

1. Which government authority in your country has primary responsibility for the regulation of aviation and the registration of aircraft?

In Rwanda, the regulation of aviation is the primary responsibility of the Rwanda Civil Aviation Authority whose activities cover, inter alia, the certification and regulation of aircraft, air crews and airports together with the control of air traffic. The Rwanda Civil Aviation Authority is required to maintain a register of aircraft, the Aircraft Register.

2. Can foreign-owned aircraft be registered on your national aircraft register, for example when leased to an airline based in your country?

Mortgages and other security interests rights acquired over aircraft are registered in the national aircraft registry if the aircraft is owned by a qualified person and not registered under the laws of any foreign country. The owner could be the lessor or the operator.

3. Are there any limits/restrictions on the age of the aircraft that may be registered or operated in your country?

No, there are no limits/ restrictions on the age of the aircraft that may be registered. However a person shall not operate an aircraft registered in Rwanda or a foreign registered aircraft in Rwandan airspace unless that aircraft is in an airworthy condition.

4. Who is entitled to have their interests recorded on your national aircraft register?

The Owner, the financial provider and the operator are entitled to have their interests recorded on the Rwanda aircraft register. The certificate of registration can have 3 names on it:  
-The owner (could be the lessor or the operator)  
-The financing provider or the financial Institution (could be the lessor or the bank)  
-The operator

5. Would a mortgage governed by a foreign law over aircraft and/or engines be recognised in your country?

A security interest shall be effective upon its registration by the Registrar General. A security interest in goods that is perfected under the law of the jurisdiction in which the goods are situated when the security was created and before the goods are brought into Rwanda continues to be valid in Rwanda and may be registered in Rwanda for the benefit of the creditor following this law. Unless provided by law, the effectiveness of security interest shall follow the law of Rwanda where the property in collateral is situated in Rwanda. (Art. 4 of law is law no 11/2009 of 14/05/2009 on security interest on movable property)

6. To be recognised under your laws, must a lease or mortgage over an aircraft and/or engines be in a particular form or language, are there any special terms that it must contain and/or must it be registered or filed anywhere?

Official languages in Rwanda are: Kinyarwanda, English and French. To be recognised under Rwandan laws, the agreement should be in one of these three languages. There are specific requirements to be fulfilled to create a valid security interest, including for example an adequate description of the collateral by item or kind that enables the collateral to be identified,

We recommend that the agreement is signed before a notary public if signed in Rwanda; if signed abroad it should also be authenticated by the Rwandan Embassy and note that the national state notary in Rwanda will also have to authenticate such lease or loan agreement under his signature and official seal in such a manner as to render them acceptable, as proof of the matters attested by him, to the judicial or other public authorities in Rwanda.

7. If an engine owned by a third party is installed on an aircraft, would your country's law treat that engine as being subject to the same ownership as the aircraft itself? In other words is there a risk that by physical installation, the engine owner loses its title to the engine or that the engine becomes subject to any mortgage which exists over the aircraft on which it is installed? Would a nameplate fixed on the engine, confirming its separate ownership, make any difference?

This should not be an issue. The engine ownership should be clearly noted in the agreement with the aircraft operator and a nameplate fixed on the engine is a useful confirmation of the separate ownership. We would recommend though that the engine owner obtain an acknowledgment as to its ownership from the owner or mortgagee of the airframe.

8. Has your country ratified and brought into force any of the following aviation related conventions: 1944 Chicago Convention, 1948 Geneva Convention and 2001 Cape Town Convention (with its Aircraft Equipment Protocol)?

Rwanda has not ratified the 1948 Geneva Convention on the International Recognition of Rights in Aircraft.

Rwanda has ratified and brought into force the Chicago Convention (approved by then Belgian law of April 30, 1944 applicable to Rwanda) and the Cape Town Convention which came into force in Rwanda on 1 May 2010.

9. Does the local civil aviation authority provide assurances to lessors and financiers as to prompt deregistration of the aircraft (for example the IDERA under the Cape Town Convention)?

Yes an IDERA is provided for under Rwanda's Cape Town Aircraft Protocol declarations,

10. Are powers of attorney from a local airline in favour of a lessor or mortgagee likely to be effective to allow the lessor or mortgagee to deregister the aircraft? Can such powers be irrevocable, be governed by a foreign law and/or do they need to be in any particular form for local recognition?

It is best not to rely on powers of attorney. A power of attorney, which is required to be executed before a Notary Public, cannot be irrevocable in Rwanda, notwithstanding a statement in the document that it is irrevocable.

11. Are there any charges which would have to be paid before an aircraft can be deregistered from your national register (e.g. local air navigation fees)?

Under the regulations the Authority shall before de-registering an aircraft require the registered owner to (a) return the certificate of aircraft registration; (b) remove all nationality and registration marks assigned to the aircraft; and (c) comply with any such other conditions as the Authority may specify. See 17 below.

12. Would courts in your country generally uphold a choice of law and jurisdiction clause in an aircraft lease or loan document entered into between commercial parties?

Rwandan courts will generally uphold a choice of law and jurisdiction clause in a lease or loan agreement entered into between commercial parties.

13. If the lease is terminated for lessee default, would the lessor be entitled to repossess (by taking physical possession) of the relevant aircraft or engine or does it need the prior permission or order of a local court or agency?

The lessor will be entitled to repossess the aircraft in case of default, if repossession power is provided in a notarized lease or loan agreement rendered acceptable to the judicial and other public authorities in Rwanda. See answer to (6) above as to execution of the document and Rwanda's declaration under the Cape Town Convention as to self-help remedies.

14. In clear cases of a lessee default is there an effective summary procedure or interim relief available in your courts allowing lessor prompt repossession of the aircraft? Would security be required to avail of such process?

In clear cases of a lessee default, summary procedure and interim relief is available in court allowing lessor repossession of the aircraft – this is to be found in the provisions of Article 320 of Law n° 18/2004 of 20/6/2004. The lessor can decide to ask the Court to make an interim order in order to repossess the aircraft. The repossession rights must be clearly stated within the lease or loan agreement.

15. What is the procedure for a lender to enforce a mortgage over the aircraft or engine in your country when the borrower is in default? For example must the aircraft be sold by the court or can the lender itself take possession and arrange a sale?

In clear cases of a borrower default, the procedure available (not in court but), in the Office of the Registrar General allowing repossession of the aircraft is contained in Article 17 of Law on security interests in movable property:

- A secured creditor with priority over other secured creditors may take possession of and sell collateral when the debtor is in default under the security agreement.
- In such a case, the Registrar General shall issue a certificate authorizing possession and sale of the collateral by the secured creditor.
- In case of sale of collateral, the secured creditor in agreement with the debtor has the duty to obtain the reasonably best price.
- Collateral may be sold by public auction, public tender, ordinary sale or another method to the satisfaction of both parties.
- Upon receipt of the request for sale of collateral by both parties, the Registrar General shall, without delay, issue a notice of sale to be effective in ten (10) working days.
-

16. Do the courts in your country have experience of repossession / foreclosure action involving aircraft? If so, please provide some details and indicate the time such proceedings generally would be expected to take from start to finish.

Not to our knowledge. Speedy relief is provided for under Rwanda's Cape Town declarations.

17. Where an aircraft is leased to (i.e. not owned by) the airline operating it, can that airline create liens or encumbrances over the aircraft for example if it fails to pay suppliers, airport charges or maintenance providers? If so, would the existence of any such liens (e.g. in respect of unpaid airport charges) prevent an owner or mortgagee from repossessing the aircraft?

Such a situation can arise. The Rwanda Civil Aviation Authority will expect payment of the fees incurred by the aircraft. It is clear that one of the means for the RCAA to get paid will be to ground the aircraft until payment is made.

18. Are there any circumstances under your country's laws where a non-operating lessor, owner or a mortgagee could be held liable for damage caused by the aircraft whilst operated by an airline, even if there is no fault on the part of lessor, owner or mortgagee?

Not simply by being an owner or mortgagee, The lessor and the lessee shall be responsible for damages caused to other persons' property, each on his or her own concern, in accordance with Book III of the Civil Code (refer to Article 9 of law n°06/2005 of 03/06/2005 establishing regulations and conditions governing lease operations).

19. Are there any legal requirements in relation to insurance and/or reinsurance of an Aircraft registered in or operated to/from/within your country? For example is there a minimum liability insurance amount required and must some or all of the cover be taken out with local insurers?

Yes. The provisions are quite detailed. See for example the Civil Aviation (Licencing of Air Services) Regulations 2008.

20. Are there any other specific issues arising under your country's laws that you feel a lessor or financier of aircraft or engines ought to be aware of when considering whether to lease or finance an aircraft to be based or registered in your country?

Yes. Financiers should for example take specific advice in each case as to the requirements of Article 8 of law no 11/2009 of 14/05/2009 on security interest on movable property to verify that the security documents meet those requirements.