

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 li jemenda l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru. Titolu fil-qosor.

(2) Kliem u frażijiet użati f'taqsimiet differenti ta' dan l-Att għandhom jingħataw l-istess tifsira kif mogħtija lilhom fl-Att prinċipali jew fil-Kodiċi jew fir-Regolamenti kif applikabbli skont il-każ.

### **TAQSIMA I**

Emendi għall-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru

**2.** (1) Id-dispożizzjonijiet ta' din it-Taqsima jemendaw l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru, u din it-Taqsima għandha tinqara u tinftiehem haġa waħda mal-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali". Emendi għall-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru. Kap. 503.

(2) Id-dispożizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għar-registrazzjoni ta' inġenji tal-ajru jista' jstabilixxi b'avviż fil-Gazzetta, u jistgħu jigu hekk stabbiliti dati differenti għal-dispożizzjonijiet differenti ta' din it-Taqsima.

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Emenda tal-Arranġament tal-Att tal-Att prinċipali.

3. Fl-Arranġament tal-Att tal-Att prinċipali, minnufih wara r-referenza għar-Raba' Skeda għandu jiżdied dan li ġej:

"Il-Hames Skeda Drittijiet għar-Registrazzjoni ta' Inġenji tal-Ajru u Drittijiet Ohra

Taqsimi I - Drittijiet għar-Registrazzjoni ta' Inġenji tal-Ajru

Taqsimi II - Drittijiet Ohra

Is-Sitt Skeda Reati u Sanzjonijiet Amministrattivi".

Emenda tal-artikolu 2 tal-Att prinċipali.

4. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tal-istess artikolu;

(b) fis-subartikolu (1) tiegħu, kif enumerat mill-ġdid:

(i) minnufih wara t-tifsira "ekwipaġġ" għandha tiżdied it-tifsira ġdida li ġejja:

" "ftehim ta' garanzija" tfisser ftehim li permezz tiegħu debitur jagħti jew jaqbel li jagħti lil kreditur interess (inkluż interess ta' sjieda jew *mortgage*) f'ingenu tal-ajru jew fuqu sabiex jiġi żgurat it-tweqqif ta' kwalunkwe obbligu eżistenti jew futur tad-debitur jew ta' terza persuna;"

(ii) fit-tifsira "inġenji tal-ajru" minflok il-kliem "b'regolamenti iżda, li ma jkunux inġenji tal-ajru użati fis-servizzi militari, tad-dwana jew tal-pulizija ta' xi Stat" għandhom jidhru l-kliem "b'regolamenti, inklużi oqfsa ta' inġenji tal-ajru b'magni ta' inġenji tal-ajru installati fuqhom, iżda, li ma jkunux inġenji tal-ajru użati fis-servizzi militari, tad-dwana jew tal-pulizija ta' xi Stat";

(iii) minnufih wara t-tifsira "il-Ligi ta' Implimentazzjoni" għandha tiżdied it-tifsira ġdida li ġejja:

" "magni ta' inġenji tal-ajru" tfisser magni ta' inġenji tal-ajru (minbarra dawk użati minn servizzi militari, tad-dwana jew tal-pulizija) li jaħdmu bil-propulsjoni ta' ġett jew b'teknoloġija ta' turbina jew pistun u flimkien mal-moduli kollha u aċċessorji, partijiet u tagħmir installati, inkorporati jew imwaħħla u kull dejta, manwali u rekords

relatati magħhom mingħajr preġudizzju għal kwalunkwe limitu minimu li jista' jkun applikabbli għall-finijiet ta' partijiet oħrajn ta' dan l-Att;"

(iv) minnufih wara t-tifsira "operatur" għandha tizzied it-tifsira ġdida li ġejja:

" "oqfsa ta' inġenji tal-ajru" tfisser oqfsa ta' inġenji tal-ajru (minbarra dawk użati minn servizzi militari, tad-dwana jew tal-pulizija) li, meta jiġu installati fuqhom magni ta' inġenji tal-ajru adattati, jingħataw ċertifikazzjoni tat-tip mill-awtorità tal-avjazzjoni kompetenti biex jittrasportaw persuni jew merkanzija, flimkien mal-moduli kollha u aċċessorji, partijiet u tagħmir installati, inkorporati jew imwahnha u kull dejta, manwali u rekords relatati magħhom mingħajr preġudizzju għal kwalunkwe limitu minimu li jista' jkun applikabbli għall-finijiet ta' partijiet oħrajn ta' dan l-Att;" u

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem "Meta kliem użat f'dan l-Att hu mfisser fl-Ewwel Skeda, dik it-tifsira għandha wkoll tapplika fl-interpretazzjoni tad-dispożizzjonijiet ta' dan l-Att." għandhom jidhlu l-kliem "Meta kliem użat f'dan l-Att jiġi mfisser fl-Ewwel Skeda, dan għandu japplika wkoll, kif imfisser, għall-interpretazzjoni tad-dispożizzjonijiet ta' dan l-Att, hlief jekk jiġi mfisser b'mod differenti jew jekk il-kuntest ikun jeħtieġ mod ieħor."

5. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 3 tal-Att prinċipali.

(a) fis-subartikolu (4) tiegħu, il-kliem "b'dak il-mod li jkun jirrifletti l-interessi tas-sjieda fl-inġenji tal-ajru" għandu jithassar, u

(b) is-subartikolu (5) tiegħu għandu jithassar.

6. Is-subartikolu (2) tal-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 4 tal-Att prinċipali.

(a) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu, minflok il-kliem "maħsuba li jintużaw fuq l-inġenji tal-ajru;" għandhom jidhlu l-kliem "maħsuba li jintużaw fuq l-inġenji tal-ajru u, meta l-magni jew il-magni ta' sostituzzjoni ma jkunux jappartjenu lir-registrant, l-istess dettalji għandhom jiġu rreġistrati fir-Registru Nazzjonali tal-Inġenji tal-Ajru bil-kunsens tas-sid tal-imsemmija magni jew magni ta'

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sostituzzjoni;"

(b) is-subparagrafi (iv), (v) u (v) tal-paragrafu (a) tiegħu għabdom jiġu enumerati mill-ġdid bħala s-subparagrafi (v), (vi) u (vii) rispettivament;

(ċ) minnufih wara s-subparagrafu (iii) tal-paragrafu (a) tiegħu, għandu jżied is-subparagrafu ġdid li ġej:

"(iv) id-drittijiet ta' sjieda fl-ingenji tal-ajru jew magna inkluż meta:

1. ikunu miżmuma minn *trustee*, għal interess individwali jew aktar;
2. ikunu miżmuma minn sid wiehed jew aktar;
3. ikunu maqsuma f'ishma frazzjonali jew mod ieħor; jew
4. ikunu miżmuma taħt ftehim bir-rizerva tad-drittijiet ta' sjieda jew taħt kundizzjonijiet li jaffettwaw it-titolu skont l-artikolu 31.

L-informazzjoni u d-dokumenti li għandhom jiġu pprovduti lid-Direttur Ġenerali relatati mal-elementi msemmija hawn fuq jistgħu jiġu preskritti minn żmien għal żmien;"

(d) fil-paragrafu (b) tiegħu, minflok il-kliem "jekk jintalab li jagħmel dan mir-registrant jew minn xi persuna oħra li, bil-kunsens tar-registrant, turi" għandhom jidhru l-kliem "jekk jintalab li jagħmel dan taħt il-liġi applikabbli jew jekk jintalab jagħmel dan mir-registrant jew minn xi persuna oħra li turi"; u

(e) is-subparagrafu (i) tal-paragrafu (b) tiegħu għandu jithassar, u s-subparagrafi (ii), (iii), (iv) u (v) għandhom jiġu enumerati mill-ġdid bħala s-subparagrafi (i), (ii), (iii) u (iv) rispettivament.

Emenda tal-  
artikolu 10 tal-  
Att prinċipali.

7. L-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "fl-artikolu 9 u d-data ta' hruġ ta' dak iċ-ċertifikat" għandhom jidhru l-kliem "fl-artikolu 9, l-isem u l-indirizz tar-registrant, l-

isem, l-indirizz u l-interessi ta' sjieda jew it-titolu tas-sid, jekk differenti, u d-data ta' hrug ta' dak iċ-ċertifikat";

(b) is-subartikolu (2) tiegħu għandu jithassar; u

(ċ) is-subartikoli (3) u (4) tiegħu għandhom jigu enumerati mill-gdid bhala s-subartikoli (2) u (3) rispettivament.

**8.** Fil-paragrafu (d) tas-subartikolu (1) tal-artikolu 11 tal-Att prinċipali, minflok il-kliem "*mortgage* registrat jew xi garanzija reali oħra" għandhom jidhlu l-kliem "*mortgage* registrat, garanzija internazzjonali jew garanzija reali oħra".

Emenda tal-artikolu 11 tal-Att prinċipali.

**9.** L-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 13 tal-Att prinċipali.

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minnufih wara l-kliem "bl-operat tal-liġi" għandhom jizdiedu l-kliem "jew b'azzjoni oħra min-naħa tar-registrant, is-sid tal-inġenju tal-ajru jew l-awtorità li tamministra r-registrazzjoni precedenti";

(b) fil-proviso għall-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem "*mortgagee* registrat jew detentur ta' garanzija reali" għandhom jidhlu l-kliem "*mortgagee* registrat jew id-detentur ta' garanzija internazzjonali jew garanzija reali";

(ċ) fil-paragrafu (ċ) tas-subartikolu (1) tiegħu, minflok il-kliem "ma jkunx baqa' persuna kwalifikata" għandhom jidhlu l-kliem "ma jkunx baqa' persuna kwalifikata, jew ma jkunx għadu intitolat biex jopera l-inġenji tal-ajru taħt it-titolu temporanju jew għal xi raġuni oħra";

(d) fit-tieni proviso għall-paragrafu (ċ) tas-subartikolu (1) tiegħu:

(i) minflok il-kliem "*mortgagee* registrat jew detentur ta' garanzija reali" għandhom jidhlu l-kliem "*mortgagee* registrat jew id-detentur ta' garanzija internazzjonali jew garanzija reali"; u

(ii) minflok il-kliem "sa dak iż-żmien li l-inġenji tal-ajru jiġi trasferit lil terza persuna, li ma tkunx persuna kwalifikata skont l-artikolu 6;" għandu jidhol dan li ġej:

"sa dak iż-żmien li:

(i) l-ingenji tal-ajru jkun gie ttrasferit lil terza persuna li ma tkunx persuna kkwalifikata skont l-artikolu 6, jew

(ii) id-detentur ta' garanzija internazzjonali javża lid-Direttur Ġenerali li r-registrazzjoni m'għadhiex meħtieġa biex tiproteġi l-interess tiegħu;"

(e) fis-subartikolu (2) tiegħu, minflok il-kliem "għandha tiġi milqugħa fil-każijiet kollha" għandhom jidhlu l-kliem "għandha tiġi milqugħa fil-każijiet kollha ħlief jekk id-detentur tal-awtorizzazzjoni irrevokabbli ta' diregistrazzjoni li tkun giet irregistrata fir-Registru Nazzjonali tal-Ingenji tal-Ajru jew fir-Registru Internazzjonali tkun ikklassifikata fil-prijorità wara kwalunkwe *mortgage* jew garanzija internazzjonali rregistrat fir-Registru Nazzjonali tal-Ingenji tal-Ajru jew fir-Registru Internazzjonali rispettivament, u f'dak il-każ għandhom japplikaw id-dispożizzjonijiet tas-subartikolu (4)";

(f) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem "*mortgage* li ma jkunx gie mehlu" għandu jidhol il-kliem "*mortgage* jew garanzija internazzjonali li ma jkunx gie mehlu"; u

(ii) minflok il-kliem "ħlief jekk il-*mortgagees* kollha ta'" għandhom jidhlu l-kliem "ħlief jekk id-detenturi kollha ta' *mortgages* registrati jew garanziji internazzjonali registrati fuq".

Sostituzzjoni tal-artikolu 17 tal-Att prinċipali.

**10.** L-artikolu 17 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"17. (1) Għandhom jiġu imposti għar-registrazzjoni ta' ingeni tal-ajru, jew ta' *mortgage* fuq ingeni tal-ajru u għal kwalunkwe skop ieħor li jista' jiġi stabbilit mill-Awtorità d-drittijiet stipulati fil-Ħames Skeda.

(2) Bla ħsara għad-dispożizzjonijiet tal-artikolu 56(2), il-Ministru jista', bi qbil mal-Ministru responsabbli għall-finanzi, jemenda, iżid ma', iwarja, jirrevoka jew jissostitwixxi permezz ta' regolamenti kwalunkwe skeda, inkluża l-Ħames Skeda, relatata ma' drittijiet jew sanzjonijiet li jistgħu jkunu applikabbli minn żmien għal żmien."

Emenda tal-artikolu 25 tal-Att prinċipali.

**11.** Minnufih wara s-subartikolu (2) tal-artikolu 25 tal-Att prinċipali, għandu jidher is-subartikolu ġdid li ġej:



"(3) F'din it-Taqsima IV, l-espressjoni "pretensjonijiet li għalihom ikun soġġett l-inġenji tal-ajru" jew "pretensjonijiet fuq inġenji tal-ajru" għandha tiġi interpretata li tirreferi għal djun jew obligazzjonijiet oħrajn iggarantiti b'*mortgages*, garanziji internazzjonali jew garanziji reali u pretendenzjonijiet li jgawdu minn privileġġ speċjali taht l-artikolu 42."

**12.** Fis-subartikolu (3) tal-artikolu 26 tal-Att prinċipali, minnufih wara l-kliem "dispożizzjonijiet tal-Ewwel Skeda," għandhom jizdiedu l-kliem "u minkejja d-dispożizzjonijiet tal-artikoli 566 sa 584 tal-Kodiċi Ċivili,".

Emenda tal-artikolu 26 tal-Att prinċipali.

**13.** Is-subartikolu (5) tal-artikolu 27 tal-Att prinċipali għandu jiġi ssostitwit b'dan li ġej:

Emenda tal-artikolu 27 tal-Att prinċipali.

"(5) Dan l-artikolu għandu japplika wkoll għal kwalunkwe garanzija internazzjonali u, jew għal kwalunkwe garanzija reali registrata fir-Registru Internazzjonali."

**14.** Minnufih wara l-artikolu 27 tal-Att prinċipali għandu jizdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Att prinċipali.

"Proċeduri ta' insolvenza fil-każ ta' kumpannija ta' inġenji tal-ajru.

27A. (1) Il-memorandum u l-artikoli ta' kumpannija, li ċ-ċentru ta' interessi prinċipali tagħha jkun f'Malta jew li tkun registrata f'Malta u li l-attiv uniku tagħha jkun inġenju tal-ajru jew magni ta' inġenji tal-ajru u assi relatati oħrajn (f'dan l-artikolu msejja "kumpannija ta' inġenju tal-ajru"), jista' jispeċifika li d-dritt li jintalbu xi proċeduri ta' insolvenza fir-rigward tal-kumpannija ta' inġenju tal-ajru għandu jiġi eżerċitat biss mid-detenturi ta' *mortgage*, garanzija internazzjonali jew garanzija reali, jew *trustees* jew aġenti għal dawk il-persuni (f'dan l-artikolu msejja "kredituri ppreferuti"), fuq dawk l-assi, individwalment jew b'mod kollettiv, inkluż bhala klassi jew klassijiet ta' kredituri, bl-eskluzjoni ta' kwalunkwe persuna oħra sakemm l-interess tal-persuni hekk indikati jibqa' fis-seħh.

(2) Meta, fil-każ ta' kumpannija ta' inġenju tal-ajru, l-inġenju tal-ajru jkun soġġett għal *mortgage* registrat, garanzija internazzjonali, garanzija reali jew pretendenzjonijiet oħrajn ta' inġenji tal-ajru, li jkollhom prijorità taht l-artikolu 25(1), u

(a) ikun japplika s-subartikolu (1);  
jew

(b) is-somom dovuti lill-kreditur  
jew kredituri preferuti relevanti taht dawk  
id-drittijiet ikunu jidhru *prima facie* li  
jaqbzu l-valur tal-inġenji tal-ajru,

il-qorti għandha, fuq talba b'rikors mill-kreditur  
jew kredituri preferuti kif imsemmi iktar 'il fuq:

(i) tissospendi kwalunkwe  
proċedura ta' insolvenza li tkun  
infetħet; u, jew

(ii) toqgħod lura milli  
toħroġ kwalunkwe ordni relatata ma'  
proċeduri ta' insolvenza,

sakemm il-qorti tkun sodisfatta li jezistu fondi  
zejda dovuti lill-kumpanija ta' inġenju tal-ajru  
minn kwalunkwe proċeduri ta' infurzar, li fir-  
rigward tagħhom jistgħu jsiru utilment ordnijiet  
relatati ma' proċeduri ta' insolvenza, inkluża  
ordni ta' stralċ.

(3) Fil-każ ikkontemplat fis-subartikolu  
(2), il-kreditur preferut li jagħmel talba taht l-  
imsemmi subartikolu għandu, malli jagħmel it-  
talba u f'dawk iż-żminijiet u bil-mod kif ordnat  
mill-qorti, ikun obligat li jipprovi lill-qorti l-  
informazzjoni kollha li jkollu għad-dispożizzjoni  
tiegħu li tkun relatata ma' kwalunkwe proċedura  
ta' infurzar li fiha jkun involut jew li jkun jaf  
biha b'mod ieħor, u f'każ li japplika l-paragrafu  
(b) tas-subartikolu (2), informazzjoni relatata  
mal-valur tal-inġenji tal-ajru u l-pretensjoni.  
F'dak il-każ il-qorti għandha tistenna l-eżitu ta'  
dawk il-proċeduri ta' infurzar, kemm jekk privati  
jew pubbliċi skont ma jkun il-każ, u wara  
għandha toħroġ dawk l-ordnijiet li jidhrilha li  
huma xierqa fiċ-ċirkostanzi, inkluża ċ-ċaħda  
sommarja ta' kwalunkwe rikors abbazi ta'  
nuqqas ta' attiv disponibbli biex tilqa'  
kwalunkwe pretensjonijiet minbarra dawk tal-  
kredituri preferuti.

Il-qorti m'għandhiex tindirizza jew tiftaħ mill-ġdid kwistjonijiet diġà solvuti, miftiehma bejn il-partijiet jew iddeterminati minn kwalunkwe qorti skont id-dispożizzjonijiet ta' dan l-Att, jew qorti barranija li jkollha ġurisdizzjoni, qabel ma jsiru dawk l-ordnijiet.

(4) Kwalunkwe persuna maħtura minn qorti f'Malta jew barra minn Malta fi kwalunkwe proċedura ta' insolvenza b'ebda mod m'għandha tinterferixxi mal-eżerċitar ta' rimedji tal-*mortgagee*, id-detentur ta' garanzija internazzjonali, garanzija reali jew pretensjonijiet oħrajn fuq inġenji tal-ajru u, sakemm ikollha xi setgħat taħt liġi applikabbli, għandha teżerċitahom b'appoġġ tar-rimedji ta' dawk il-kredituri taħt dan l-Att. Jekk xi inġenju tal-ajru jiġi taħt il-kontroll tagħha qabel xi kreditur li jkollu dritt li jieħu l-pussess ta' inġenju tal-ajru u, jew magna ta' inġenju tal-ajru, fl-eżerċitar tar-rimedji tagħha, allura dik il-persuna għandha tippreżerva l-inġenju tal-ajru u, jew magna ta' inġenju tal-ajru u żżommhom u l-valur tagħhom skont il-ftehim bejn il-kreditur u d-debitur u tgħaddi l-pussess tal-inġenju tal-ajru lill-persuna li tkun intitolata għal dan taħt id-dispożizzjonijiet ta' dan l-Att jew ta xi liġi oħra applikabbli.

(5) Jekk jirriżulta lill-qorti li:

(a) m'hemm ebda fondi żejda li jirriżultaw minn xi proċeduri ta' infurzar; jew

(b) ikunu seħħu proċeduri għall-klassifikazzjoni tal-kredituri, f'Malta jew barra minn Malta, fuq ir-rikavat mill-bejgħ tal-inġenju tal-ajru, li r-riżultat tagħhom ikun finali u vinkolanti għall-kredituri kollha, u ma jkun hemm ebda fondi żejda; u

(ċ) ma jkun hemm ebda negozju ieħor tal-kumpannija ta' inġenju tal-ajru li jkun jeħtieġ li jiġi stralċat,

hija m'għandhiex tordna l-istralċ tal-kumpannija ta' inġenju tal-ajru iżda minflok għandha tiddikjara l-kumpannija ta' inġenju tal-ajru bħala xolta u stralċata għar-raġunijiet imsemmija hawn fuq.

Il-qorti għandha tordna li l-kumpannija ta' inġenju tal-ajru tinqata' mir-registru minghajr proċeduri ulterjuri u dan għandu jsehh fi żmien tliet xhur mid-data tal-preżentata lir-Registatur tal-Kumpanniji ta' prova awtentikata tal-proċeduri ta' infurzar, inkluż il-bejgħ tal-inġenju tal-ajru jew l-gheluq tal-klassifikazzjoni tal-kredituri, liema prova għandha tiġi ppreżentata fir-Registru tal-Kumpanniji għal avviż pubbliku, flimkien ma' kopja ta' kwalunkwe digriet tal-qorti. F'dak il-każ, kwalunkwe drittijiet li jifdal tal-kumpannija ta' inġenju tal-ajru għandhom jgħaddu lill-azzjonisti tal-kumpannija *ipso jure*.

(6) Jekk jirrizulta li hemm fondi żejda dovuti lill-kumpannija wara proċeduri ta' infurzar kif imsemmi qabel fejn il-pretensjonijiet tal-kredituri preferuti jiġu indirizzati b'mod finali, il-qorti tista' tordna l-istralċ tal-kumpannija skont il-liġi applikabbli u li tinbeda l-proċedura ta' konkorsi taht is-Sub-Titolu III tat-Titolu VIII tal-Parti I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili fost il-kredituri li ma jkunux preferuti kif imsemmi hawn qabel.

Kap. 12.

(7) Jekk id-dritt li jintalab l-istralċ tal-kumpannija ta' inġenju tal-ajru ma jingħatax mill-istatut tal-memorandum u l-artikoli tal-kumpannija ta' inġenju tal-ajru lil xi waħda mill-persuni msemmija fis-subartikolu (1), u kwalunkwe membru tal-kumpannija ta' inġenju tal-ajru tippreżenta talba f'dan is-sens fuq il-baži li hemm raġunijiet li jkunu gravi biżżejjed biex jiġġustifikaw ix-xoljiment u l-istralċ tal-kumpannija ta' inġenju tal-ajru:

(a) ir-rikorrent għandu, malli jagħmel it-talba u f'dawk iż-żminijiet u bil-mod ordnat mill-qorti, ikun obbligat li jipprova lill-qorti l-informazzjoni kollha li għandu għad-dispożizzjoni tiegħu relatata ma' kwalunkwe pretensjoni fuq l-inġenji tal-ajru u, jew kwalunkwe proċedura ta' infurzar li tinvolvi lill-kumpannija ta' inġenju tal-ajru jew li jkun jaf biha b'mod ieħor; u

(b) il-qorti għandha tohroġ biss dawk l-ordnijiet li ma jfikkwalunkwe proċedura ta' infurzar mill-imsemmija kredituri taht id-dispożizzjonijiet ta' dan l-Att, hliet jekk ikun miftiehem mod ieħor bejn il-partijiet kollha; u

(c) jekk kreditur preferut iressaq provi li s-subartikolu (2)(b) japplika, il-qorti għandha taġixxi skont is-subartikolu (2).

(8) F'dan l-artikolu:

"kumpannija" għandha tinkludi kwalunkwe organizzazzjoni legali fi kwalunkwe forma, kemm jekk kostitwita taht il-ligijiet taht Malta jew ta' stat ieħor u għandha tinkludi wkoll *trust* li jkun qiegħed jigi amministrat minn *trustee* li jkollu assi relevanti;

"proċeduri ta' infurzar" għandhom jinkludu azzjonijiet minn kwalunkwe *mortgagee*, id-detentur ta' garanzija internazzjonali, garanzija reali u, jew dawk li jkollhom pretensjoni kontra inġenju tal-ajru, kemm jekk f'Malta jew barra minn Malta, taht l-artikoli 33, 33A, 33B u 33C ta' dan l-Att jew kwalunkwe proċedura ta' bejgħ b'irkant fil-qorti taht ligi applikabbli;

"proċeduri ta' insolvenza" tfisser proċeduri ta' falliment, likwidazzjoni, amministrazzjoni, stralċ, rikostruzzjoni ta' kumpannija, ikrupru ta' kumpannija jew proċeduri kollettivi gudizzjarji jew amministrattivi oħrajn, inkluzi proċeduri interim, li fihom l-assi u l-affarijiet tad-debitur ikunu soġġetti għal kontroll jew superviżjoni minn qorti, likwidatur, amministratur jew prattikant ta' insolvenza għall-finijiet ta' riorganizzazzjoni jew likwidazzjoni;

"assi relatati" għandha tinkludi kwalunkwe rikavat minn bejgħ jew kumpens minn assigurazzjoni jew rekwizzjoni, u l-proprjeta kollha msemmija fl-artikolu 25(2).

Kap. 386. (9) Sabiex jiġi evitat kwalunkwe dubju, id-dispożizzjonijiet tal-Att dwar il-Kumpanniji relatati ma' insolvenza m'għandhomx japplikaw inkwantu jkunu inkonsistenti ma' dan l-artikolu, mad-dispożizzjonijiet ta' dan l-Att u b'mod partikolari mal-Ewwel Skeda ta' dan l-Att.

(10) Xejn f'dan l-artikolu m'għandu jirrestringi jew jippreġudika d-dritt ta' kwalunkwe kreditur li jissottometti l-pretensjoni tiegħu lill-qorti, sabiex jiżgura li l-pretensjoni qiegħda tiġi kkunsidrata mill-qorti fiż-żmien xieraq, waqt li jitqiesu d-dispożizzjonijiet ta' dan l-artikolu."

Emenda tal-artikolu 30 tal-Att prinċipali.

**15.** Fis-subartikolu (6) tal-artikolu 30 tal-Att prinċipali, minflok il-kliem "ma jistax wara dan jirreġistra xi garanzija reali fir-Registru Nazzjonali tal-Inġenji tal-Ajru skont din it-Taqsima, sa meta l-avviż ta' inibizzjoni jiġi rtirat mill-kreditur" għandhom jidhlu l-kliem "ma jistax wara dan jirreġistra xi *mortgage* jew garanzija reali oħra fir-Registru Nazzjonali tal-Inġenji tal-Ajru skont din it-Taqsima, sa meta l-avviż ta' inibizzjoni jiġi rtirat mill-kreditur, jew hliet jekk il-kreditur li jgawdi l-benefiċċji tal-avviż ta' projbizzjoni jagħti kunsens bil-miktub bil-quddiem".

Emenda tal-artikolu 31 tal-Att prinċipali.

**16.** L-Artikolu 31 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tiegħu, minnufih wara l-kliem "reġistrazzjoni ta' *mortgage*" għandhom jiżdiedu l-kliem "jew fi kwalunkwe hin wara r-reġistrazzjoni ta' *mortgage* iżda biss bil-kunsens bil-miktub tal-*mortgage*"; u

(b) fis-subartikolu (5), minflok il-kliem "Ir-reġistrazzjoni ta' garanzija fuq piż jew ir-riżerva" għandhom jidhlu l-kliem "Ir-reġistrazzjoni ta' dak il-privileġġ speċjali, piż jew ir-riżerva".

Emenda tal-artikolu 33 tal-Att prinċipali.

**17.** L-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (4), (5), (6), (7) u (8) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5), (6), (7), (8) u (9) rispettivament; u

(b) minnufih wara s-subartikolu (3) tiegħu għandu jizdied is-subartikolu ġdid li ġej:

"(4) Il-*mortgagee* jista' inkella jagħmel rikors lill-qorti għal ordni li tawtorizza jew jordna kwalunkwe wiehed mill-atti msemmija fis-subartikolu (1) u jista' jagħmel rikors lill-qorti għall-bejgħ b'irkant fil-qorti tal-inġenju tal-ajru jew magna, u f'dan il-każ għandhom japplikaw is-subartikoli (5) sa (8).".

**18.** Minnufih wara l-artikolu 33 tal-Att prinċipali għandhom jizdiedu l-artikoli ġodda li ġejjin:

Zjieda ta' artikoli ġodda mal-Att prinċipali.

"Rimedji ulterjuri tal-*mortgagee*..

33A. (1) Kwalunkwe somma miġbura jew riċevuta mill-*mortgagee* bħala riżultat tal-eżerċitar ta' xi wiehed mir-rimedji stipulati fl-artikolu 33 u inklużi somom ta' rimbors ta' kwalunkwe spejjeż raġonevoli fl-eżerċitar ta' tali rimedji, għandha tiġi applikata mill-*mortgagee* lejn il-qadi tal-obbligi ggarantiti, sakemm jiġi sodisfatt kwalunkwe dritt preċedenti ta' kredituri taħt it-Taqsima V jew it-Taqsima VII.

(2) Hlief jekk il-qorti tordna mod ieħor, f'każ li jkun hemm fondi żejda wara l-eżerċizzju mwettaq mill-*mortgagee* taħt is-subartikolu (1) inklużi kwalunkwe spejjeż raġonevoli mgarrba għal dan il-għan, il-*mortgagee* għandu jhallas l-ammont żejjed skont kif ġej:

(a) lil kredituri bi drittijiet ta' klassifikazzjoni sussegwenti jew interessi li bihom ġie nnotifikat il-*mortgagee*, fl-ordni ta' prijorità skont il-liġi applikabbli; u

(b) wara, għandu jhallas kwalunkwe bilanċ rimanenti lill-*mortgagor*.

(3) F'każ ta' nuqqas ta' qbil dwar il-klassifikazzjoni bejn il-*mortgagee* u, jew il-kredituri li jkollhom pretensjonijiet kontra l-ingenju tal-ajru jew magna, il-*mortgagee* jew kwalunkwe kreditur li jissodisfa l-qorti dwar il-pretensjoni tiegħu fuq l-ingenju tal-ajru jew magna, jew ir-rikavat minnhom, jista' jagħmel rikors biex il-qorti tistabbilixxi l-klassifikazzjoni fosthom, jew kredituri preferuti oħrajn li jistgħu jingħaqdu mal-proċeduri fi żmien perjodu stabbilit mill-qorti, għall-finijiet ta' dan l-artikolu. Persuni li ma jagħtux prova lill-qorti li għandhom pretensjoni preferuta ma jithallewx jipparteċipaw fil-proċeduri f'dan l-istadju.

(4) Il-qorti tista' tordna li tingħata garanzija suffiċjenti mill-*mortgagee* fuq ir-rikavat miżmum mill-*mortgagee*, iżda mhux aktar minn dak ir-rikavat, sakemm tittiehed deċiżjoni dwar ir-rikors imsemmi fis-subartikolu preċedenti.

(5) Dan l-artikolu ma japplikax għall-każ ta' ingenju tal-ajru li jinbiegħ b'bejgħ f'irkant fil-qorti jew bejgħ privat awtorizzat mill-qorti mal-infurzar ta' *mortgage*, garanzija internazzjonali jew garanzija reali, iżda jista' jiġi applikat bil-kunsens tal-qorti jekk (a) il-partijiet kollha involuti fil-proċeduri jkunu qablu li japplikawh jew (b) il-*mortgagee* jakkwista l-ingenju tal-ajru fil-bejgħ f'irkant fil-qorti bi tpaċija, totalment jew parzjalment, tal-pretensjonijiet tiegħu.

(6) Fit-twettiq tal-funzjonijiet tiegħu taħt dan l-artikolu l-*mortgagee* għandu, fir-rigward ta' fondi miżmuma minnu, ikun soġġett għal dmirijiet fiduċjarji favur kredituri oħrajn li jipparteċipaw fil-proċess u dan sakemm l-allokazzjoni tal-fondi tkun giet miftiehma jew iddeterminata b'mod finali mill-qorti, jew jekk ir-rikavat li ma jkunx allokati għall-pretensjoni tiegħu jkun iddepożitat taħt l-awtorità tal-qorti jew persuna oħra li dwarha jaqblu l-partijiet.

Jeddijiet fl-  
ingenju tal-ajru  
inkwistjoni bi  
tpaċija.

33B. (1) Dan l-artikolu japplika fi kwalunkwe żmien wara li tkun seħhet inadempjenza u tkun ingħatat notifika bil-miktub dwar dan lid-debitur.



(2) Il-*mortgagee*, kredituri preferuti oħrajn u l-*mortgagor* jistgħu jaqblu li l-*mortgagee* għandu jkollu s-sjieda ta' (jew kwalunkwe interess ieħor tal-*mortgagor*, inklużi kwalunkwe drittijiet ta' sid il-kera) inġenju tal-ajru kopert mill-*mortgage* bi tpaċija tal-obbligi ggarantiti.

(3) Irrispettivament minn kwalunkwe ftehim taħt is-subartikolu preċedenti, il-qorti tista', fuq rikors mill-*mortgagee*, tordna li l-*mortgagee* għandu jkollu s-sjieda (jew kwalunkwe interess ieħor tal-*mortgagor*) ta' kwalunkwe inġenju tal-ajru kopert mill-*mortgage* bi tpaċija tal-obbligi ggarantiti.

(4) Il-qorti għandha tilqa' rikors taħt is-subartikolu preċedenti biss jekk l-ammont tal-obbligi ggarantiti, wara li jitqies kwalunkwe hlas li għandu jsir mill-*mortgagee* lil kwalunkwe wieħed mill-kredituri preferuti, li jkollu jiġi ssodisfat b'dak l-għoti ta' jedd ikun aktar mill-valur tal-inġenju tal-ajru.

(5) Fi kwalunkwe mument qabel il-bejgħ tal-inġenji tal-ajru soġġetti għal *mortgage* jew qabel ma ssir ordni taħt is-subartikolu (3), il-*mortgagor* jew kwalunkwe persuna interessata tista' teħles il-*mortgage* billi thallas bis-sħiħ l-ammont iggarantit, u kwalunkwe ammont imħallas mill-*mortgagee* lil xi wieħed mill-kredituri preferuti, soġġett għal kwalunkwe kirja mogħtija mill-*mortgage* skont is-setgħat tiegħu taħt l-artikolu 33(1)(d).

(6) Meta, wara dik l-inadempjenza, il-hlas tal-ammont iggarantit, u kwalunkwe ammont imħallas mill-*mortgagee* lil xi wieħed mill-kredituri preferuti, isir bis-sħiħ minn persuna interessata minbarra d-debitur, dik il-persuna tiġi surrogata fid-drittijiet tal-*mortgagee*.

(7) s-sjieda jew kwalunkwe interess ieħor tal-*mortgagor* li jgħaddu b'bejgħ lil terza persuna taħt l-artikolu 33(1)(b) jew li jgħaddu lill-*mortgagee* taħt is-subartikolu (2) jew (3) ta' dan l-artikolu għandhom ikunu ħielsa minn kwalunkwe interess ieħor li fuqu l-I ikollu prijorità taħt id-dispożizzjonijiet ta' dan l-Att.

(8) Il-*mortgagee* jista' jinnomina entità sussidjarja bi sjieda sħiha jew entità kkontrollata li lilha tista' tghaddi s-sjieda tal-ingenju tal-ajru (jew kwalunkwe interess ieħor tal-*mortgagor*) għall-finijiet ta' dan l-artikolu.

Kap. 12.

(9) Id-dispożizzjonijiet tal-artikoli 358 sa 364 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għal kwalunkwe rikors lill-qorti taht is-subartikolu (3), *mutatis mutandis*.

Tifsira ta' inadempjenza.

33Ċ. (1) Il-*mortgagor* jew il-*mortgagee* jistgħu fi kwalunkwe ħin jaqblu bil-miktub dwar l-avvenimenti li jikkostitwixxu inadempjenza jew li mod ieħor jagħtu lok għad-drittijiet u r-rimedji speċifikati fl-artikoli 33 sa 33B u dispożizzjonijiet oħrajn ta' dan l-Att.

(2) Meta l-*mortgagor* u l-*mortgagee* ma jkunux qablu hekk, "inadempjenza" għall-finijiet ta' dan l-Att tfisser:

(a) it-twetliq ta' kundizzjoni li l-*mortgagor* u l-*mortgagee* jkunu espressament fteħmu illi ġgħib ix-xoljiment tal-fteħim jew in-nuqqas ta' parti illi tesegwixxi l-obbligi tagħha; jew

Kap 16.

(b) bidla fil-qagħda finanzjarja tal-*mortgagor* skont id-dispożizzjonijiet tal-artikolu 1079 tal-Kodiċi Ċivili; jew

(ċ) inadempjenza li sostanzjalment iċċaħħad lill-*mortgagee* minn dak li huwa intitolat li jippretendi taht il-fteħim bejn il-*mortgagor* u l-*mortgagee*.

(3) Meta tkun seħħet inadempjenza u tkun ingħatat notifika dwar dan lill-*mortgagor* u kwalunkwe garanti, skont dan l-Att jew il-fteħim bejn il-partijiet, dik in-notifika għandha tkun valida u vinkolanti u kwalunkwe effett skont il-liġi u taht kwalunkwe fteħim bejn il-partijiet għandu jidhol fis-seħħ mingħajr il-htieġa ta' deċiżjoni minn xi qorti dwar jekk seħħitx inadempjenza jew le, dwar jekk il-benefiċċju taż-żmien intilifx u dwar jekk hemmx xi drittijiet li huma infurzabbli immedjatement jew le.

(4) Meta *mortgagee* jeżerċita d-drittijiet tiegħu fl-artikoli preċedenti, u fi kwalunkwe valutazzjoni għal dan il-għan, huwa għandu jeżerċita dawk id-drittijiet skont kwalunkwe ftehim bejn il-partijiet u fi kwalunkwe każ b'mod li jkun raġonevoli mill-aspett kummerċjali u *bona fide* sabiex jiġi żgurat trattament ġust għall-*mortgagor*".

19. Minnufih wara l-artikolu 37 tal-Att prinċipali għandhom jiżdiedu l-artikoli ġodda li ġejjin:

Żjieda ta' artikoli ġodda mal-Att prinċipali.

"Korrezzjoni ta' *mortgage*.

37A. (1) Korrezzjoni ta' indikazzjoni żbaljata jew ta' ommissjoni f'*mortgage* reġistrata, inluża *mortgage* li temenda, ta' xi waħda jew iżjed mill-partikolari speċifikati fis-subartikolu (2) tista' ssir mid-Direttur Ġenerali permezz ta' inklużjoni korrettiva jew addizzjonali fir-Registru Nazzjonali tal-Inġenji tal-Ajru, wara illi jiġu prodotti d-dokumenti li ġejjin:

(a) dikjarazzjoni ffirmata mill-*mortgagee* li tindika l-*mortgage* relattiva u kif ukoll tindika l-korrezzjoni li għandha ssir; u

(b) dik l-evidenza addizzjonali illi d-Direttur Ġenerali jkun jeħtieġ.

(2) Il-korrezzjoni ta' indikazzjoni żbaljata jew iż-żjieda ta' ommissjoni kif imsemmi fis-subartikolu (1) tista' ssir b'referenza għall-partikolari li ġejjin:

(a) dettalji tal-inġenju tal-ajru jew magna tal-inġenju tal-ajru;

(b) id-data ta' xi ftehim jew dokument imsemmi fil-*mortgage*;

(c) l-isem u, jew l-indirizz ta' xi persuna jew organizzazzjoni imsemmija fil-*mortgage*; jew

(d) xi żball tipografiku ieħor fil-*mortgage*.

(3) Il-korrezzjoni ta' xi waħda mill-partikolari fuq imsemmija f'*mortgage* reġistrata jew iż-żjieda ta' xi ommissjoni m'għandhiex effett fuq il-validità jew priorità tal-*mortgage*, jew fuq id-drittijiet u setgħat tal-*mortgagee*.

C 880

Modifika tad-dettalji reġistrati li jirreferu għal *mortgage*..

37B. Id-dettalji reġistrati li jirreferu għal *mortgage* jistgħu jiġu modifikati fejn ikun hemm bidla fl-isem jew fl-indirizz tal-*mortgagor* jew tal-*mortgagee*, bħala riżultat ta' avvenimenti soċjetarji, inklużi riżoluzzjonijiet tal-azzjonisti jew diretturi, amalgamazzjonijiet, diviżjonijiet jew avvenimenti soċjetarji simili, Din għandha ssir permezz ta' nota sottomessa mill-*mortgagee* lid-Direttur Ġenerali flimkien ma' evidenza tal-bidla fl-isem jew fl-indirizz. Id-Direttur Ġenerali għandu jagħmel annotazzjoni fir-Reġistru Nazzjonali tal-Inġenji tal-Ajru li jkun jirrifletti tali modifika."

Emenda tal-artikolu 41 tal-Att prinċipali.

**20.** L-artikolu 41 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem "garanzija reali" għandhom jidhlu l-kliem "garanzija reali u, jew garanzija internazzjonali";

(ii) minflok il-kliem "Kodiċi ta' Organizzazzjoni u Proċedura Ċivili meta:" għandhom jidhlu l-kliem Kodiċi ta' Organizzazzjoni u Proċedura Ċivili."; u

(iii) il-paragrafi (a) u (b) tiegħu għandhom jiġu mħassra;

(b) is-subartikolu (7) tiegħu għandu jithassar; u

(ċ) is-subartikoli (8) u (9) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (7) u (8) rispettivament.

Żjieda ta' artikolu ġdid mal-Att prinċipali.

**21.** Minnufih wara l-artikolu 41 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Estensjoni ta' drittijiet taht il-Liġi Maltija.

41A. Meta l-liġi applikabbli għal bejgħ kundizzjonali jew ftehim ta' kiri tkun il-liġi Maltija u tiġi reġistrata garanzija reali f'dan ir-rigward skont l-Ewwel Skeda, għall-finijiet tal-liġi Maltija, is-sid u, jew il-lokatarju għandhom igawdu l-istatus u s-setgħat fir-rigward tal-inġenji tal-ajru relevanti kif previst skont l-artikolu 41(3) sa (6) minghajr ħsara għad-drittijiet tiegħu skont l-Ewwel Skeda."

22. Minnufih wara s-subartikolu (5) tal-artikolu 42 tal-Att prinċipali għandu jizdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 42 tal-Att prinċipali.

"(6) Id-dispożizzjonijiet preċedenti għandhom japplikaw għal magni ta' inġenji tal-ajru *mutatis mutandis*."

23. L-artikolu 44 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 44 tal-Att prinċipali.

(a) fis-subartikolu (3) tiegħu, minflok il-kliem "tal-privileġġ relevanti." għandu jidhol dan li ġej:

"tal-privileġġ relevanti, u wara għandhom ikunu kklassifikati:

(a) drittijiet u interessi oħrajn li jkunu prevalenti u mhux konsenswali li jinholqu taht liġi barranija li ma jkollhomx prijorità taht il-Kapitolu X tal-Ewwel Skeda;

(b) kwalunkwe garanzija reali regolata minn liġi barranija u rikonoxxuta skont l-artikolu 41 li għandha tkun klassifikata wara l-pretensjonijiet imsemmija fl-artikoli preċedenti; u

(ċ) ipoteki generali u privileġġi, kemm jekk generali jew fuq mobbli partikolari, li għandhom ikunu kklassifikati wara d-djun imsemmija fl-artikoli preċedenti."; u

(b) il-paragrafi (ċ) u (d) tas-subartikolu (4) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(c) drittijiet imsemmija fis-subartikolu (3)(a) u (b) għandhom jikklassifikaw indaq bejniethom u għandhom jaqsmu f'dak il-fond *pro rata* sal-ammont tal-pretensjoni tagħhom u d-drittijiet imsemmija fis-subartikolu (3)(ċ) għandhom ikunu kklassifikati bejniethom skont id-dispożizzjonijiet tal-Kodiċi Ċivili."

24. L-artikolu 53 tal-Att prinċipali għandu jithassar.

Emenda tal-artikolu 53 tal-Att prinċipali.

25. L-artikolu 56 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 56 tal-Att prinċipali.

(a) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu;

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(b) il-paragrafi (n) u (o) tas-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jiġu sostitwiti b'dan li ġej:

"(n) it-tifsira ta' inġenji tal-ajru għall-finijiet ta' dan l-Att u għall-finijiet tal-applikabbiltà jew l-interpretazzjoni ta' kwalunkwe liġi oħra;

(o) ir-rekwiżiti għal registrazzjoni, il-kundizzjonijiet għat-thaddim u ġeneralment ir-regolamentazzjoni ta' inġenji tal-ajru meta jintużaw għal operazzjonijiet ta' żamma tal-paċi jew skopijiet umanitarji, ukoll jekk ikunu kkonfigurati bħala inġenji tal-ajru militari jew tal-istat;"

(ċ) minnufih wara s-subartikolu (o) tas-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(p) ir-registrazzjoni, it-thaddim jew kwalunkwe materja relatata ma' sistemi tal-ajru mingħajr bdot, vetturi tal-ajru mingħajr bdot, sistemi tal-ajru kkontrollati minn bdot mill-bogħod jew kwalunkwe sistema jew vettura simili; u

(q) kwalunkwe materja oħra li tista' tiġi regolata ulterjorment għall-implimentazzjoni aħjar tad-dispożizzjonijiet ta' dan l-Att."; u

(d) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Il-Ministru jista' jemenda b'regolamenti kwalunkwe waħda mid-dispożizzjonijiet tal-Iskedi ta' dan l-Att, minbarra d-dispożizzjonijiet tal-Ewwel Skeda."

**26.** Minnufih wara l-artikolu 60 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Att prinċipali.

"Sanzjonijiet amministrattivi.

61. (1) Minkejja kwalunkwe dispożizzjoni oħra ta' dan l-Att, ir-reati elenkati fl-Ewwel Kolonna tas-Sitt Skeda għandhom ikunu reati amministrattivi li jistgħu jiġu sanzjonati mill-Awtorità.

(2) L-impożizzjoni mill-Awtorità ta' sanzjoni amministrattiva skont dan l-artikolu għandha tkun mingħajr preġudizzju għal kwalunkwe konsegwenza oħra tal-att jew omissjoni tal-awtur tar-reat taħt il-liġi ċivili jew amministrattiva.

(3) L-Awtorità għandha tosserva l-garanziji ta' smiġħ xieraq u pubbliku meta tiddeċiedi jekk persuna hijiex haġja ta' reat amministrattiv skont dan l-artikolu.

(4) Meta l-Awtorità tkun sodisfatta li persuna wettqet reat kontra xi dispożizzjoni ta' dan l-Att elenkata fl-Ewwel Kolonna tas-Sitt Skeda ta' dan l-Att, l-Awtorità tista' -

(a) toħroġ twissija bil-miktub lil dik il-persuna; jew

(b) timponi sanzjoni amministrattiva kontra dik il-persuna sa ammont kif stabbilit fit-Tieni Kolonna tas-Sitt Skeda u soġġett għad-dispożizzjonijiet tal-paragrafu 1 tal-imsemmija Skeda:

Iżda jekk dik il-persuna tinsab haġja ta' aktar minn reat wiehed fl-istess akkuża, l-Awtorità għandha timponi biss il-ħlas tal-oghla sanzjoni attribwita lir-reat fl-istess akkuża skont kif elenkat fis-Sitt Skeda:

Iżda wkoll l-Awtorità tista' timponi wkoll sanzjoni sospiza li jkollha tithallas fi żmien il-perjodu li l-Awtorità tista' tistabbilixxi. L-Awtorità tista' wkoll tiddetermina dawk il-kundizzjonijiet, limitazzjonijiet u restrizzjonijiet kemm fir-rigward tas-sanzjoni kif ukoll tas-sanzjoni sospiza skont kif jidhrilha li huwa xieraq."

27. Minnufih wara l-Ħames Skeda li tinsab mal-Att prinċipali, għandhom jizdiedu l-iskedi godda li ġejjin:

*Żjieda ta' skedi godda mal-Att.*

"Il-Ħames Skeda

(Artikolu 17)

DRITTIJIET GĦAR-REĠISTRAZZJONI TA' INĠENJI  
TAL-AJRU U DRITTIJIET OĦRA

Taqsimi I

## Drittijiet ta' Registrazzjoni ta' Inġenji tal-Ajru

1. L-imposti li ġejjin għandhom jithallsu lid-Direttur Ġenerali għall-ħruġ ta' Ċertifikat ta' Registrazzjoni fir-rigward ta' inġenju tal-ajru:

Inġenji tal-ajru li fir-rigward tagħhom issir applikazzjoni:	Imposta Pagabbli
Ajruplani li jkollhom piż vojta ta' mhux iktar minn 150kg, erja tal-ġewnaħ ta' mhux inqas minn 10 metri kwadrati, u tagħbija tal-ġewnaħ ta' mhux aktar minn 10kg għal kull metru kwadrat b'piż vojta u li jkunu ddisinnjati li jgħorru mhux aktar minn 2 persuni .....	€60
Kwalunkwe inġenji tal-ajru oħrajn li l-massa massima tagħhom mat-tluġh:	
ma tkunx aktar minn 750 kg .....	€80
taqbeż 750 kg iżda mhux 2730 kg .....	€150
taqbeż 2730 kg iżda mhux 5700 kg .....	€220
taqbeż 5700 kg iżda mhux 15-il tunnellata ....	€300
taqbeż 15-il tunnellata iżda mhux 50 tunnellata	€450
taqbeż 50 tunnellata .....	€750

2. Malli ssir applikazzjoni għal Ċertifikat ta' Registrazzjoni rivedut, għandhom japplikaw l-imposti li ġejjin:

- (i) jekk minhabba f'bidla fl-indirizz, jew dettalji tekniċi oħra, dritt ta' €50;
- (ii) jekk minhabba f'bidla fis-sjieda legali tal-inġenju tal-ajru, piż li jkun daqs 50% tad-dritt li jkollu jithallas għall-ħruġ ta' Ċertifikat inizjali;
- (iii) jekk għal sostituzzjoni ta' Ċertifikat ta' registrazzjoni jew de-registrazzjoni ta' inġenju tal-ajru, is-sid registrat tal-inġenju tal-ajru għandu jhallas €50.

## Taqsimi II

## Drittijiet Oħra

3. Malli ssir applikazzjoni għar-rizerva ta' *customised out of sequence registration mark* dritt ta' €250, flimkien mad-dritt ta' registrazzjoni, għandu jithallas lid-Direttur Ġenerali.
4. Malli ssir registrazzjoni ta' *Irrevocable De-registration and Export Request Authorisation (I.D.E.R.A.)* dritt ta' €100 għandu jithallas lid-Direttur Ġenerali.
5. Malli ssir registrazzjoni ta' *mortgage* skont id-dispożizzjonijiet tal-Att, dritt ta' €500 għandu jithallas lid-Direttur Ġenerali.



6. Malli ssir registrazzjoni ta' emenda ta' *mortgage* skont id-dispożizzjonijiet tal-Att, dritt ta' €250 għandu jithallas lid-Direttur Ġenerali.

Is-Sitt Skeda

(Artikolu 61)

#### SANZJONIJIET AMMINISTRATTIVI

L-Ewwel Kolonna	It-Tieni Kolonna
Dispożizzjoni	Penali
	€
Artikolu 11(1)(a)	2,000
Artikolu 11(1)(b)	2,000
Artikolu 11(1)(ċ)	2,000
Artikolu 11(1)(d)	2,000
Artikolu 13(1)(ċ)	5,000
Artikolu 13(1)(g)	5,000
Artikolu 13(1)(h)	5,000
Artikolu 16(1)	5,000
Artikolu 16(2)(a)	5,000
Artikolu 16(2)(b)	5,000
Artikolu 20(3)	2,500
Artikolu 20(4)	2,500

".

#### TAQSIMA II

Emendi għall-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili

**28.** (1) Id-dispożizzjonijiet ta' din it-Taqsima jemendaw il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u din it-Taqsima għandha tinqara u tinftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".

Emendi għall-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

(2) Id-dispożizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għall-Ġustizzja, flimkien mal-Ministru responsabbli għar-registrazzjoni ta' ingeni tal-ajru, jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' din it-Taqsima.

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Emenda tal-artikolu 328 tal-Kodiċi.

**29.** Fl-artikolu 328 tal-Kodiċi, minnufih wara l-kliem "jew ta' bastimenti," għandhom jidhlu l-kliem "jew ta' inġenji tal-ajru,".

Emenda tal-artikolu 742E tal-Kodiċi.

**30.** Fil-paragrafu (ċ) tas-subartikolu (1) tal-artikolu 742E tal-Kodiċi, minflok il-kliem "garanzija internazzjonali ekwivalenti" għandhom jidhlu l-kliem "garanzija internazzjonali registrata skont l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru".

Żjieda ta' artikoli godda mal-Kodiċi.

**31.** Minnufih wara l-artikolu 742F tal-Kodiċi, għandhom jiżdiedu l-artikoli godda li ġejjin:

"Jurisdiction *in rem* against aircraft engines.

742G. Hlief kif previst mod ieħor mil-liġi, il-qrati ċivili ta' Malta għandu jkollhom ġurisdizzjoni *in rem* fuq magna ta' inġenji tal-ajru fil-pretensjonijiet li ġejjin:

(a) kwalunkwe pretensjoni għas-sjieda, jew titolu għal jew ta' magna ta' inġenju tal-ajru, jew għas-sjieda ta' xi sehem fiha;

(b) kwalunkwe pretensjoni għal pussess tal-magna ta' inġenju tal-ajru;

(ċ) kwalunkwe pretensjoni fir-rigward ta' garanzija internazzjonali f'magna li fiha tkun registrata jew rikonoxxuta garanzija internazzjonali skont l-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru;

Kap. 503

(d) kwalunkwe pretensjoni li tagħti lok għal privileġġ speċjali fuq magna skont l-artikolu 42(1) tal-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru;

Kap. 503

(e) kwalunkwe pretensjoni bbażata fuq dritt mhux konsenswali registrat jew interess registrat fir-Registru Internazzjonali skont l-Ewwel Skeda u l-artikolu 42(2) tal-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru.

Kap. 503

Action *in rem* in cases mentioned in article 742G.

742H. (1) Azzjoni *in rem* tista' titressaq kontra l-magna ta' inġenju tal-ajru rilevanti quddiem il-qrati ċivili ta' Malta fuq pretensjoni msemmija fl-artikolu 742G meta:

(a) il-pretensjoni tqum b'rabta ma' dik il-magna ta' inġenju tal-ajru;

(b) il-persuna li tkun responsabbli fir-rigward ta' pretensjoni għal azzjoni *in personam* ("il-persuna rilevanti") kienet, meta qamet il-kawża tal-azzjoni, is-sid jew sid il-kera ta', jew fil-pussess jew kontroll tal-magna ta' inġenju tal-ajru, jekk fil-ħin meta tressqet l-azzjoni l-persuna rilevanti tkun jew is-sid jew sid benefiċjarju ta' dik il-magna ta' inġenju tal-ajru jew sid il-kera ta' dik il-magna ta' inġenju tal-ajru taht ftehim ta' kiri mingħajr ekwipaġġ; u

(c) il-limitu minimu rilevanti għall-ħruġ ta' mandat ta' arrest tal-inġenju tal-ajru jew il-qbid ta' magna ta' inġenju tal-ajru kif previst fl-artikolu 865E jkun issodisfat.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu preċedenti, f'każ ta' pretensjoni skont l-artikolu 742E(1)(e) fir-rigward ta' magna ta' inġenju tal-ajru, azzjoni *in rem* tista' titressaq quddiem il-qrati ċivili ta' Malta kontra l-magna ta' inġenju tal-ajru biss jekk, fil-ħin meta tkun tressqet l-azzjoni, is-sid benefiċjarju tagħha tkun il-persuna li tkun responsabbli fir-rigward tal-pretensjoni f'azzjoni *in personam*."

**32.** L-artikolu 865A tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 865A tal-Kodiċi.

(a) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4) rispettivament;

(b) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(2) (a) Mandat ta' arrest kawtelatorju jista' jinħareġ fuq inġenju tal-ajru li miegħu tkun imqabba magna ta' inġenju tal-ajru sabiex jiġu protetti dejn jew pretensjoni, kemm jekk *in personam* jew *in rem* li tista' tiġi mfixkla bit-tluq tal-imsemmi inġenju tal-ajru bil-magna ta' inġenju tal-ajru, u sakemm il-magna ta' inġenju tal-ajru tkun imqabba ma' inġenju tal-ajru ebda mandat ieħor ma jista' jinħareġ kontra l-inġenju tal-ajru jew il-magna ta' inġenju tal-ajru hlief jekk ikun mandat ta' arrest. Dak il-mandat ta' arrest jista' jinħareġ minkejja l-fatt li l-inġenju tal-ajru jkun il-proprjetà ta' persuna differenti minn sid il-magna ta' inġenju tal-ajru.

(b) Meta jinħareġ mandat ta' arrest ta' dak it-tip għal inġenju tal-ajru fir-rigward ta' xi magna mqabbda mal-inġenju tal-ajru, il-persuna li jkollha l-pussess jew il-kontroll tal-inġenju tal-ajru tista', mingħajr permess tal-Qorti, tiegħu dawk l-azzjonijiet kollha li jistgħu jkunu fis-setgħa tagħha biex tneħħi l-magna mill-inġenju tal-ajru sabiex tkun tista' tkompli bl-operazzjonijiet tal-inġenju tal-ajru. Il-persuna li jkollha pussess jew kontroll tal-inġenju tal-ajru għandha tkun obligata li tpoġġi l-magna taħt awtorità tal-marixxall tal-qorti li jeżegwixxi l-mandat oriġinali u tinnotifika lill-Awtorità għat-Trasport f'Malta u meta tittiehed dik l-azzjoni l-qorti għandha teħles immedjatament l-inġenju tal-ajru mill-effetti tal-mandat, liema mandat għandu jkompli japplika biss għall-magna relevanti mingħajr il-ħtieġa ta' xi proċedura oħra mill-pretendent.

Fil-każ ta' xi oppożizzjoni, il-qorti għandha, fuq talba, toħroġ dawk l-ordnijiet kollha li jistgħu jkunu meħtieġa.

(c) mingħajr preġudizzju għad-drittijiet imsemmija fis-subartikoli preċedenti, meta magna ta' inġenju tal-ajru ma tkunx imqabbda ma' inġenju tal-ajru, mandat ta' qbid kawtelatorju kif deskritt fl-artikolu 846 jew, jekk tkun fil-pussess jew taħt il-kontroll ta' terza persuna, mandat ta' sekwestru kawtelatorju jista' jinħareġ kif deskritt fl-artikolu 849 fir-rigward ta' magna ta' inġenju tal-ajru mingħajr ma jaffettwa b'ebda mod xi inġenju tal-ajru li miegħu tista' tkun marbuta, kummerċjalment, taħt xi kuntratt jew f'xi registru."; u

(c) minnufih wara s-subartikolu (4) tiegħu, kif enumerat mill-ġdid, għandhom jizdiedu s-subartikoli godda li ġejjin:

"(5) (a) Qorti li tkun adita bi proċeduri relatati mal-ħruġ ta' mandat ta' arrest ta' inġenju tal-ajru, għandha tkun kompetenti wkoll li tisma' kwalunkwe rikors u toħroġ kwalunkwe ordni dwar ir-rikors tas-sid ta' kwalunkwe magna li tista' tkun imqabbda mal-inġenju tal-ajru u li ma tkunx tappartjeni lis-sid tal-inġenju tal-ajru.

(b) Is-sid ta' magna li ma tkunx tappartjeni lis-sid tal-inġenju tal-ajru li miegħu jkunu mqabbda l-magni u li jista' jkun ġie arrestat kif imsemmi qabel għandu jkun intitolat li jintervjeni fi kwalunkwe proċedura relatata mal-arrest tal-inġenju tal-ajru u li jagħmel

kwalunkwe rikors u sottomissjoni lill-qorti adita bil-mandat ta' arrest sabiex ihares id-drittijiet u l-interessi tiegħu marbuta mal-magna.

(ċ) Kull qorti li tirċievi rikors mis-sid ta' magna skont dan is-subartikolu għandha tordna minnufih in-notifika ta' dak ir-rikors lill-persuna li jkollha l-pussess jew il-kontroll tal-ingenju tal-ajru u tiddeċiedi dwar kull rikors ta' din ix-xorta b'heffa u sa mhux aktar tard minn jumejn tax-xogħol minn meta jsiru dawk ir-rikorsi.

(d) F'dan is-subartikolu it-terminu "sid" ta' magna għandu jinkludi kull *mortgagee* jew detentur ta' xi garanzija internazzjonali jew garanzija reali oħra fuq il-magna.

(6) (a) Kull qorti adita bil-proċeduri relatati ma' mandat ta' arrest, qbid jew sekwestru maħsub biex japplika fir-rigward ta' magna ta' ingenju tal-ajru li tkun imqabba ma' ingenju tal-ajru li jkun il-proprjetà ta' persuna differenti, għandha jkollha wkoll il-kompetenza li tittratta kwalunkwe rikors għall-ħarsien tad-drittijiet u l-interessi ta' sid l-ingenju tal-ajru.

(b) Is-sid ta' dak l-ingenju tal-ajru għandu jkun intitolat li jintervjeni u jagħmel sottomissjonijiet lill-qorti li tkun qiegħda tittratta mandat ta' arrest, qbid jew sekwestru maħsub li japplika b'rabta ma' magna ta' ingenju tal-ajru sabiex ihares id-drittijiet u l-interessi tiegħu.

(ċ) Qorti m'għandhiex tikkunsidra l-inkapaċità tal-ingenju tal-ajru li jopera mingħajr il-magna relevanti bħala raġuni tajba u suffiċjenti biex tiċhad it-talba għall-ħruġ jew ir-revoka tal-mandat maħsub biex japplika b'rabta ma' magna ta' ingenju tal-ajru.

(d) Kull qorti li tirċievi xi rikors mis-sid ta' ingenju tal-ajru skont dan is-subartikolu għandha tordna minnufih in-notifika ta' dak ir-rikors lil sid il-magna u tiddeċiedi dwar kull rikors ta' din ix-xorta b'heffa u sa mhux aktar tard minn jumejn tax-xogħol minn meta jsiru dak ir-rikorsi."

**33.** Minnufih wara s-subartikolu (3) tal-artikolu 865B tal-Kodiċi għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 865B tal-Kodiċi.

"(4) Minkejja d-dispożizzjonijiet tas-subartikolu (1),

meta magni ta' ingenji tal-ajru ma jkunux il-proprjetà tas-sid tal-ingenju tal-ajru, l-effett tal-mandat ta' arrest japplika għall-magna biss sal-punt li r-rikors għal mandat ta' arrest jiddikjara espressament li l-mandat huwa maħsub ukoll li jopera b'rabta mal-magna u f'kull każ ieħor għandu jiġi preżunt li jekk il-magni ma jkunux il-proprjetà tas-sid tal-ingenju tal-ajru, il-mandat mhuwiex maħsub li jestendi għall-magni u l-Awtorità għat-Trasport jew il-qorti għandhom jaġixxu fuq dik il-preżunzjoni jekk dan jintalab minn sid il-magni li jipprovdi wkoll prova sodisfaċenti tat-titolu tiegħu fuq il-magni.

F'dan is-subartikolu t-terminu "sid" ta' magna għandu jinkludi kwalunkwe *mortgagee* jew detentur ta' garanzija internazzjonali jew garanzija reali oħra fuq il-magna."

Sostituzzjoni  
tal-artikolu  
865E tal-Kodiċi.

**34.** L-artikolu 865E tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

"865E. (1) Mandat jista' jintalab u jinkiseb quddiem il-Qorti tal-Maġistrati (Malta) jew quddiem il-Qorti tal-Maġistrati (Għawdex) fil-ġurisdizzjoni inferjuri tagħha jew quddiem il-Prim'Awla tal-Qorti Ċivili bħala garanzija għal dejn jew kwalunkwe pretensjoni oħra soġġett għal dawn il-limitazzjonijiet:

(a) ingenji tal-ajru:

(i) f'kull każ l-ammont tal-pretensjoni m'għandux ikun għal inqas minn sebat elef euro;

(ii) fil-każ ta' ingenju tal-ajru li jintuza għat-trasport pubbliku bl-ajru ta' passigġieri jew merkanzija:

(aa) għal ingenji tal-ajru awtorizzati li jgħorru inqas minn għaxar passigġieri, il-pretensjoni għandha tkun għal mhux inqas minn mitejn u ħamsin elf euro; u

(bb) għal ingenji tal-ajru awtorizzati li jgħorru aktar minn għaxar passigġieri il-pretensjoni għandha tkun għal mhux inqas minn miljun euro;

(b) magni:

(i) jekk il-magna ma tkunx imqabba mal-ingenju tal-ajru l-pretensjoni għandha tkun għal

mhux inqas minn sebat elef euro;

(ii) jekk il-magna tkun imqabbda ma' inġenju tal-ajru msemmi fil-paragrafu (a)(ii)(aa) il-pretensjoni għandha tkun għal mhux inqas minn hamsin elf euro;

(iii) jekk il-magna tkun imqabbda ma' inġenju tal-ajru msemmija fil-paragrafu (a)(ii)(bb) u l-magna ma tkunx il-proprjetà ta' sid l-inġenju tal-ajru, il-pretensjoni għandha tkun għal mhux inqas minn mitt elf euro; u

(iv) jekk il-magna tkun imqabbda ma' inġenju tal-ajru msemmija fil-paragrafu (a)(ii)(bb) u l-magna tkun il-proprjetà ta' sid l-inġenju tal-ajru, il-pretensjoni għandha tkun għal mhux inqas minn miljun euro.

(2) Il-limitazzjonijiet fuq l-ammont tal-pretensjoni ddikjarati f'dan l-artikolu m'għandhomx japplikaw għal:

(a) kwalunkwe pretensjoni li ssir minn detenturi ta' *mortgage* jew garanzija internazzjonali jew garanzija reali meta dak il-*mortgage* jew garanzija jkunu ġew registrati jew rikonoxxuti taħt it-Taqsima IV jew skont it-Taqsima VI tal-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru; jew

(b) kwalunkwe pretensjoni li ssir mid-detenturi ta' xi garanzija internazzjonali għall-pussess mill-ġdid ta' magna ta' inġenju tal-ajru meta dak l-interess ikun ġie registrat skont it-Taqsima VI tal-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru.

(3) F'dan l-artikolu referenza għall-ammont tal-pretensjoni hija referenza għall-kapital dovut u ebda referenza m'għandha ssir għal xi imġax akkumulat jew li jkun qiegħed jakkumula jew għal spejjeż oħrajn."

35. L-artikolu 865F tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni  
tal-artikolu  
865F tal-Kodiċi.

"865F. Ir-rikors għall-ħruġ ta' mandat ta' arrest għandu, *ad validatem*, jiddikjara b'mod ċar dawk id-dettalji li jistgħu jippermettu l-identifikazzjoni tal-inġenji tal-ajru jew il-magna ta' inġenju tal-ajru, l-isem tal-Awtorità li f'idejha jew li taħt is-setgħa jew kontroll tagħha jkunu jinsabu l-inġenji tal-ajru

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arrestat jew il-magna ta' inġenju tal-ajru, kif ukoll il-post fejn ikunu jinsabu l-inġenju tal-ajru jew il-magna ta' inġenju tal-ajru."

Emenda tal-artikolu 865G tal-Kodiċi.

**36.** L-artikolu 865G tal-Kodiċi għandu jiġi emendat kif ġej:

(a) l-artikolu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu;

(b) fis-subartikolu (1) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "ħdax-il elf u sitt mitt euro" għandhom jidhru l-kliem "il-valur kummerċjali ta' kirja li l-inġenju tal-ajru jew il-magna ta' inġenju tal-ajru tista' tattira, minkejja li l-inġenju tal-ajru jew magna ma jkunux soġġetti għal kirja attwali, u skont it-tip, il-valur u l-operat tal-inġenju tal-ajru, jew magna, u li f'ebda każ m'għandu jkun inqas minn ħdax-il elf u sitt mitt euro"; u

(ċ) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jizjed is-subartikolu ġdid li ġej:

"(2) Il-qorti għandha tqis biss il-valur ta' kiri ta' kuljum u ebda tip ieħor ta' danni."

Emenda tal-Iskeda A li tinsab mal-Kodiċi.

**37.** Minnufih wara l-paragrafu 12 tat-Tariffa D tal-Iskeda A li tinsab mal-Kodiċi, għandu jizjed il-paragrafu ġdid li ġej:

"13. Drittijiet għall-approvazzjoni mill-Qorti ta' bejgħ skont is-Subtitolu V tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb (Fuq il-Bejgħ Approvat mill-Qorti għal Vapuri, Bastimenti u Inġenji tal-Ajru) - għandu jithallas dritt tar-registru, ikkalkulat fuq il-valur tal-bejgħ tal-attiv li jkun qiegħed jinbiegħ:

Fuq l-ewwel 1,000,000 Euro	1%
Minn 1,000,001 Euro sa 5,000,000 Euro	0.5%
Minn 5,000,001 Euro sa 10,000,000 Euro	0.1%
Aktar minn 10,000,000 Euro	0.01%

".1%

### TAQSIMA III

#### Emendi għall-Kodiċi Ċivili

Emendi għall-Kodiċi Ċivili. Kap. 16.

**38.** (1) Id-dispożizzjonijiet ta' din it-Taqsima jemendaw il-Kodiċi Ċivili, u din it-Taqsima għandha tinqara u tinftiehem haġa waħda mal-Kodiċi Ċivili, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "il-Kodiċi".



(2) Id-dispożizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-sehħ f'dik id-data li l-Ministru responsabbli għall-Ġustizzja, flimkien mal-Ministru responsabbli għar-registrazzjoni ta' inġenji tal-ajru, jista' jistabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' din it-Taqsima.

**39.** Minnufih wara l-artikolu 1351 tal-Kodiċi għandu jiżdied l-artikolu ġdid li ġej:

Zjieda ta' artikolu ġdid mal-Kodiċi.

"Bastimenti u inġenji tal-ajru.

1351A. (1) Minkejja kwalunkwe waħda mid-dispożizzjonijiet ta' dan is-subtitolu, kwalunkwe ftehim marbut mal-bejgħ jew ix-xiri ta' bastimenti jew inġenji tal-ajru, inklużi magni ta' inġenji tal-ajru, għandu jiġi regolat minn:

(a) it-termini u l-kundizzjonijiet bejn il-partijiet kif ukoll mill-użanzi internazzjonali tal-kummerċ applikabbli fil-kuntest, u fil-każ ta' kunflitt mad-dispożizzjonijiet ta' dan il-Kodiċi dawk it-termini u kundizzjonijiet għandhom jirbħu; u

(b) il-liġijiet speċjali relatati man-navigazzjoni merkantili u l-avjazzjoni ċivili, skont ma jkun il-każ.

(2) Għall-finijiet ta' dan l-artikolu u s-subartikolu (3) tal-artikolu 1357, it-terminu "bastiment" għandu jkollu l-istess tifsira bħal dik mogħtija lill-Att dwar il-Bastimenti Merkantili u t-terminu "inġenji tal-ajru" għandu jkollu l-istess tifsira kif mogħtija lill-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru."

Kap. 234.

Kap. 503.

**40.** Minnufih wara s-subartikolu (2) tal-artikolu 1357 tal-Kodiċi għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 1357 tal-Kodiċi.

"(3) Konvenju għall-bejgħ jew xiri ta' bastimenti u inġenji tal-ajru, inkluża magna ta' inġenju tal-ajru, jissejjaħ b'liema isem jissejjaħ, għandu jkun regolat bid-dispożizzjonijiet ta' kwalunkwe ftehim bejn il-bejjieġh u x-xerrej skont it-termini tiegħu kif ukoll skont l-użanzi tal-kummerċ internazzjonali applikabbli fil-kuntest. Is-subartikolu (2) m'għandux japplika f'dawk il-każijiet u:

(a) l-effett ta' tali konvenju jispicċa meta l-istess konvenju jiskadi jew fl-eventwalità li jseħhu dawk iċ-ċirkostanzi maqbula bejn il-partijiet; u

(b) kwalunkwe notifika li jkollha tinghata mill-partijiet tista' tinghata bil-miktub b'kull mod li jkun, inkluż permezz ta' mezzi elettronici."

Emenda tal-artikolu 1526 tal-Kodiċi.

**41.** Minnufih wara s-subartikolu (2) tal-artikolu 1526 tal-Kodiċi għandhom jiżdedu s-subartikoli godda li ġejjin:

"(3) Il-kiri ta' bastimenti u inġenji tal-ajru, inklużi magni ta' inġenji tal-ajru, għandu jkun regolat mid-dispożizzjonijiet ta' kwalunkwe ftehim bejn sid il-kera u l-kerrej skont it-termini tiegħu kif ukoll skont l-użanzi tal-kummerċ internazzjonali applikabbli fil-kuntest.

Minkejja kwalunkwe dispożizzjoni ta' dan is-subtitolu, kull ftehim relatat mal-kiri ta' bastimenti jew inġenji tal-ajru jew magni ta' inġenji tal-ajru, għandu jkun irregolat minn:

(a) it-termini u l-kundizzjonijiet miftiehma bejn il-partijiet, u fil-każ ta' kunflitt mad-dispożizzjonijiet ta' dan il-Kodiċi, għandhom jirbħu dawk it-termini u kundizzjonijiet; u

(b) il-liġijiet speċjali relatati man-navigazzjoni merkantili u l-avjazzjoni ċivili, skont il-każ.

(4) Ir-rekwiżit fl-artikolu 1569 għal notifika b'att ġudizzjarju għat-temm tal-kirja m'għandux japplika u t-terminazzjoni tal-kirja għandha tiġi regolata permezz tal-ftehim ta' bejn il-partijiet u kwalunkwe notifika li tista' tkun meħtieġa għat-temm mill-partijiet għandha tinghata b'notifika bil-miktub b'kull mod li jkun, inkluż b'mezzi elettronici.

(5) Il-kirja ta' bastiment jew inġenju tal-ajru, inklużi magni ta' inġenji tal-ajru jew drittijiet relatati, għandha tiġi xolta jew mitmuma immedjatement minn sid il-kera (jew il-*mortgagee* li jkollu tali setgħa sakemm tali setgħa ma tkunx giet espressament mneħhija) fi kwalunkwe żmien f'każ ta' inadempjenza u malli tinghata notifika bil-miktub lill-kerrej minkejja l-oppożizzjoni tal-kerrej, u dan mingħajr il-ħtieġa ta' xi awtorizzazzjoni jew konferma minn xi qorti illi seħħ xi avveniment ta' inadempjenza.

F'dawn iċ-ċirkostanzi sid il-kera jista', wara li jagħti notifika lill-kerrej, jieħu l-pussess tal-bastiment jew tal-inġenju tal-ajru, inkluża magna ta' inġenju tal-ajru, skont il-ftehim ta' bejn il-partijiet u jista' jitlob lill-Qorti għal ordni illi jawtorizza jew jordna tali atti, u l-Qorti għandha ttipprovdi għajjnuna shiħa lil sid il-kera jew lill-*mortgagee* kemm jista' jkun mingħajr

dewmien.

(6) F'każ li sid il-kera jtemm il-ftehim ta' kiri għal raġunijiet li ma jkunux:

- (a) ikkontemplati fil-ftehim, jew
- (b) b'mod ġenerali raġunijiet validi skont il-ligi,

il-kerrej jista' jitlob danni għal ksur tal-ftehim.

(7) Għall-finijiet ta' dan l-artikolu:

(a) it-terminu "inġenji tal-ajru" għandu jkollu l-istess tifsira kif mogħtija lilu fl-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru;

(b) it-terminu "inadempjenza" ifisser:

(i) it-twettiq ta' kundizzjoni li *l-mortgagor* u *l-mortgagee* jkunu espressament ftehm u illi għib ix-xoljiment tal-ftehim jew in-nuqqas ta' parti illi tesegwixxi l-obbligi tagħha; jew

(ii) bidla fil-qagħda finanzjarja tal-*mortgagor* skont l-artikolu 1079; jew

(iii) inadempjenza li sostanzjalment iċċaħhad lill-*mortgagee* minn dak li huwa intitolat li jippretendi taht il-ftehim bejn il-*mortgagor* u l-*mortgagee*;

(c) it-terminu "kirja" ta' bastimenti u inġenji tal-ajru għandu jirreferi għaċ-*chartering* tagħhom taht dawk it-termini fejn il-pussess u l-kontroll jiġi mghoddi lill-kerrej, inklużu *bareboat charters* jew l-ekwivalenti tagħhom;

(d) it-terminu "*mortgagee*" għandu jinkludi *mortgagee* li qiegħed jaġixxi fil-kapaċità ta' *security trustee, bond trustee* jew kull isem ieħor ekwivalenti;

(e) it-terminu "bastiment" għandu jkollu l-istess tifsira kif mogħtija lilu fl-Att dwar il-Bastimenti Merkantili; u

(f) it-terminu "miktub" għandu jinkludi kull mod li permezz tiegħu il-kliem jistgħu jiġu rappreżentati u

moqrija inkluzi notifikati permezz ta' mezzi elettronici."

#### TAQSIMA IV

##### Emendi għall-Att dwar Istituzzjonijiet Finanzjarji

Emendi għall-Att dwar Istituzzjonijiet Finanzjarji. Kap. 376.

**42.** (1) Id-dispożizzjonijiet ta' din it-Taqsima jemendaw l-Att dwar Istituzzjonijiet Finanzjarji, u din it-Taqsima għandha tinqara u tinftiehem haġa waħda mal-Att dwar Istituzzjonijiet Finanzjarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) Id-dispożizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħħ f'dik id-data li l-Ministru għall-Finanzi jista' jistabbilixxi b'avviż fil-Gazzetta, u jistgħu jigu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' din it-Taqsima.

Żjieda ta' artikolu ġdid mal-Att prinċipali.

**43.** Minnufih wara l-artikolu 3 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Eżenzjoni għall-kiri finanzjarju ta' bastimenti u inġenji tal-ajru.

3A. (1) Minkejja d-dispożizzjonijiet tal-artikolu 3, kwalunkwe entità, kemm jekk tkun stabbilita jew tkun qed topera f'Malta jew mod ieħor, li twettaq l-attività, f'Malta jew minn Malta, ta' kiri finanzjarju u kwalunkwe transazzjoni relatata li tinvolvi:

Kap. 503.

(a) inġenju tal-ajru rreġistrat jew li jkun ser jiġi rreġistrat fir-Registru Nazzjonali tal-Inġenji tal-Ajru kif imfisser fl-Att dwar ir-Registrazzjoni ta' Inġenji tal-Ajru jew fi kwalunkwe ġurisdizzjoni oħra u kwalunkwe magna ta' inġenju tal-ajru; jew

Kap. 234.

(b) bastiment irreġistrat jew li jkun ser jiġi rreġistrat fir-registru kif imfisser fl-Att dwar il-Bastimenti Merkantili jew irreġistrat fi kwalunkwe ġurisdizzjoni,

m'għandux jehtieg liċenza mill-awtorità kompetenti għall-finijiet ta' dan l-Att, meta:

(i) dik l-entità tkun proprjeta ta' u tkun ikkontrollata minn, jew tkun iffinanzjata esklużivament minn; u

(ii) akwalunkwe transazzjoni ta' kiri finanzjarju jew l-assi sottostanti rilevanti, li tkun inġenju tal-ajru, magna ta' inġenju tal-ajru jew bastiment, u li tkun iffinanzjata esklużivament minn -

persuni jew entitajiet kif deskritti fl-Anness II tad-Direttiva 2014/65/UE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Mejju 2014 dwar swieq fi strumenti finanzjarji, jew persuni jew entitajiet li jkunu rikonoxxuti bhala kontropartijiet eligibbli skont l-Artikolu 30 tal-istess Direttiva 2014/65/UE:

Izda fl-interpretazzjoni u l-applikazzjoni tal-paragrafi (i) u (ii), u sabiex tiġi żgurata konformità mar-rekwiżiti tagħhom, meta d-dritt ta' proprjetà ta' dik l-entità kif deskritta fl-istess paragrafu (i), jew tal-entità li tiffinanzja t-transazzjoni fl-istess paragrafu (ii) jew l-assi sottostanti tagħha, ikun vestit fi *trustee*, jew inkella jkun miżmum minn intermedjarju iehor fuq bażi fiduċjarja, il-kriterji deskritti fl-Anness II tad-Direttiva 2014/65/UE għandhom japplikaw b'referenza għall-interessi benefiċjarji involuti u mhux lill-imsemmija *trustee* jew intermedjarju.

(2) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss għal entità fejn in-negozju ta' dik l-entità jkun limitat għall-kiri finanzjarju ta' inġenji tal-ajru, magni ta' inġenji tal-ajru jew bastimenti kif imfissra fis-subartikolu (1) u għal attivitajiet li jkunu anċillari għalihom, bl-esklużjoni ta' tipi oħrajn ta' assi u attivitajiet li inkella jaqgħu taħt l-iskopijiet ta' dan l-Att."

## TAQSIMA V

Emendi għar-Regolamenti dwar Eżenzjoni mir-Rati ta' Mghax

44. (1) Id-dispożizzjonijiet ta' din it-Taqsima jemendaw ir-Regolamenti dwar Eżenzjoni mir-Rati ta' Mghax, u din it-Taqsima għandha tinqara u tintfiehmed haġa waħda mar-Regolamenti dwar Eżenzjoni mir-Rati ta' Mghax, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "ir-Regolamenti".

Emendi għar-Regolamenti dwar Eżenzjoni mir-Rati ta' Mghax.  
L.S. 16.06

(2) Id-dispożizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għall-Ġustizzja, flimkien mal-Ministru responsabbli għar-registrazzjoni ta' inġenji tal-ajru, jista' jstabilixxi b'avviż fil-Gazzetta.

45. Il-paragrafu (b) tas-subregolament (1) tar-regolament 3 tar-Regolamenti għandu jiġi sostitwit b'dan li ġej:

Emenda tar-regolament 3 tar-Regolamenti.

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"(b) djun u obbligi oħra li huma (i) garantiti permezz ta' *mortgage* jew (ii) dovuti għall-hlas tal-kera ta' bastiment jew inġenju tal-ajru, inkluża magna tal-inġenju tal-ajru, kemm jekk registrat f'Malta u kemm jekk le u kemm jekk regolat bil-liġi Maltija u kemm jekk le;"

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### **Għanijiet u Raġunijiet**

L-għan ta' dan l-Abbozz ta' Liġi huwa sabiex jiġu aġġornati d-dispożizzjonijiet tal-Att dwar ir-Registrazzjoni tal-Inġenji tal-Ajru kif ukoll biex jemenda, bhala konsegwenza ta' dan, ċerta leġislazzjoni oħra.

**A Bill  
entitled**

*AN ACT to amend the Aircraft Registration Act, Cap. 503, and ancillary laws thereto.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

**1.** (1) The short title of this Act is the Aircraft Registration (Amendment) Act, 2016. Short title.

(2) Words and phrases used in the different parts of this Act shall have the same meaning assigned to them as is assigned to them in the applicable principal Act or the applicable Code or the Regulations, as the case may be.

**PART I**

**Amendments to the Aircraft Registration Act**

**2.** (1) The provisions of this Part amend the Aircraft Registration Act, and this Part shall be read and construed as one with the Aircraft Registration Act, hereinafter in this Part referred to as "the principal Act". Amendments to the Aircraft Registration Act. Cap. 503.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for aircraft registration may by notice in the Gazette establish, and different dates may be so established for different provisions of this Part.

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Amendment of the Arrangement of Act of the principal Act.

**3.** In the Arrangement of Act of the principal Act, immediately after the reference to the Fourth Schedule there shall be added the following:

"Fifth Schedule      Aircraft Registration and Other Fees

Part I - Aircraft Registration Fees

Part II - Other Fees

Sixth Schedule      Offences and Administrative Penalties".

Amendment of article 2 of the principal Act.

**4.** Article 2 of the principal Act shall be amended as follows:

(a) the present article shall be re-numbered as sub-article (1) of the said article;

(b) in sub-article (1) as renumbered:

(i) in the definition "aircraft", for the words "by regulations but shall exclude aircraft used in the military, customs or police services of any State" there shall be substituted the words "by regulations, including airframes with aircraft engines installed thereon, but shall exclude aircraft used in the military, customs or police services of any State";

(ii) immediately after the definition "aircraft" there shall be added the following new definition:

" "aircraft engines" means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto without prejudice to any other thresholds which may be applicable for the purposes of other parts of this Act;"

(iii) immediately after the new definition "aircraft engines" there shall be added the following new definition:

" "airframes" means airframes (other than those used in military, customs and police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent



aviation authority to transport persons or cargo, together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto, without prejudice to any other thresholds which may be applicable for the purposes of other parts of this Act;"

(iv) immediately after the definition "resolution" there shall be added the following new definition:

" "security agreement" means an agreement by which a debtor grants or agrees to grant to a creditor an interest (including an ownership interest or a mortgage) in or over an aircraft to secure the performance of any existing or future obligation of the debtor or a third person;" and

(c) in sub-article (2) thereof, for the words "Where words used in this Act are defined in the First Schedule, they shall apply also to the interpretation of the provisions of this Act." there shall be substituted the words "Where words used in this Act are defined in the First Schedule, they shall apply, as defined, also to the interpretation of the provisions of this Act, unless defined differently or the context requires otherwise."

5. Article 3 of the principal Act shall be amended as follows:

Amendment of article 3 of the principal Act.

(a) in sub-article (4) thereof, the words "in the manner which reflects the ownership interests in the aircraft" shall be deleted; and

(b) sub-article (5) thereof shall be deleted.

6. Sub-article (2) of article 4 of the principal Act shall be amended as follows:

Amendment of article 4 of the principal Act.

(a) in sub-paragraph (ii) of paragraph (a) thereof, for the words "for use on the aircraft;" there shall be substituted the words "for use on the aircraft and, when the engines or replacement engines do not belong to the registrant, the same details shall be recorded in the National Aircraft Register with the consent of the owner of the said engines or replacement engines;"

(b) sub-paragraphs (iv), (v) and (vi) of paragraph (a) thereof shall be re-numbered as sub-paragraphs (v), (vi) and (vii) respectively;

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(c) immediately after sub-paragraph (iii) of paragraph (a) thereof, there shall be added the following new sub-paragraph:

"(iv) the ownership rights in the aircraft or an engine including when:

1. held by a trustee, for a single interest or more;
2. held by one or more owners;
3. divided into fractional shares or otherwise; or
4. held under an agreement with reservation of ownership rights or under conditions affecting title in terms of article 31.

The information and documents which are to be provided to the Director General relating to the above may be prescribed from time to time;"

(d) in paragraph (b) thereof, for the words "if requested to do so by the registrant or by any other person who, with the consent of the registrant, demonstrates" there shall be substituted the words "if required to do so under the applicable law or if requested to do so by the registrant or by any other person who demonstrates"; and

(e) sub-paragraph (i) of paragraph (b) thereof shall be deleted and sub-paragraphs (ii), (iii), (iv) and (v) shall be renumbered as sub-paragraphs (i), (ii), (iii) and (iv) respectively.

Amendment of  
article 10 of the  
principal Act.

7. Article 10 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "in article 9 and the date of issue of such certificate" there shall be substituted the words "in article 9, the name and address of the registrant, the name, address and ownership interests or title of the owner, if different, and the date of issue of such certificate";

(b) sub-article (2) there shall be deleted; and

(c) sub-articles (3) and (4) thereof shall be re-numbered as sub-articles (2) and (3) respectively.

8. In paragraph (d) of sub-article (1) of article 11 of the principal Act, for the words "registered mortgage or other security interest" there shall be substituted the words "registered mortgage, an international interest or other security interest,".

Amendment of article 11 of the principal Act.

9. Article 13 of the principal Act shall be amended as follows:

Amendment of article 13 of the principal Act.

(a) in paragraph (a) of sub-article (1) thereof, immediately after the words "by operation of law" there shall be added the words "or by other action on the part of the registrant, the owner of the aircraft or the authority administering the previous registration";

(b) in the proviso to paragraph (b) of sub-article (1) thereof, for the words "registered mortgagee or a holder of a security interest" there shall be substituted the words "registered mortgagee or the holder of an international interest or a security interest,";

(c) in paragraph (c) of sub-article (1) thereof, for the words "is no longer a qualified person", there shall be substituted the words "is no longer a qualified person, or is no longer entitled to operate the aircraft under the temporary title or for any other reason";

(d) in the second proviso to paragraph (c) of sub-article (1) thereof:

(i) for the words "registered mortgagee or a holder of a security interest" there shall be substituted the words "registered mortgagee or the holder of an international interest or a security interest"; and

(ii) for the words "until such time as the aircraft has been transferred to a third party which is not a qualified person in terms of article 6;" there shall be substituted the following:

"until:

(i) such time as the aircraft has been transferred to a third party which is not a qualified person in terms of article 6, or

(ii) the holder of the international interest advises the Director General that the registration is no longer required to protect its interest;"

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(e) in sub-article (2) thereof, for the words "shall be acted upon in all cases" there shall be substituted the words "shall be acted upon in all cases unless the holder of the irrevocable deregistration authorisation which has been registered in the National Aircraft Register or in the International Registry ranks in priority after any mortgage or any international interest registered in the National Aircraft Register or in the International Registry respectively, in which case the provisions of sub-article (4) shall apply";

(f) in sub-article (4) thereof:

(i) for the words "undischarged mortgage" there shall be substituted the words "undischarged mortgage or international interest"; and

(ii) for the words "unless all mortgagees of" there shall be substituted the words "unless all holders of registered mortgages or registered international interests over".

Substitution of article 17 of the principal Act.

**10.** Article 17 of the principal Act shall be substituted by the following:

"17. (1) There shall be charged for the registration of an aircraft, or of a mortgage over an aircraft and for any other purpose as may be determined by the Authority the fees as outlined in the Fifth Schedule.

(2) Without prejudice to the provisions of article 56(2), the Minister may, with the concurrence of the Minister responsible for finance, by regulations, amend, add to, vary, revoke or substitute any schedule, including the Fifth Schedule, relating to fees or penalties which may be applicable from time to time."

Amendment of article 25 of the principal Act.

**11.** Immediately after sub-article (2) of article 25 of the principal Act, there shall be added the following new sub-article:

"(3) In this Part IV, the expression "claims to which the aircraft is subject" or "aircraft claims" shall be construed to refer to debts or other obligations secured by mortgages, international interests or security interests and claims which enjoy a special privilege under article 42."

Amendment of article 26 of the principal Act.

**12.** In sub-article (3) of article 26 of the principal Act, immediately after the words "provisions of the First Schedule," there shall be added the words "and notwithstanding the provisions of articles 566 to 584 of the Civil Code,".

**13.** Sub-article (5) of article 27 of the principal Act shall be substituted by the following: Amendment of article 27 of the principal Act.

"(5) This article shall also apply to any international interest and, or to any security interest registered in the International Registry."

**14.** Immediately after article 27 of the principal Act there shall be added the following new article: Addition of the new article to the principal Act.

"Insolvency proceedings in case of aircraft companies.

27A. (1) The memorandum and articles of a company, whose centre of main interests is in Malta or is registered in Malta and the sole asset of which is an aircraft or aircraft engines and other related assets (in this article referred to as an "aircraft company"), can specify that the right to request any insolvency proceedings in relation to the aircraft company shall be exercised only by the holders of a mortgage, an international interest or a security interest, or trustees or agents for such persons (in this article referred to as "preferred creditors"), over such assets, singly or collectively, including as a class or classes of creditors, to the exclusion of any other persons for as long as the interest of the persons so indicated remains in force.

(2) Where, in the case of an aircraft company, the aircraft is subject to a registered mortgage, an international interest, a security interest or other aircraft claims, having priority under article 25(1), and

(a) sub-article (1) applies; or

(b) the sums due to the relevant preferred creditor or creditors under such rights appear *prima facie* to exceed the value of the aircraft,

the court shall, on the demand by application of the relevant preferred creditor or creditors as aforesaid:

(i) stay any insolvency proceedings which may have been instituted; and, or

(ii) desist from issuing any orders relating to insolvency proceedings,

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until the court is satisfied that there exist excess funds due to the aircraft company from any enforcement proceedings, in relation to which orders relating to insolvency proceedings, including a winding up order, may usefully be made.

(3) In the event contemplated in sub-article (2), the preferred creditor making a demand under the said sub-article shall, on making the demand and at such times and in the manner ordered by the court, be bound to provide the court with all information available to him relating to any enforcement proceedings he is involved in or is otherwise aware of, and in case paragraph (b) of sub-article (2) applies, information relating to the value of aircraft and the claim. In such case the court shall await the outcome of such enforcement proceedings, whether private or public as the case may be, after which it shall issue such orders as it considers appropriate in the circumstances, including the summary dismissal of any applications on the basis of the absence of any assets available to meet any claims other than those of the preferred creditors.

The court shall not address or reopen issues already resolved, agreed between the parties or determined by any court pursuant to the provisions of this Act, or a foreign court otherwise having jurisdiction, prior to such orders being made.

(4) Any person appointed by a court in Malta or overseas in any insolvency proceedings shall not in any way interfere with the exercise of remedies of the mortgagee, the holder of an international interest, security interest or other aircraft claims and, to the extent that he has any powers under applicable law, he shall exercise them in support of the remedies of such creditors under this Act. Should any aircraft come under his control prior to any creditor having a right to take possession of an aircraft and, or aircraft engine, in the exercise of his remedies, then such person must preserve the aircraft and, or aircraft engine and maintain it and its value in accordance with the agreements between the creditor and the debtor and hand over possession of the aircraft to the person entitled thereto under the provisions of this Act or any other applicable law.

(5) Should it result to the court that:

(a) there are no excess funds resulting from any enforcement proceedings; or

(b) ranking of creditor proceedings have taken place, in Malta or overseas, over the proceeds of sale of the aircraft, the result of which is final and binding on all creditors, and there are no excess funds; and

(c) there is no other business of the aircraft company which needs to be wound up,

it shall not order the winding up of the aircraft company but shall instead declare the aircraft company dissolved and wound up for the above reasons.

The court shall order the aircraft company to be struck off the register without further procedures and this shall take place within three months from the filing with the Registrar of Companies of authenticated evidence of the enforcement proceedings, including the sale of the aircraft or the closure of ranking of creditors, which evidence together with a copy of any decrees of the court, shall be filed at the Registry of Companies for public notice. In such event, any residual rights of the aircraft company shall be vested in the shareholders of the company by operation of law.

(6) Should it result that there are excess funds due to the company after enforcement proceedings as aforesaid where the claims of preferred creditors are dealt with in a final manner, the court may order the winding up of the company in accordance with the applicable law and the commencement among creditors who are not preferred as aforesaid of the relative competing claims procedure under Sub-Title III of Title VIII of Part I of Book Second of the Code of Organization and Civil Procedure.

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(7) Should the right to demand the winding up of the aircraft company not be vested under the memorandum and articles of the aircraft company in any of the persons referred to in sub-article (1), and any member of the aircraft company files such demand on the basis that there are grounds of sufficient gravity to warrant the dissolution and winding up of the aircraft company:

(a) the applicant shall, on making the demand and at such times and in the manner ordered by the court, be bound to provide the court with all information available to him relating to any aircraft claims over the aircraft and, or any enforcement proceedings involving the aircraft company or of which he is otherwise aware; and



(b) the court shall only issue such orders as will not hinder any enforcement proceedings by the said creditors under the provisions of this Act, unless otherwise agreed between all parties; and

(c) if a preferred creditor provides evidence that sub-article (2)(b) applies, the court shall act in accordance with sub-article (2).

(8) In this article:

"company" shall include any legal organisation of any form, whether constituted under the laws of Malta or of another state and shall include also a trust being administered by a trustee holding relevant assets;

"enforcement proceedings" shall include actions by any mortgagee, the holder of an international interest, a security interest and, or aircraft claimants, whether in Malta or overseas, under article 33, 33A, 33B and 33C of this Act or any judicial sale proceedings under applicable law;

"insolvency proceedings" means bankruptcy, liquidation, administration, winding up, company reconstruction, company recovery or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court, a liquidator, an administrator or an insolvency practitioner for the purposes of reorganisation or liquidation;

"related assets" shall include any proceeds of sale or insurance or requisition compensation, and all property referred to in article 25(2).

(9) For the avoidance of doubt, the provisions of the Companies Act relating to insolvency shall not apply insofar as inconsistent with this article, the provisions of this Act and in particular with the First Schedule of this Act.

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(10) Nothing in this article shall restrict or prejudice the right of any creditor to submit its claim to the court, in order to ensure that the claim is considered by the court at the appropriate time, paying regard to the provisions of this article."

Amendment of article 30 of the principal Act.

**15.** In sub-article (6) of article 30 of the principal Act, for the words "shall not thereafter record any security interest in the National Aircraft Register in accordance with this Part, until the prohibitory notice is withdrawn by the creditor" there shall be substituted the words "shall not thereafter record any mortgage or other security interest in the National Aircraft Register in accordance with this Part, until the prohibitory notice is withdrawn by the creditor, or unless the creditor enjoying the benefits of the prohibitory notice grants prior written consent".

Amendment of article 31 of the principal Act.

**16.** Article 31 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof, immediately after the words "registration of a mortgage", there shall be added the words "or at any time after the registration of a mortgage but only with the written consent of the mortgagee"; and

(b) in sub-article (5) thereof, for the words "The registration of such a charge or reservation", there shall be substituted the words "The registration of such a special privilege, charge or reservation".

Amendment of article 33 of the principal Act.

**17.** Article 33 of the principal Act shall be amended as follows:

(a) sub-articles (4), (5), (6) (7) and (8) thereof shall be re-numbered as sub-articles (5), (6), (7), (8) and (9) respectively; and

(b) immediately after sub-article (3) thereof there shall be added the following new sub-article:

"(4) The mortgagee may alternatively apply to the court for an order authorising or directing any of the acts referred to in sub-article (1) and may apply to the court for the judicial sale of the aircraft or engine in which case sub-articles (5) to (8) shall apply."

Addition of new articles to the principal Act.

**18.** Immediately after article 33 of the principal Act there shall be added the following new articles:

"Further remedies of mortgagee.

33A. (1) Any sum collected or received by the mortgagee as a result of the exercise of any of the remedies set out in article 33 and including sums in reimbursement of any reasonable costs in the exercise of such remedies, shall be applied by the mortgagee towards discharge of the secured obligations, subject to the satisfaction of any prior rights of creditors under Part V or Part VII.

(2) Unless otherwise ordered by the court, in the event that there are excess funds after the exercise carried out by the mortgagee under sub-article (1) including any reasonable costs incurred for such purpose, the mortgagee shall pay the surplus as follows:

(a) to creditors with subsequently ranking rights or interests of which the mortgagee has been given notice, in order of priority according to applicable law; and

(b) thereafter, pay any remaining balance to the mortgagor.

(3) In the event of disagreement as to the ranking between the mortgagee and, or the creditors having claims against the aircraft or engine, the mortgagee or any creditor satisfying the court of its claim on the aircraft or engine, or proceeds thereof, may apply to the court for the court to establish the ranking among themselves, or other preferred creditors who may join the proceedings within a period established by the court, for the purposes of this article. Persons who do not prove to the court that they have a preferred claim shall not be permitted to participate in the proceedings at this stage.

(4) The court may order sufficient security to be provided by the mortgagee over the proceeds held by the mortgagee, but not in excess of such proceeds, pending the determination of the application referred to in the preceding sub-article.

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(5) This article does not apply to the case of an aircraft being sold through a judicial auction or a private sale authorised by the court on the enforcement of a mortgage, international interest or security interest, but may be applied with the consent of the court if (a) all the parties to the proceedings have agreed to its application or (b) the mortgagee acquires the aircraft in the judicial auction in set-off, in full or partially, of its claims.

(6) In carrying out its functions under this article the mortgagee shall, with respect to funds held by it, be subject to fiduciary duties in favour of other creditors participating in the process and this until the allocation of funds has been agreed or finally determined by the court, or the proceeds which are not allocated to its claim are deposited under authority of the court or such other person as may be agreed among the parties.

Vesting of  
aircraft object in  
satisfaction by  
way of set-off.

33B. (1) This article applies at any time after a default has occurred and notice in writing thereof has been given to the debtor.

(2) The mortgagee, other preferred creditors and the mortgagor may agree that ownership of (or any other interest of the mortgagor, including any lessor rights) any aircraft covered by the mortgage shall vest in the mortgagee in or towards satisfaction of the secured obligations.

(3) Irrespective of any agreement under the preceding sub-article, the court may, on the application of the mortgagee, order that ownership of (or any other interest of the mortgagor) any aircraft covered by the mortgage is to vest in the mortgagee in or towards satisfaction of the secured obligations.

(4) The court shall grant an application under the preceding sub-article only if the amount of the secured obligations, after taking into account any payment to be made by the mortgagee to any of the preferred creditors, to be satisfied by such vesting is more than the value of the aircraft.

(5) At any time before the sale of the mortgaged aircraft or the making of an order under sub-article (3), the mortgagor or any interested person may discharge the mortgage by paying in full the amount secured, and any amount paid by the mortgagee to any of the preferred creditors, subject to any lease granted by the mortgagee pursuant to its powers under article 33(1)(d).

(6) Where, after such default, the payment of the amount secured, and any amount paid by the mortgagee to any of the preferred creditors, is made in full by an interested person other than the debtor, that person is subrogated to the rights of the mortgagee.

(7) Ownership or any other interest of the mortgagor passing on a sale to a third party under article 33(1)(b) or passing to the mortgagee under sub-article (2) or (3) of this article shall be free from any other interest over which the mortgage has priority under the provisions of this Act.

(8) The mortgagee may designate a fully owned subsidiary or a controlled entity in which the ownership of the aircraft (or any other interest of the mortgagor) may be vested for the purposes of this article.

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(9) The provisions of articles 358 to 364 of the Code of Organization and Civil Procedure shall apply to any applications to the court under sub-article (3), *mutatis mutandis*.

Meaning of default.

33C. (1) The mortgagor or the mortgagee may at any time agree in writing as to the events that constitute a default or otherwise give rise to the rights and remedies specified in articles 33 to 33B and other provisions of this Act.

(2) Where the mortgagor and the mortgagee have not so agreed, "default" for the purposes of this Act means:

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(a) the fulfilment of a condition under which the dissolution of the agreement between the mortgagor and the mortgagee was expressly covenanted or a failure by a party to perform his obligations; or

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(b) a change in the financial condition of the mortgagor as provided for in article 1079 of the Civil Code; or

(c) a default which substantially deprives the mortgagee of what it is entitled to expect under the agreement between the mortgagor and the mortgagee.

(3) When a default has taken place and a notice thereof is given to the mortgagor and any guarantor, in accordance with this Act or the agreement between the parties, such notice shall be valid and binding and all effects at law and under any agreement between the parties shall arise without the need of any determination by any court as to whether a default has occurred or not, as to whether the benefit of time has been lost or not and as to whether any rights are immediately enforceable or not.

(4) Where a mortgagee exercises his rights in the preceding articles, and in any valuation for the purpose, he must exercise such rights in accordance with any agreement between the parties and in any event in a commercially reasonable manner and in good faith so as to ensure fair treatment for the mortgagor."

Addition of new articles to the principal Act.

**19.** Immediately after article 37 of the principal Act there shall be added the following new articles:

"Correction of a mortgage.

37A. (1) A correction of an erroneous indication or omission in a registered mortgage, including an amendment mortgage, of any one or more of the particulars specified in sub-article (2) may be effected by the Director General by means of a corrective or additional entry in the National Aircraft Register, on the production of the following documents:

(a) a declaration signed by the mortgagee referring to the said mortgage and indicating the correction to be made; and

(b) such other evidence as the Director General may require.

(2) The correction of an erroneous indication or addition of an omission as referred to in sub-article (1) may be effected with reference to the following particulars:

(a) details of the aircraft or aircraft engine;

(b) the date of any agreement or document referred to in the said mortgage;

(c) the name and, or address of any person or organisation referred to in the said mortgage; or

(d) any other typographical error in the said mortgage.

(3) The correction of any of the above particulars in a registered mortgage or the addition of any omission shall not affect the validity or priority of the mortgage, or any of the rights or powers of the mortgagee.

Modification of the registered details relating to a mortgage.

37B. It shall be lawful to modify the registered details relating to a mortgage in the event of a change in the name or the address of any of the mortgagor or the mortgagee, resulting from corporate events, including shareholder or director resolutions, amalgamations, divisions or similar events. This shall be made by means of a note submitted by the mortgagee to the Director General together with any evidence of the change of name or address. The Director General shall thereupon make an annotation in the National Aircraft Register reflecting such modifications."

**20.** Article 41 of the principal Act shall be amended as follows:

Amendment of article 41 of the principal Act.

(a) in sub-article (4) thereof:

(i) for the words "security interest" there shall be substituted the words "security interest and, or an international interest";

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(ii) for the words "Code of Organization and Civil Procedure where:" there shall be substituted the words "Code of Organization and Civil Procedure."; and

(iii) paragraphs (a) and (b) thereof shall be deleted;

(b) sub-article (7) thereof shall be deleted; and

(c) sub-articles (8) and (9) thereof shall be re-numbered as sub-articles (7) and (8) respectively.

Addition of new article to the principal Act.

**21.** Immediately after article 41 of the principal Act there shall be added the following new article:

"Extension of rights under Maltese law.

41A. When the proper law of a conditional sale or a lease agreement is Maltese law and a security interest in relation thereto is registered in accordance with the First Schedule, for the purposes of Maltese law, the owner and, or the lessor shall enjoy the status and powers in relation to the relevant aircraft as is envisaged in terms of article 41(3) to (6) without prejudice to its rights under the First Schedule."

Amendment of article 42 of the principal Act.

**22.** Immediately after sub-article (5) of article 42 of the principal Act there shall be added the following new sub-article:

"(6) The above provisions shall apply to aircraft engines *mutatis mutandis*."

Amendment of article 44 of the principal Act.

**23.** Article 44 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof, for the words "of the relevant privilege." there shall be substituted the following:

"of the relevant privilege, and thereafter shall rank:

(a) other overriding non-consensual rights and interests arising under foreign law which do not have priority under Chapter X of the First Schedule;

(b) any security interest governed by a foreign law and recognised in accordance with article 41 which shall rank after the claims referred to in the preceding articles; and

(c) general hypothecs and privileges, whether



general or over particular movables, which shall rank after the debts referred to in the preceding articles."; and

(b) for paragraphs (c) and (d) of sub-article (4) thereof there shall be substituted the following:

"(c) rights referred to in sub-article (3)(a) and (b) shall rank among themselves equally and shall share in such fund *pro rata* up to the amount of their claim and rights referred to in sub-article (3)(c) shall rank among themselves according to the provisions of the Civil Code."

24. Article 53 of the principal Act shall be deleted.

Deletion of article 53 of the principal Act.

25. Article 56 of the principal Act shall be amended as follows:

Amendment of article 56 of the principal Act.

(a) the present article shall be re-numbered as sub-article (1) thereof;

(b) paragraphs (n) and (o) of sub-article (1) thereof, as re-numbered, shall be substituted by the following:

"(n) the definition of aircraft for the purposes of this Act and for the purposes of the applicability or interpretation of any other law;

(o) the requirements for registration, the conditions for operation and generally the regulation of aircraft when used for peacekeeping operations or humanitarian purposes, even if configured as military or state aircraft;"

(c) immediately after paragraph (o) of sub-article (1) thereof, as re-numbered, there shall be added the following new paragraphs:

"(p) the registration, operation or any matter related to unmanned aerial systems, unmanned aerial vehicles, remotely piloted aerial systems or any other similar system or vehicle; and

(q) any other matter which may be further regulated for the better implementation of the provisions of this Act."; and

(d) immediately after sub-article (1) thereof, as re-

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numbered, there shall be added the following new sub-article:

"(2) The Minister may by regulations amend any of the provisions of the Schedules to this Act, other than the provisions of the First Schedule."

Addition of new article to the principal Act.

**26.** Immediately after article 60 of the principal Act there shall be added the following new article:

"Administrative sanctions.

61. (1) Notwithstanding any other provision of this Act, the offences listed in the First Column of the Sixth Schedule shall be administrative offences punishable by the Authority.

(2) The imposition by the Authority of an administrative sanction in terms of this article shall be without prejudice to any other consequences of the act or omission of the offender under civil or administrative law.

(3) The Authority shall observe the guarantees of fair and public hearing in its determination as to whether a person is guilty of an administrative offence in terms of this article.

(4) When the Authority is satisfied that a person has committed an offence against any provision of this Act listed in the First Column of the Sixth Schedule to this Act, the Authority may -

(a) issue a warning in writing to such person; or

(b) impose an administrative penalty on such person up to an amount as established in the Second Column of the Sixth Schedule and subject to the provisions of paragraph 1 of the said Schedule:

Provided that if such person is found guilty of more than one offence in the same charge, the Authority shall only impose the payment of the higher penalty attributed to the offence in the same charge as listed in the Sixth Schedule:

Provided further that the Authority may also impose a suspended penalty which penalty shall be paid within such period as the Authority may establish. The Authority may also determine such conditions, limitations and restrictions both with regard to the penalty and the suspended penalty as it may deem fit."

27. Immediately after the Fifth Schedule to the principal Act there shall be added the following new schedules: Addition of new schedules to the principal Act.

"Fifth Schedule

(Article 17)

AIRCRAFT REGISTRATION AND OTHER FEES

Part I

Aircraft Registration Fees

1. The following charges are payable to the Director General for the issue of a Certificate of Registration in respect of an aircraft:

Aircraft in respect of which application is made:	Charge payable
Aeroplanes having an empty weight not exceeding 150 kg, a wing area of not less than 10 square metres, and a wing loading not exceeding 10kg per square meter at empty weight and which are designed to carry not more than 2 persons .....	€60
Any other aircraft whose maximum take-off mass:	
does not exceed 750 kg .....	€80
exceeds 750 kg but not 2730 kg .....	€150
exceeds 2730 kg but not 5700 kg .....	€220
exceeds 5700 kg but not 15 tonnes .....	€300
exceeds 15 tonnes but not 50 tonnes .....	€450
exceeds 50 tonnes .....	€750

2. Upon making an application for a revised Certificate of Registration, the following charges shall apply:

- (i) if due to change of address, or other technical details, a fee of €50;

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(ii) if due to change of legal ownership of the aircraft, a charge equal to the 50% of the fee as would be payable for the issue of the initial Certificate;

(iii) if for a replacement Certificate of registration or aircraft de-registration, the registered owner of the aircraft shall pay €50.

#### Part II

##### Other Fees

3. Upon making an application for the reservation of a customised out of sequence registration mark a charge of €250, in addition to the registration fee, shall be payable to the Director General.

4. Upon the registration of an Irrevocable De-registration and Export Request Authorisation (I.D.E.R.A.) a charge of €100 shall be payable to the Director General.

5. Upon the registration of a mortgage in terms of the Act, a charge of €500 shall be payable to the Director General.

6. Upon the registration of an amendment mortgage in terms of the Act, a charge of €250 shall be payable to the Director General.

#### Sixth Schedule

(Article 61)

#### ADMINISTRATIVE SANCTIONS

First Column	Second Column
Provision	Penalty
	€
Article 11(1)(a)	2,000
Article 11(1)(b)	2,000
Article 11(1)(c)	2,000
Article 11(1)(d)	2,000
Article 13(1)(c)	5,000
Article 13(1)(g)	5,000
Article 13(1)(h)	5,000
Article 16(1)	5,000
Article 16(2)(a)	5,000
Article 16(2)(b)	5,000
Article 20(3)	2,500
Article 20(4)	2,500

The Authority may inflict on any person who has violated

any of the provisions listed in the First Column of this Schedule the corresponding penalty listed in the Second Column of this Schedule."

PART II

Amendments to the Code of Organization and Civil Procedure

**28.** (1) The provisions of this Part amend the Code of Organisation and Civil Procedure, and this Part shall be read and construed as one with the Code of Organisation and Civil Procedure, hereinafter in this Part referred to as "the Code".

Amendments to the Code of Organization and Civil Procedure. Cap. 12.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for Justice, in consultation with the Minister responsible for aircraft registration, may by notice in the Gazette establish, and different dates may be so established for different provisions of this Part.

**29.** In article 328 of the Code, immediately after the words "or of ships," there shall be added the words "or of aircraft,".

Amendment of article 328 of the Code.

**30.** In paragraph (c) of sub-article (1) of article 742E of the Code, for the words "equivalent international interest" there shall be substituted the words "international interest registered in terms of the Aircraft Registration Act".

Amendment of article 742E of the Code.

**31.** Immediately after article 742F of the Code, there shall be added the following new articles:

Addition of new articles to the Code.

"Jurisdiction *in rem* against aircraft engines.

742G. Save as otherwise provided by law, the civil courts of Malta shall have jurisdiction *in rem* over aircraft engines in the following claims:

(a) any claim to the ownership, or title to or of an aircraft engine, or to the ownership of any share therein;

(b) any claim for possession of the aircraft engine;

(c) any claim in respect of an international interest in an engine which international interest is registered or recognised in terms of the Aircraft Registration Act;

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(d) any claim giving rise to a special privilege over an engine in terms of article 42(1) of the Aircraft Registration Act;

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Action *in rem* in cases mentioned in article 742G.

(e) any claim based on a registered non-consensual right or interest registered in the International Registry in terms of the First Schedule and article 42(2) of the Aircraft Registration Act.

742H. (1) An action *in rem* may be brought against the relevant aircraft engine before the civil courts of Malta on a claim mentioned in article 742G when:

(a) the claim arises in connection with that aircraft engine;

(b) the person who would be liable on the claim for an action *in personam* ("the relevant person") was, when the cause of action arose, the owner or lessee of, or in possession or in control of the aircraft engine, if at the time when the action is brought the relevant person is either an owner or beneficial owner of that aircraft engine or the lessee of that aircraft engine under a dry lease agreement; and

(c) the relevant threshold for the issue of a warrant of arrest of the aircraft or seizure of an aircraft engine as provided in article 865E is satisfied.

(2) Notwithstanding the provisions of the previous sub-article, in the case of a claim in terms of article 742E(1)(e) in respect of an aircraft engine, an action *in rem* may be brought before the civil courts of Malta against the aircraft engine only if, at the time when the action is brought, it is beneficially owned by the person who would be liable on the claim in an action *in personam*."

Amendment of article 865A of the Code.

**32.** Article 865A of the Code shall be amended as follows:

(a) sub-articles (2) and (3) thereof shall be re-numbered as sub-articles (3) and (4) respectively;

(b) immediately after sub-article (1) thereof there shall be added the following new sub-article:

"(2) (a) A precautionary warrant of arrest may be issued on an aircraft to which an aircraft engine is attached to secure a debt or claim, whether *in personam* or *in rem*

which could be frustrated by the departure of the said aircraft with the aircraft engine, and for as long as the aircraft engine is attached to an aircraft no other warrant may be issued against an aircraft or the aircraft engine unless it is a warrant of arrest. Such warrant of arrest may be issued notwithstanding the fact that the aircraft is owned by a different person than the owner of the aircraft engine.

(b) When such a warrant of arrest of an aircraft is issued in relation to any engine attached to the aircraft, the person having possession or control of the aircraft may, without leave of Court, take all such actions as may be within his powers to remove the engine from the aircraft so as to be able to continue with the operations of the aircraft. The person having possession or control of the aircraft shall be obliged to place the engine under the authority of the Court Marshall executing the original warrant and notify the Authority for Transport in Malta and when such action is taken the Court shall immediately release the aircraft from the effects of the warrant, which warrant shall continue to apply only to the relevant engine without the need for any other procedure by the claimant.

In the event of any opposition, the Court shall, on demand, issue all such orders as may be necessary.

(c) without prejudice to the rights referred to in the preceding sub-articles, when an aircraft engine is not attached to an aircraft, a precautionary warrant of seizure as described in article 846 or, if it is in possession or under the control of a third party, a precautionary garnishee order as described in article 849 may be issued in relation to an aircraft engine without in any way affecting any aircraft to which it may be connected, commercially, under any contract or in any register."; and

(c) immediately after sub-article (4) thereof, as re-numbered, there shall be added the following new sub-articles:

"(5) (a) A court seized of the proceedings relating to the issue of a warrant of arrest of an aircraft, shall also be competent to hear any applications and issue any orders on the application of the owner of any engine which may be attached to the aircraft and which does not belong to the owner of the aircraft.

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(b) The owner of an engine which does not belong to the owner of the aircraft to which the engines are attached and which may have been arrested as aforesaid shall be entitled to intervene in any proceedings relating to the arrest of the aircraft and make any applications and submissions to the court seized of the warrant of arrest in order to protect its rights and interests relating to the engine.

(c) Any court receiving any application by the owner of an engine in terms of this sub-article shall immediately order its service upon the person having possession or control of the aircraft and rule on any such application expeditiously and within a maximum period of two working days from when any such applications are made.

(d) In this sub-article the term "owner" of an engine shall include any mortgagee or holder of any international interest or other security interest over the engine.

(6) (a) Any court seized of the proceedings relating to a warrant of arrest, seizure or garnishee intended to operate in relation to an aircraft engine which is attached to an aircraft owned by a different person, shall also be competent to deal with any applications for the protection of the rights and interests of the owner of the aircraft.

(b) The owner of such aircraft shall be entitled to intervene and make submissions to the court dealing with a warrant of arrest, seizure or garnishee intended to operate in relation to an aircraft engine in order to protect his rights and interests.

(c) A court shall not consider the inability of the aircraft to operate without the relevant engine to be a good and sufficient ground for denying the request for the issue or for revoking the warrant intended to operate in relation to an aircraft engine.

(d) Any court receiving any application by the owner of an aircraft in terms of this sub-article shall immediately order its service upon the owner of the engine and rule on any such application expeditiously and within a maximum period of two working days from when any



such application is made."

**33.** Immediately after sub-article (3) of article 865B of the Code there shall be added the following new sub-article: Amendment of article 865B of the Code.

"(4) Notwithstanding the provisions of sub-article (1), where aircraft engines are not owned by the owner of the aircraft, the effect of the warrant of arrest applies to the engine only to the extent that the application for the warrant of arrest expressly states that the warrant is also intended to operate in relation to the engine and in all other cases it shall be presumed that if the engines are not owned by the owner of the aircraft, the warrant is not intended to extend to the engines and the Authority for Transport or the Court shall act on such presumption if petitioned by the owner of the engines who also provides satisfactory evidence of his title to the engines.

In this sub-article the term "owner" of an engine shall include any mortgagee or holder of any international interest or other security interest over the engine."

**34.** Article 865E of the Code shall be substituted by the following: Substitution of article 865E of the Code.

"865E. (1) A warrant may be demanded and obtained before the Court of Magistrates (Malta) or before the Court of Magistrates (Gozo) in its inferior jurisdiction or before the First Hall of the Civil Court in security of a debt or any other claim whatsoever subject to the following limitations:

(a) aircraft:

(i) in all cases the amount of the claim must not be for less than seven thousand euro;

(ii) in case of an aircraft being used for public air transport of passengers or goods:

(aa) for aircraft permitted to carry less than ten passengers, the claim must not be for less than two hundred and fifty thousand euro; and

(bb) for aircraft permitted to carry more than ten passengers the claim must not be for less than one million euro;

(b) engines:

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(i) if the engine is not attached to the aircraft the claim must be for not less than seven thousand euro;

(ii) if the engine is attached to an aircraft referred to in paragraph (a)(ii)(aa) the claim must not be for less than fifty thousand euro;

(iii) if the engine is attached to an aircraft referred to in paragraph (a)(ii)(bb) and the engine is not owned by the owner of the aircraft, the claim must not be for less than one hundred thousand euro; and

(iv) if the engine is attached to an aircraft referred to in paragraph (a)(ii)(bb) and the engine is owned by the owner of the aircraft, the claim must not be for less than one million euro.

(2) The limitations on the amount of the claim stated in this article do not apply to:

(a) any claims made by holders of a mortgage or an international interest or a security interest when such mortgage or interest has been registered or is recognized under Part IV or in accordance with Part VI of the Aircraft Registration Act; or

(b) any claims made by holders of an international interest for the repossession of an aircraft engine when such interest has been registered in accordance with Part VI of the Aircraft Registration Act.

(3) In this article reference to the amount of the claim is a reference to the principal due and no reference shall be made to any interest accrued or accruing or to other costs."

Substitution of  
article 865F of  
the Code.

**35.** Article 865F of the Code shall be substituted by the following:

"865F. The application for the issue of a warrant of arrest shall, under pain of nullity, state in a clear manner such particulars as may enable the identification of the aircraft or the aircraft engine, the name of the authority in whose hands or under whose power or control the arrested aircraft or aircraft engine may be, as well as the place where the aircraft or aircraft engine is to be found."

**36.** Article 865G of the Code shall be amended as follows:

Amendment of article 865G of the Code.

(a) the present article shall be re-numbered as sub-article (1) thereof;

(b) in sub-article (1) thereof, as renumbered, for the words "eleven thousand and six hundred euro" there shall be substituted the words "the commercial value of a lease which the aircraft or aircraft engine may attract, notwithstanding that the aircraft or engine may not have been subject to an actual lease, and depending on the type, value and operation of the aircraft, or engine, and which in no case shall be less than eleven thousand and six hundred euro"; and

(c) immediately after sub-article (1) thereof, as re-numbered, there shall be added the following new sub-article:

"(2) The Court shall take into consideration only the daily lease value and no other type of damages."

**37.** Immediately after paragraph 12 of Tariff D of Schedule A to the Code, there shall be added the following new paragraph:

Amendment of Schedule A to the Code.

"13. Fees for the approval by the Court of sales in accordance with Sub-Title V of Title VII of Part I of Book Second (Of Court Approved Sales of Ships, Vessels and Aircraft) - there shall be paid a registry fee, calculated on the sale value of the asset being sold:

On the first Euro 1,000,000	1%
From Euro 1,000,001 to Euro 5,000,000	0.5%
From Euro 5,000,001 to Euro 10,000,000	0.1%
Above Euro 10,000,000	0.01%

".

### PART III

#### Amendments to the Civil Code

**38.** (1) The provisions of this Part amend the Civil Code, and this Part shall be read and construed as one with the Civil Code, hereinafter in this Part referred to as "the Code".

Amendments to the Civil Code. Cap. 16.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for Justice, in consultation with the Minister responsible for aircraft registration, may by notice in the Gazette establish, and different dates may be so established for

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different provisions of this Part.

Addition of new article to the Code.

**39.** Immediately after article 1351 of the Code there shall be added the following new article:

"Ships and aircraft.

1351A. (1) Notwithstanding any of the provisions of this sub-title, any agreement relating to the sale or purchase of ships or aircraft, including aircraft engines, shall be governed by:

(a) the terms and conditions agreed between the parties as well as by the international usages of trade applicable in the context, and in case of conflict with the provisions of this Code, such terms and conditions shall prevail; and

(b) the special laws relating to merchant shipping and civil aviation, as the case may be.

(2) For the purposes of this article and sub-article (3) of article 1357, the term "ship" shall have the same meaning as ascribed to it in the Merchant Shipping Act and the term "aircraft" shall have the same meaning as ascribed to it in the Aircraft Registration Act."

Cap. 234.

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Amendment of article 1357 of the Code.

**40.** Immediately after sub-article (2) of article 1357 of the Code there shall be added the following new sub-article:

"(3) A promise of sale or purchase, by whatever name called, of ships and aircraft, including an aircraft engine, shall be regulated by the provisions of any agreement between the vendor and the purchaser in accordance with its terms as well as by the international usages of trade applicable in the context. Sub-article (2) shall not apply in such cases and:

(a) the effect of such promise shall cease on the lapse of time or on the events agreed between the parties for the purpose; and

(b) any notices which may be required to be given by the parties may be given by notice in writing in any manner, including by electronic means."

Amendment of article 1526 of the Code.

**41.** Immediately after sub-article (2) of article 1526 of the Code there shall be added the following new sub-articles:

"(3) The letting of ships and aircraft, including aircraft

engines, shall be regulated by the provisions of any agreement between the lessor and the lessee in accordance with its terms as well as by the international usages of trade applicable in the context.

Notwithstanding any of the provisions of this sub-title, any agreement relating to the letting of ships or aircraft or aircraft engines, shall be governed by:

(a) the terms and conditions agreed between the parties, and in case of conflict with the provisions of this Code, such terms and conditions shall prevail; and

(b) the special laws relating to merchant shipping and civil aviation, as the case may be.

(4) The requirement in article 1569 for a notice by judicial act for the cessation of a lease shall not apply and the termination of the lease shall be regulated by the agreement between the parties and any notice of termination which may be required to be given by any parties may be given by notice in writing in any manner, including by electronic means.

(5) The lease of a ship or an aircraft, including aircraft engines, or rights thereunder, shall be immediately dissolved or terminated by the lessor (or mortgagee who shall be deemed to have such power unless expressly waived) at any time in the event of a default and upon notice in writing to the lessee, notwithstanding the opposition by the lessee, and this without the need of any authorisation or confirmation by any court that an event of default has taken place.

In such circumstances the lessor may, after notice to the lessee, take possession of the ship or aircraft, including an aircraft engine, in accordance with the agreement between the parties and may ask the Court for an order authorising or directing these acts, and the Court shall render full support to the lessor or the mortgagee as expeditiously as possible.

(6) In the event that the lessor terminates the lease agreement for reasons which are not:

(a) contemplated in the agreement, or

(b) generally valid reasons at law,

the lessee may seek damages for breach of the agreement.

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(7) For the purposes of this article:

(a) the term "aircraft" shall have the same meaning as ascribed to it in the Aircraft Registration Act;

(b) the term "default" means:

(i) the fulfilment of a condition under which the dissolution of the lease was expressly covenanted or a failure by a party to perform his obligations; or

(ii) a change in the financial condition of the lessee as stated in article 1079; or

(iii) a default which substantially deprives the mortgagee of what it is entitled to expect under the agreement between the mortgagor and the mortgagee;

(c) the term "lease" of ships and aircraft shall refer to the chartering thereof under terms where possession or control is given to the lessee, including bareboat charters or the equivalent;

(d) the term "mortgagee" shall include a mortgagee acting in its capacity as security trustee, bond trustee or by whatever name called;

(e) the term "ship" shall have the same meaning as ascribed to it in the Merchant Shipping Act; and

(f) the term "writing" shall include any manner through which words may be represented and read and includes notices through electronic means."

#### PART IV

##### Amendments to the Financial Institutions Act

Amendments to  
the Financial  
Institutions Act.  
Cap. 376.

**42.** (1) The provisions of this Part amend the Financial Institutions Act, and this Part shall be read and construed as one with the Financial Institutions Act, hereinafter in this Part referred to as "the principal Act".

(2) The provisions of this Part shall come into force on such date as the Minister for Finance may by notice in the Gazette establish, and different dates may be so established for different

provisions of this Part.

**43.** Immediately after article 3 of the principal Act, there shall be added the following new article:

Adds new article to the principal Act.

"Exemption for financial leasing of ships and aircraft.

3A. (1) Notwithstanding the provisions of article 3, any entity, whether established or operating in Malta or otherwise, carrying out the activity, in or from Malta, of financial leasing and all related transactions involving:

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(a) an aircraft registered or to be registered in the National Aircraft Register as defined in the Aircraft Registration Act or registered in any other jurisdiction whatsoever and any aircraft engine; or

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(b) a ship registered or to be registered in the register as defined in the Merchant Shipping Act or registered in any other jurisdiction whatsoever,

shall not require a licence from the competent authority for the purposes of this Act, where:

(i) such entity is owned and controlled, or is a subsidiary of, or exclusively funded by; and

(ii) any relevant financial leasing transaction or the relevant underlying asset, being an aircraft, an aircraft engine or a ship, is exclusively financed by -

persons or entities as described in Annex II to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, or persons or entities who are recognised as eligible counterparties in accordance with Article 30 of such Directive 2014/65/EU:

Provided that in the interpretation and application of paragraphs (i) and (ii), and in order to ensure compliance with their requirements, where the ownership of such entity as described in the said paragraph (i), or of the entity financing the transaction in the said paragraph (ii) or its underlying assets, is vested in a trustee, or is otherwise held by another intermediary on a fiduciary basis, the criteria described in Annex II of Directive 2014/65/EU shall apply by reference to the beneficial interests involved and not to the said trustee or intermediary.

(2) The provisions of this article shall only apply to an entity where the business of such entity is limited to the financial leasing of aircrafts, aircraft engines or ships as described in sub-article (1) and to activities that are ancillary thereto, to the exclusion of other types of assets and activities otherwise falling within the purposes of this Act."

## PART V

### Amendments to the Interest Rate (Exemption) Regulations

Amendments to  
the Interest Rate  
(Exemption)  
Regulations.  
S.L. 16.06

**44.** (1) The provisions of this Part amend the Interest Rate (Exemption) Regulations, and this Part shall be read and construed as one with the Interest Rate (Exemption) Regulations, hereinafter in this Part referred to as "the Regulations".

(2) The provisions of this Part shall come into force on such date as the Minister responsible for Justice, in consultation with the Minister responsible for aircraft registration, may by notice in the Gazette establish.

Amendment of  
regulation 3 of  
the Regulations.

**45.** Paragraph (b) of sub-regulation (1) of regulation 3 of the Regulations shall be substituted by the following:

"(b) debts and other obligations which are (i) secured by a mortgage over, or (ii) due under a lease of a ship or aircraft, including an aircraft engine, whether registered in Malta or otherwise and whether governed by Maltese law or otherwise;"

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### **Objects and Reasons**

The object of this Bill is to update the provisions of the Aircraft Registration Act as well as amending, as a consequence, certain other legislation.





