

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

The Gambia Civil Aviation Authority

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

Yes. A foreign-owned aircraft may be registered in The Gambia if it is owned by an individual citizen of a foreign State who is lawfully admitted for permanent residence in The Gambia and it is not registered a foreign country.

Generally the conditions for eligibility to register an aircraft in The Gambia are: that it is not registered in a foreign country; it is owned by a citizen of The Gambia; an individual citizen of a foreign State who is lawfully admitted for permanent residence in The Gambia; a corporation lawfully organised and doing business under the laws of The Gambia; a government entity of The Gambia; and if it is not registered under the laws of any foreign country.

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

No.

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

Any person or entity with a title to or a legal interest in a civil aircraft or in an aircraft engine, propeller, appliance or spare part intended for use on an aircraft registered in The Gambia.

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

Yes.

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?

A lease or mortgage must be in the English language or translated into English in the country of origin and the translation certified by a Notary Public in that country with the original version attached. The requisite stamp duty must be paid and the document should be recorded in the civil aircraft registry. If the Aircraft or engine is owned by a Gambian company then the mortgage must be recorded in the Companies registry as a charge within 21 days of execution.

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?

Generally possession is *prima facie* evidence of ownership. This presumption may be rebutted upon the presentation of proof that the engine is subject to a separate ownership. Marks or tags clearly identifying separate ownership of a detachable accessory such as an engine may be sufficient to rebut this presumption. In the event that such third party ownership is provided for in a document, such a document must be recorded in the civil aircraft registry.

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)?

Yes to the Chicago Convention. The 1948 Geneva Convention has been signed and ratified. The Gambia is yet to enact domestication legislation. The 2001 Cape Town Convention is yet to be ratified by The Gambia.

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)?

An assurance may be given at the discretion of the GCAA. There is no provision in local legislation for such assurances similar to the IDERA under the Cape Town Convention.

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?

Yes. Powers of attorney in favour of a lessor or mortgagee should be effective to allow deregistration and can be irrevocable and governed by foreign law. Powers of attorney must be recorded in the civil aircraft registry and will be subject to stamp duty.

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)?

Yes. All pending and outstanding fees and taxes should be paid prior to deregistration otherwise deregistration may not be allowed.

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?

Yes.

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?

A lessor may exercise a right of repossession conferred by a valid and registered lease. Prior permission is not required if such repossession can be executed without contest, otherwise a court order will be required.

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?

Yes. Local rules provide for summary judgment or interim relief for repossession of the aircraft in a case of lessee default. Gambian courts may require security by way of costs/damages deposits or guarantees. Such conditions are likely in cases where a lessor is not a local resident or intends to remove the subject matter from the jurisdiction.

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?

A lender may only enforce a mortgage through a court order. Upon the proper application being made Gambian courts may order that the sale be conducted as the lender shall direct or by private treaty. In such a case the lender may take possession with assistance from the Sheriff Bailiffs and take conduct of a sale. Otherwise as a matter of practice the Sheriff's Department will sell through public auction.

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.

The Gambian courts do not have much experience in repossession/foreclosure action involving aircraft. Gambian courts have some experience in arrest of vessels and repossession involving chattels or equipment mortgaged by foreign financiers. Summary proceedings for repossession may take from 1 to 2 months. In contentious matters involving complex issues proceedings may take up to 6 – 9 months.

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?

Unless such powers are granted under the lease, as a matter of law, a lessee cannot create a lien or encumbrance over an aircraft or engine it does not own without prior consent of the lessor. So far as the ownership or mortgage document is registered in the civil aircraft registry it will serve as notice to all third parties and be enforceable as a priority agreement.

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?

No

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. It is mandatory for a carrier operating air transport services to, from or within The Gambia to maintain adequate insurance to cover its liability under the locally applicable rules contained in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28<sup>th</sup> May 1999; and towards compensation for damages that may be sustained by third parties. There are no requirements as to cover to be taken out with local insurers. It is to be noted that any offshore insurance should be taken with due consideration to Section 5(1) of The Gambia Insurance Act Cap 97:01 which prohibits any person or entity, not Registered by the Commissioner of Insurance, to commence or carry on any class of insurance business in The Gambia.

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?

No