International Interests in Mobile Equipment (Cape Town Convention) Rules 2014

I, Warren Errol Truss, Minister for Infrastructure and Regional Development, make these rules under section 10 of the *International Interests in Mobile Equipment (Cape Town Convention) Act 2013*.

WARREN TRUSS
Minister for Infrastructure and Regional Development

Dated: 25/11/14

Note: An electronic version of these Rules is available in ComLaw (http://www.comlaw.gov.au/)

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Part 1 Preliminary

1 Name of Rules

These Rules are the *International Interests in Mobile Equipment (Cape Town Convention) Rules 2014*.

2 Commencement

(1) These Rules commence on the commencement of Section 3 of the Act.

3 Definitions

(1) In these Rules:

Act means the International Interests in Mobile Equipment (Cape Town Convention) Act 2013.

approved form means a form approved by CASA under subrule 9(1).

CAA means the Civil Aviation Act 1988.

CAR means the Civil Aviation Regulations 1988.

CASA has the meaning given to that term in the CAA.

CASR means the Civil Aviation Safety Regulations 1998.

CDCL means, in respect of an IDERA, a certified designee confirmation letter issued or to be issued (as the case may be) substantially in the form set out in Schedule 2 to these Rules.

Convention means the Convention on International Interests in Mobile Equipment, done at Cape Town on 16 November 2001, as amended and in force for Australia from time to time.

Dictionary has the meaning given to that term in the CASR.

IDERA means an irrevocable de-registration and export request authorisation issued or to be issued (as the case may be) in respect of a Protocol object substantially in the form set out in Schedule 1 to these Rules.

personal information has the meaning given to that term in the Privacy Act 1988.

Protocol means the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, done at Cape Town on 16 November 2001, as amended and in force for Australia from time to time.

Protocol object means any Part 47 registered airframe or Part 47 registered helicopter.

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Part 47 registered in relation to any airframe or helicopter, means registered on the Australian Civil Aircraft Register pursuant to Part 47 of the CASR.

Note: For the meaning of "airframe" and "helicopter", see Article 1 of the Protocol. Among other requirements, only "airframes" which are type certificated to transport at least 8 persons (including crew) or goods in excess of 2750 kilograms and "helicopters" which are type certificated to transport at least 5 persons (including crew) or goods in excess of 450 kilograms are subject to the Protocol.

Note: The exclusion from the Protocol of aircraft objects that are used in in military, customs or police services is only relevant for the purposes of the application of these Rules where the registration holder of such airframe or helicopter itself uses the aircraft in military, customs or police services.

(2) In these Rules, unless specified or the context requires otherwise:

(a) any term defined in the Convention or the Protocol and used in these Rules has the same meaning as given to that term in the Convention or the Protocol (as the case may be);

(b) any term not defined in the Convention or the Protocol, which is defined in the Dictionary or Part 47 of the CASR and used in these Rules has the same meaning as given to that term in the Dictionary or Part 47 of the CASR (as the case may be); and

(c) CASA's power to de-register a Protocol object under subrule 8(3) may be discharged by an exercise of CASA's power to cancel the registration, under Part 47 of the CASR, of that Protocol object.

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Part 2 Recordation of authorisations on the Australian Civil Aircraft Register

4 Submission and recording of IDERA

(1) If an IDERA is issued in relation to any Protocol object, the registration holder may request, in the approved form, CASA to record the IDERA on the Australian Civil Aircraft Register.

(2) If:

(a) CASA receives a request under subrule 4(1);

(b) at the time of the request no other IDERA is recorded on the Australian Civil Aircraft Register in respect of the Protocol object to which the IDERA relates; and

(c) the IDERA has been signed by the registration holder,

CASA must record the IDERA on the Australian Civil Aircraft Register as soon as reasonably practicable.

(3) Within 5 working days of recording an IDERA under subrule 4(2), CASA must return an original copy of the IDERA countersigned by CASA to the registration holder who made the request under subrule 4(1).

5 Submission and recording of CDCL

(1) If an IDERA has been recorded on the Australian Civil Aircraft Register by CASA under subrule 4(2), the authorised party under that IDERA may request, in the approved form, CASA to record a CDCL in respect of that IDERA on the Australian Civil Aircraft Register.

(2) If:

(a) CASA receives a request under subrule 5(1);

(b) at the time of the request, no other CDCL is recorded on the Australian Civil Aircraft Register in respect of the IDERA to which the CDCL relates; and

(c) the CDCL has been signed by the authorised party under the IDERA to which the CDCL relates,

CASA must record the CDCL on the Australian Civil Aircraft Register as soon as reasonably practicable.

(3) Within 5 working days of recording a CDCL in respect of an IDERA under subrule 5(2), CASA must return an original copy of the CDCL countersigned by CASA to the authorised party who made the request under subrule 5(1).

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6 Removal of IDERA

(1) An authorised party under an IDERA recorded by CASA pursuant to subrule 4(2) may request, in the approved form, CASA to remove that IDERA from the Australian Civil Aircraft Register if at the time of the request:

(a) no CDCL is recorded on the Australian Civil Aircraft Register in respect of the IDERA; or

(b) the authorised party under the IDERA procures written consent, in the approved form, from the certified designee under any CDCL that is recorded on the Australian Civil Aircraft Register in respect of the IDERA for the removal of the IDERA and that CDCL.

(2) If CASA receives a request in accordance with subrule 6(1), CASA must, as soon as practicable, remove the recordation of the IDERA from the Australian Civil Aircraft Register and, if the request is in accordance with subrule 6(1)(b), remove the recordation of the CDCL in respect of that IDERA.

7 Removal of CDCL

(1) The certified designee under a CDCL recorded by CASA pursuant to subrule 5(2) may request, in the approved form, CASA to remove that CDCL from the Australian Civil Aircraft Register.

(2) If CASA receives a request in accordance with subrule 7(1), CASA must, as soon as practicable, remove the recordation of the CDCL from the Australian Civil Aircraft Register.

8 De-registration requests

(1) An authorised party under an IDERA recorded under rule 4, or, if a CDCL has been recorded under rule 5 in respect of that IDERA, the authorised party's certified designee under the CDCL may, in the approved form and in accordance with that IDERA or CDCL, as the case may be, request CASA to de-register the Protocol object to which the IDERA or CDCL, as the case may be, relates.

(2) In the request under subrule 8(1), the authorised party or the certified designee, as the case may be, must certify in writing, in the approved form, that:

(a) the Protocol object is not subject to any registered interest that ranks in priority to the international interest that the authorised party holds in the Protocol object; or

(b) if the Protocol object is subject to a registered interest that ranks in priority to the international interest that the authorised party holds in the Protocol object, the holder of the higher-ranking registered interest has consented to the de-registration and export of the Protocol object.

(3) If CASA receives a request under subrule 8(1) that is accompanied by the certification specified in subrule 8(2), CASA must, as soon as practicable but, in any event, within 5 working days of receiving the request:

(a) de-register the relevant Protocol object from the Australian Civil Aircraft Register; and

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(b) expeditiously co-operate with and assist the authorised party or the certified designee in the export and physical transfer of the Protocol object from Australia to the extent such co-operation and assistance is consistent with CASA's functions under or the requirements of the CAA, the CAR, the CASR or other applicable civil aviation safety laws.

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Part 3 Administrative procedures

9 Forms and administrative procedures

(1) CASA must approve a form for each of subrules 4(1), 5(1), 6(1), 7(1), 8(1) and 8(2).

(2) Each form approved by CASA under subrule 9(1) may require the person making the request or giving the certification:

(a) to give CASA any information CASA considers necessary to be satisfied that the request or certification has been validly and authentically made; and

(b) to authorise CASA to verify the information in the form.

(3) CASA may use and disclose personal information that is contained in an IDERA or a CDCL as is necessary to record the IDERA or the CDCL on the Australian Civil Aircraft Register and to make information in the Australian Civil Aircraft Register accessible to the public.

10 Fees

(1) The fee specified in the fourth column of an item in Schedule 3 is payable to CASA in respect of a request of the kind specified in the second column of that item.

(2) Despite anything else in these Rules, CASA must not act on a request under these Rules unless the fee prescribed by subrule 10(1) has been tendered.

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Schedule 1 - IDERA

IRREVOCABLE DE-REGISTRATION AND EXPORT REQUEST AUTHORISATION

Refer to the International Interests in Mobile Equipment (Cape Town Convention) Act 2013

Date: [*insert date*]

To: Civil Aviation Safety Authority, Australia

Re: Irrevocable De-Registration and Export Request Authorisation

The undersigned is the registration holder of the [*insert airframe/helicopter manufacturer name and model number*] bearing manufacturer's serial number [*insert manufacturer's serial number*] and registration mark [*insert registration mark*] (together with all installed, incorporated or attached accessories, parts and equipment, the "aircraft").

This instrument is an irrevocable de-registration and export request authorisation issued by the undersigned in favour of [*insert name of creditor*] ("the authorised party") under the authority of Article XIII of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment. In accordance with that Article, the undersigned hereby requests:

(i) recognition that the authorised party or the person it certifies as its designee is the sole person entitled to:

(a) procure the de-registration of the aircraft from the Australian Civil Aircraft Register maintained by the Civil Aviation Safety Authority for the purposes of Chapter III of the Convention on International Civil Aviation, signed at Chicago, on 7 December 1944; and

(b) procure the export and physical transfer of the aircraft from Australia; and

(ii) confirmation that the authorised party or the person it certifies as its designee may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in Australia shall co-operate with the authorised party with a view to the speedy completion of such action.

The rights in favour of the authorised party established by this instrument may not be revoked by the undersigned without the written consent of the authorised party.

Please acknowledge your agreement to this request and its terms by appropriate notation in the space provided below and lodging this instrument with the Civil Aviation Safety Authority.

[*Insert name of registration holder*]

_____ _____

By: [*insert name of signatory*]
Title: [*insert title of signatory*]

Agreed to and recorded this
Dated:

_____

Name:
Title:

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Schedule 2 – CDCL

CERTIFIED DESIGNEE CONFIRMATION LETTER
IRREVOCABLE DE-REGISTRATION & EXPORT REQUEST AUTHORISATION
REFER TO THE INTERNATIONAL INTERESTS IN MOBILE /EQUIPMENT
(CAPE TOWN CONVENTION ACT 2013)

Date : [*Insert date*]

To : Civil Aviation Safety Authority, Australia

Re : Appointment of Certified Designee in relation to the Irrevocable De-Registration and Export Request Authorisation for

[*insert the airframe/helicopter manufacturer name and model number*] bearing manufacturer's serial number [*insert manufacturer's serial number*] and registration mark [*insert registration mark*] (the "IDERA").

We, [*insert name of authorised party*] as "the authorised party" under the IDERA, hereby confirm that [*insert name, designation of company to be designated*] in its capacity as [*insert capacity acting under for authorised party*] is the certified designee (under the authority of Article XIII(3) of the Protocol to the Convention on International Interests in Mobile Equipment on matters specific to Aircraft Equipment) in accordance with the confirmations and authorisations in our favour set out in the IDERA authorisation dated [*insert date*] issued by [*insert name of airframe/helicopter registration holder*], the registration holder of the [*insert the airframe/helicopter manufacturer name and model number*] bearing manufacturer 's serial number [*insert manufacturer's serial number*] and registration mark [*insert registration mark*].

Please acknowledge your agreement to this request and its terms by countersigning below.

[*Insert name of authorised party*]

_____

By: [*insert name of signatory*]
Title: [*insert title of signatory*]

Agreed to and recorded this
Dated:

_____

Name:
Title:

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Schedule 3 – Fees

Item	Request	Reference to applicable subrule	Fee
1	Registration of an Irrevocable De-registration and Export Request Authorisation (IDERA) – processing and consideration of application	4(1)	$137
2	Registration of a Certified Designee Confirmation Letter (CDCL) – processing and consideration of application	5(1)	$112
3	Removal of an Irrevocable De-registration and Export Request Authorisation (IDERA) – processing and consideration of application	6(1)	$112
4	Removal of a Certified Designee Confirmation Letter (CDCL) – processing and consideration of application	7(1)	$100
5	Cancellation of Part 47 registered aircraft under an Irrevocable De-registration and Export Request Authorisation (IDERA) or Certified Designee Confirmation Letter (CDCL) – processing and consideration of application	8(1)	$73

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