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THE PRESIDENCY

No. 566

6 July 2007

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 4 of 2007: Convention on International Interests in Mobile Equipment Act, 2007.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

*(English text signed by the President.)
(Assented to 29 June 2007.)*

ACT

To enact the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment into law; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—
- “**Convention**” means the Convention on International Interests in Mobile Equipment, set out in Schedule 1 and signed at Cape Town on 16 November 2001; 5
- “**Minister**” means the Minister of Transport;
- “**Protocol**” means the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, set out in Schedule 2; 10
- “**this Act**” includes the Convention and the Protocol.

Enactment of Convention and Protocol

2. (1) Subject to the other provisions in this Act, the Convention and the Protocol have the force of law in the Republic.
- (2) The Minister may by notice in the *Gazette* amend Schedules 1 and 2 to reflect any changes made to the Convention and the Protocol if those changes are binding on the Republic in terms of section 231 of the Constitution of the Republic of South Africa, 1996. 15

Designation of entity

3. The South African Civil Aviation Authority, as defined in section 1 of the South African Civil Aviation Authority Act, 1988 (Act No. 40 of 1988), is hereby designated in accordance with Article 18(5) of the Convention as the entry point through which the information required for registration may be transmitted to the International Registry. 20

Determination of court

4. For the purposes of Article 53 of the Convention, the High Court referred to in section 166(c) of the Constitution of the Republic of South Africa, 1996, is the court that has jurisdiction as contemplated in Chapter XII of the Convention. 25

Regulations

5. The Minister may make regulations regarding any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act. 30

Act No. 4, 2007

CONVENTION ON INTERNATIONAL INTERESTS IN
MOBILE EQUIPMENT ACT, 2007**Short title and commencement**

6. This Act is called the Convention on International Interests in Mobile Equipment Act, 2007, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

SCHEDULE 1

CONVENTION

ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

THE STATES PARTIES TO THIS CONVENTION,

AWARE of the need to acquire and use mobile equipment of high value or particular economic significance and to facilitate the financing of the acquisition and use of such equipment in an efficient manner,

RECOGNISING the advantages of asset-based financing and leasing for this purpose and desiring to facilitate these types of transaction by establishing clear rules to govern them,

MINDFUL of the need to ensure that interests in such equipment are recognised and protected universally,

DESIRING to provide broad and mutual economic benefits for all interested parties,

BELIEVING that such rules must reflect the principles underlying asset-based financing and leasing and promote the autonomy of the parties necessary in these transactions,

CONSCIOUS of the need to establish a legal framework for international interests in such equipment and for that purpose to create an international registration system for their protection,

TAKING INTO CONSIDERATION the objectives and principles enunciated in existing Conventions relating to such equipment,

HAVE AGREED upon the following provisions:

Chapter I

Sphere of application and general provisions

Article 1 — Definitions

In this Convention, except where the context otherwise requires, the following terms are employed with the meanings set out below:

- (a) “agreement” means a security agreement, a title reservation agreement or a leasing agreement;

- (b) “assignment” means a contract which, whether by way of security or otherwise, confers on the assignee associated rights with or without a transfer of the related international interest;
- (c) “associated rights” means all rights to payment or other performance by a debtor under an agreement which are secured by or associated with the object;
- (d) “commencement of the insolvency proceedings” means the time at which the insolvency proceedings are deemed to commence under the applicable insolvency law;
- (e) “conditional buyer” means a buyer under a title reservation agreement;
- (f) “conditional seller” means a seller under a title reservation agreement;
- (g) “contract of sale” means a contract for the sale of an object by a seller to a buyer which is not an agreement as defined in (a) above;
- (h) “court” means a court of law or an administrative or arbitral tribunal established by a Contracting State;
- (i) “creditor” means a chargee under a security agreement, a conditional seller under a title reservation agreement or a lessor under a leasing agreement;
- (j) “debtor” means a chargor under a security agreement, a conditional buyer under a title reservation agreement, a lessee under a leasing agreement or a person whose interest in an object is burdened by a registrable non-consensual right or interest;
- (k) “insolvency administrator” means a person authorised to administer the reorganisation or liquidation, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;
- (l) “insolvency proceedings” means bankruptcy, liquidation 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 for the purposes of reorganisation or liquidation;
- (m) “interested persons” means:
 - (i) the debtor;
 - (ii) any person who, for the purpose of assuring performance of any of the obligations in favour of the creditor, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;
 - (iii) any other person having rights in or over the object;
- (n) “internal transaction” means a transaction of a type listed in Article 2(2)(a) to (c) where the centre of the main interests of all parties to such transaction is situated, and the relevant object located (as specified in the Protocol), in the same Contracting State at the time of