



Isle of Man
CIVIL AVIATION ADMINISTRATION

Review of Aircraft Mortgaging Legislation

Consultation Response

29 May 2025



Background

The Isle of Man Civil Aviation Administration (IOM CAA), a division of the Department for Enterprise, is the aviation safety and security regulator for the Isle of Man and is also responsible for ensuring the Island's aviation regulation meets International Civil Aviation Organisation (ICAO) Standards and Recommended Practices and other relevant aviation standards.

The consultation was open from 25 June 2024 to 25 August 2024 and asked for stakeholders views on the regulation of registrations of aircraft mortgages to inform our drafting of updated legislation and associated processes.

It was considered that these aviation specific technical proposals would be primarily of relevance to: aircraft owners and operators; financial institutions; insurance companies; and corporate service providers.

The consultation questions, responses, and IOM CAA next steps are set out below.

Responses and IOM CAA Next Steps

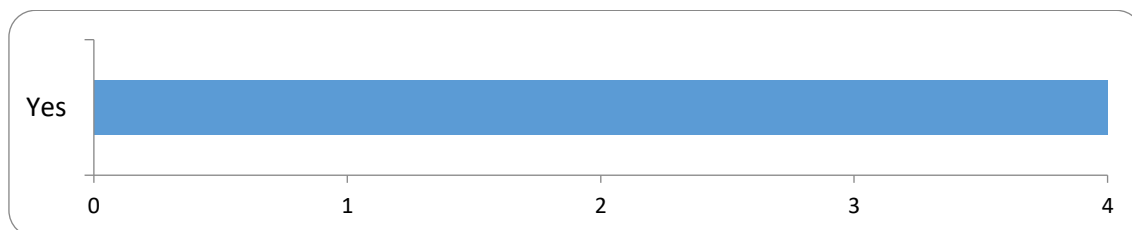
Q1 to 4 – Consultation Administration

There were four responses to the consultation, all which have been recorded and analysed.

Respondents were asked to provide a category that best described their interest in the consultation:

- 1 x law firm;
- 1 x financial institution;
- 1 x corporate service provider;
- 1 x organisation that provides:
 - o corporate services;
 - o insurance;
 - o maintenance planning and scheduling.

Q5. Should the phrase 'aircraft mortgage' be defined in the new legislation?



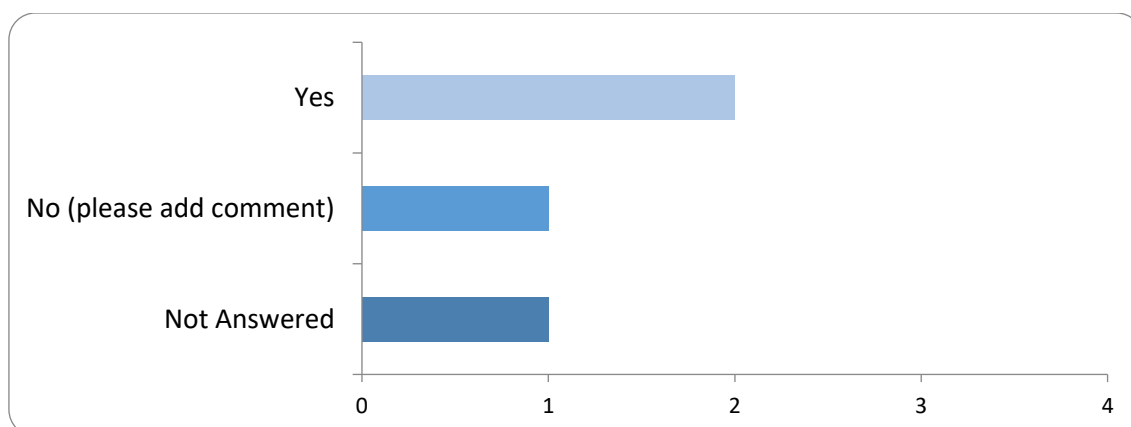
One additional comment was submitted which raised the following points:

- Need to ensure the definition of mortgage refers to creating security over title to the aircraft and that it includes both 'legal mortgages' and 'equitable mortgages'.
- The legislation must not prevent the mortgage from securing parts, spares etc that may not be attached to the aircraft.

IOM CAA response:

- The proposed definition of 'aircraft mortgage' will be further developed to take account of the points submitted and will be subject to further consultation. Our working definition at this stage is:
 - o "a legal or equitable interest (excluding a lien or floating charge), creating security over title to an aircraft and any specified store of spare parts for that aircraft, under which the agreement creating the interest secures payment or the performance of an obligation (whether or not title in the aircraft is transferred to the mortgage)"

Q6. Do you agree with the proposed new definition of 'aircraft mortgage'?



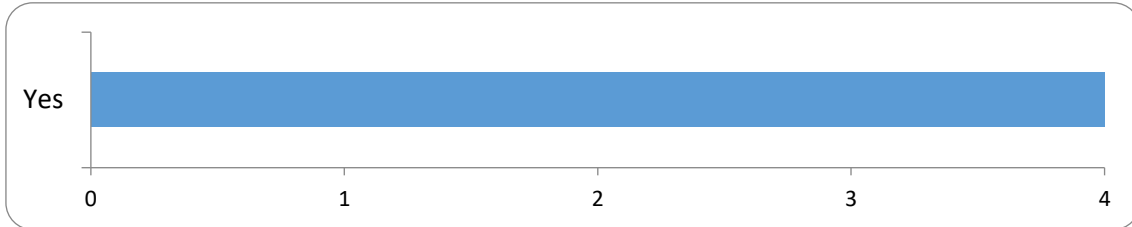
One additional comment was submitted highlighting the need for the definition to include a legal or equitable mortgage over or interest over legal title to the aircraft.

IOM CAA response:

- The proposed definition of "aircraft mortgage" will be further developed to take account of the points submitted and will be subject to further consultation. Our working definition at this stage is:
 - o "a legal or equitable interest (excluding a lien or floating charge), creating security over title to an aircraft and any specified store of spare parts for that aircraft, under which the agreement creating the

interest secures payment or the performance of an obligation (whether or not title in the aircraft is transferred to the mortgage)“

Q7. Should 'floating charges' be excluded from being registered as an aircraft mortgage?

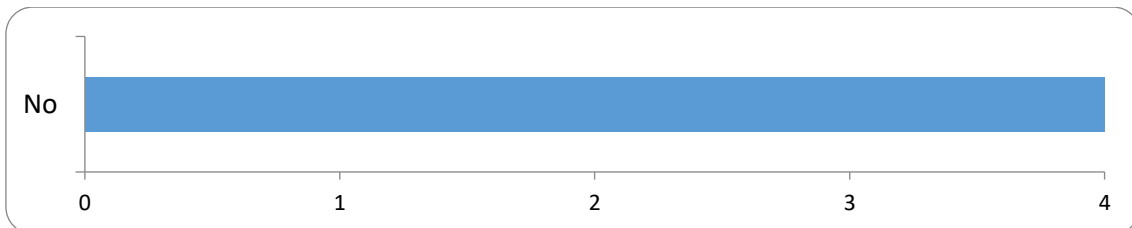


One additional comment was submitted which stated that a floating charge is not appropriate security for an aircraft.

IOM CAA response:

- Floating charges will be explicitly excluded from being able to be registered as an aircraft mortgage.

Q8. Should the term 'floating charge' be defined in the new legislation?

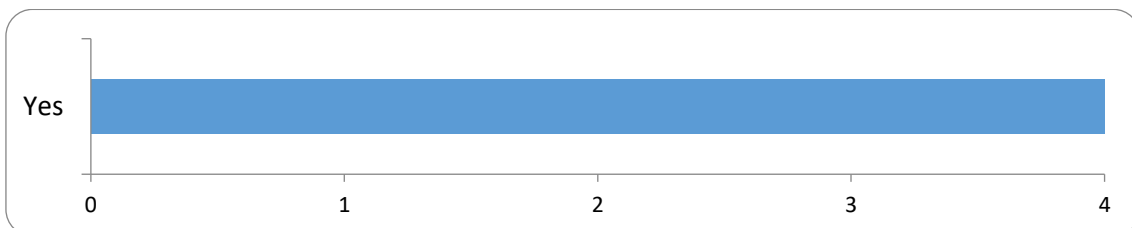


One additional comment stated that the term should be irrelevant to the new legislation.

IOM CAA response:

- We will not define the term 'floating charge' in the new legislation.

Q9. Do you agree with liens not being able to be registered as an aircraft mortgage?

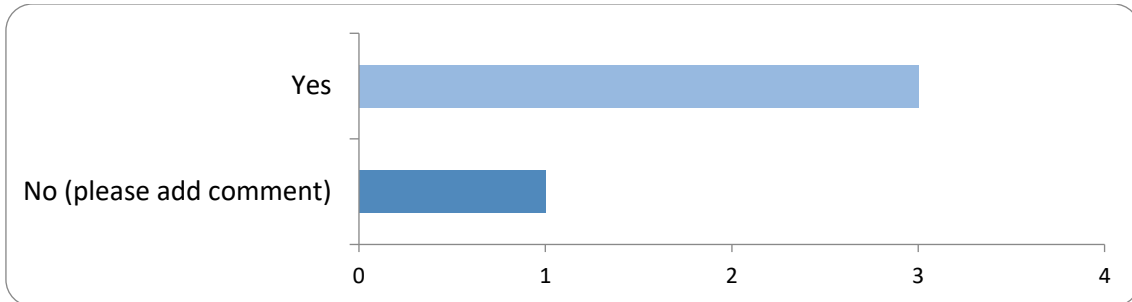


One additional comment highlighted that a lien arises as a matter of law (as opposed to consensually created) and is not a form of security that would be required by a lender in an aircraft financing.

IOM CAA response:

- Liens will be explicitly excluded from being registered as an aircraft mortgage.

Q10. Should 'lien' be defined in the new legislation?

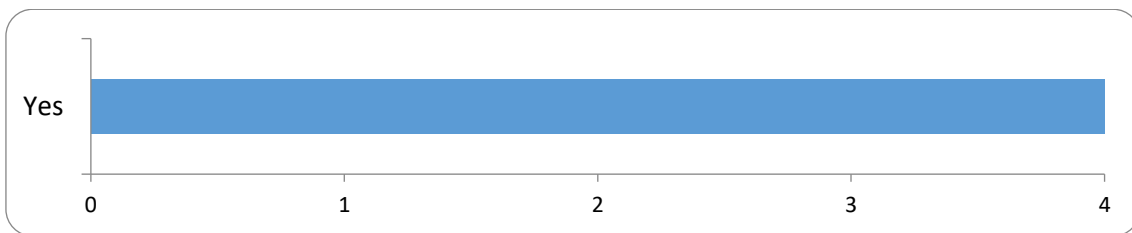


There were no additional comments submitted.

IOM CAA response:

- We will further consider defining the term 'lien' in the new legislation and consult further on our next proposals.

Q11. Do you agree that applications should be made 'in a format acceptable to the Department' rather than being specified explicitly in the legislation?

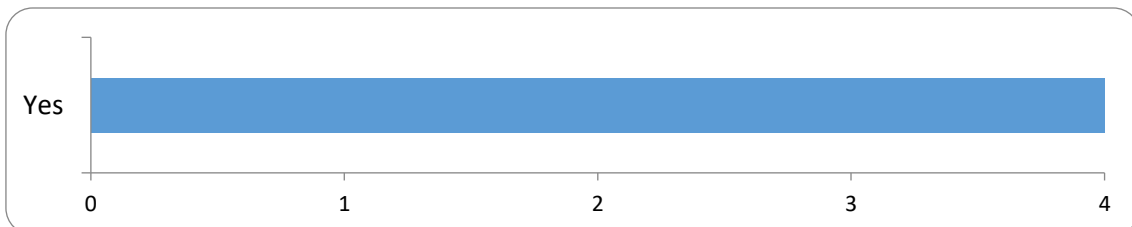


One additional comment highlighted the need for flexibility to improve the format from time to time.

IOM CAA response:

- It is our intention that the new legislation specifies that applications shall be made in a format acceptable to the Department.

Q12. Do you agree with applications for mortgage registration continuing to be stated as having to be submitted 'by or on behalf of the mortgagee'?

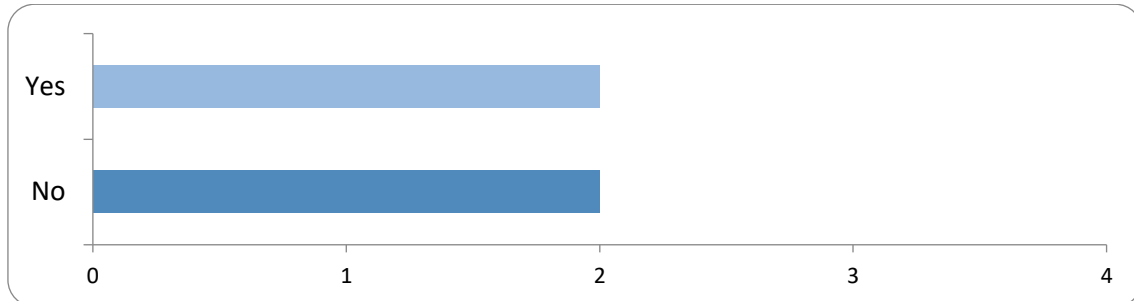


There were no additional comments submitted.

IOM CAA response:

- It is our intention that new legislation will continue to specify that applications for mortgage registration shall be submitted 'by or on behalf of the mortgagee.

Q13. Should applications made 'on behalf' of the mortgagee require accompanying power of attorney?



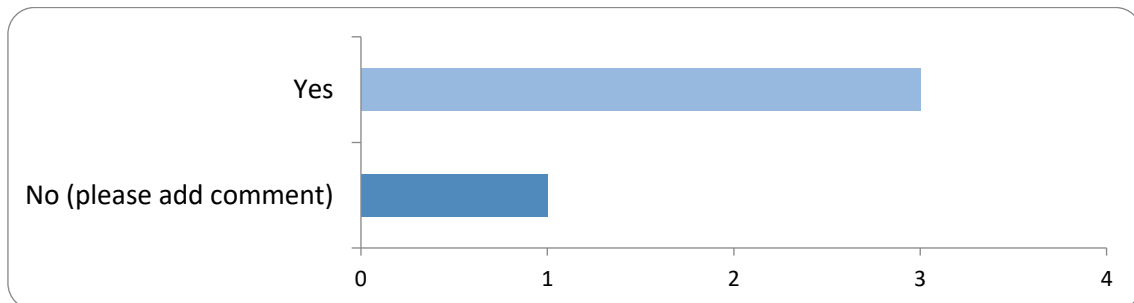
One additional comment stated that whilst power of attorney is routinely obtained, it should not be a legal requirement, and that declarations could be used on the application form instead.

IOM CAA response:

- We will further evaluate whether applications need to be accompanied by power of attorney and our proposal will be subject to further consultation.

Q14. Do you agree that applications should be accompanied by a mortgage document that:

a. is certified as a true copy?

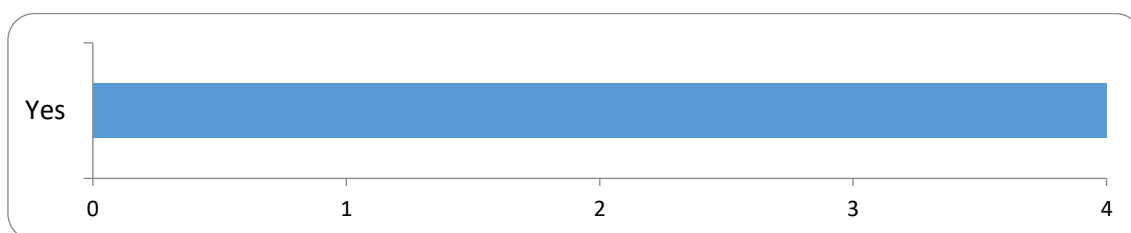


One additional comment highlighted that they felt it was the only document where it was required, was at odds with the general acceptance of pdf documents and, can be logistically difficult.

IOM CAA response:

- We will further evaluate the subject of whether the mortgage document must be certified as a true and accurate copy and our proposal will be subject to further consultation.
- It is our intention that the new legislation will include an offence for filing false statements and forgery.

b. Lists the names and addresses of the mortgagee and mortgagor?

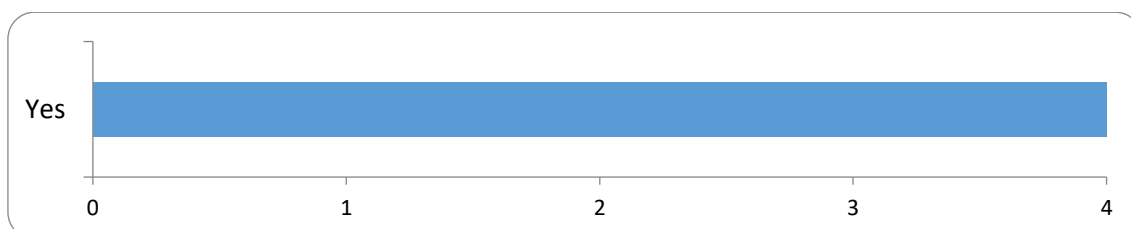


There were no additional comments provided to answers for this question.

IOM CAA response:

- We will require the mortgage document to list the names and addresses of the mortgagee and mortgagor.

c. Specifies the serial number, manufacturer and manufacturer's designation of the particular aircraft over which the aircraft mortgage is created?

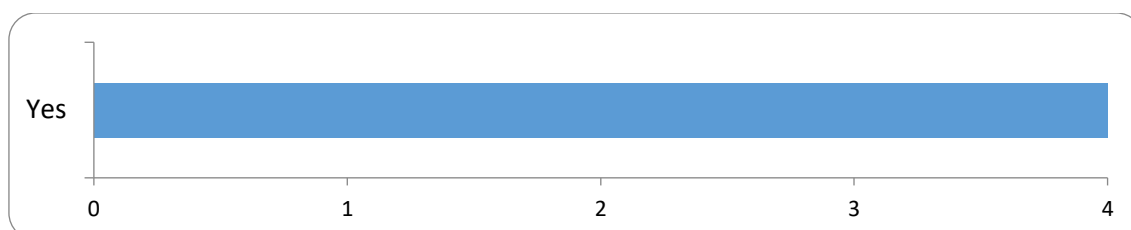


One additional comment requested continued flexibility not to refer to a registration mark and to continue to accept the commercial designation (rather than the technical designation) of the aircraft in the mortgage and equivalent form.

IOM CAA response:

- We will continue to require the mortgage document to include: the serial number of the aircraft; and, the manufacturer and manufacturer's designation of the aircraft as listed on the aircraft mortgage and the submitted application form, which may be either in the form of a 'commercial' type designation or a 'technical' type designation.
- We will continue to allow the flexibility for the mortgage document not to refer to a registration mark; however, the mortgage may only be registered by the IOM CAA once the aircraft has been registered in the Isle of Man.

Q15. Do you agree with applications for a priority notice continuing to be stated as having to be submitted 'by or on behalf of the mortgagee'?

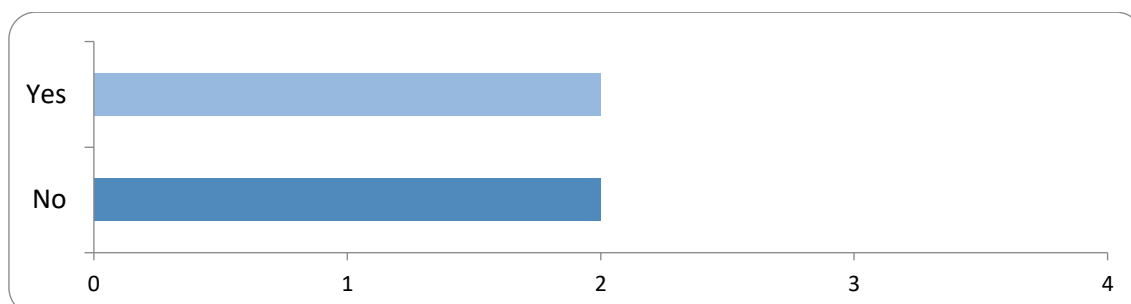


There were no additional comments provided to answers for this question.

IOM CAA response:

- applications for a priority notice will continue to be stated as having to be submitted 'by or on behalf of the mortgagee'.

Q16. Should applications made 'on behalf' of the mortgagee require accompanying power of attorney?

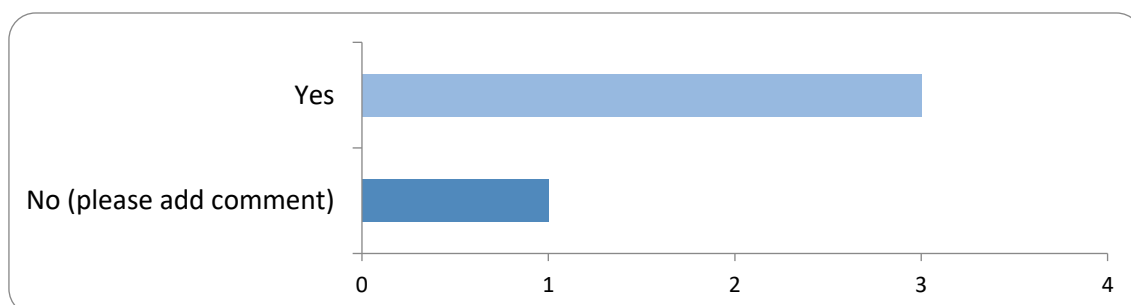


One additional comment stated that whilst power of attorney is routinely obtained, it should not be a legal requirement, and that declarations could be used on the application form instead.

IOM CAA response:

- We will further evaluate whether applications need to be accompanied by power of attorney and our proposal will be subject to further consultation.

Q17. Do you agree with the proposal that priority notices shall only be valid for a maximum of 14 working days?

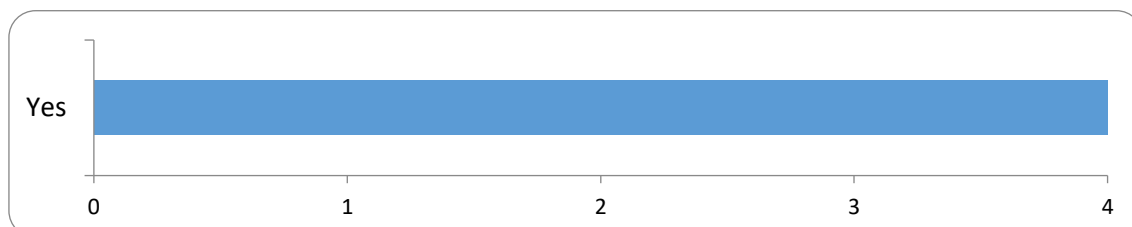


One additional comment was submitted which highlighted the need for an extension process that protected the initial priority.

IOM CAA response:

- We will draft legislation that limits priority notices to 14 days but enables applications to extend the period of validity to an absolute maximum of 28 days without loss of priority. This will be subject to further consultation.

Q18. Do you agree with applications for mortgage discharge continuing to be stated as having to be submitted by or on behalf of the mortgagee?

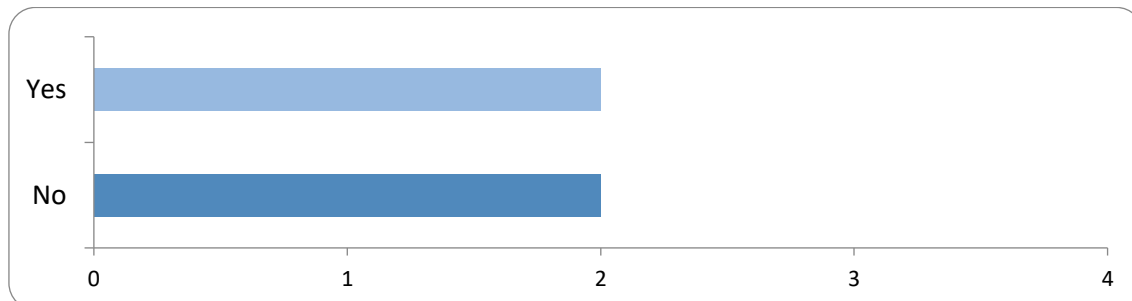


One additional comment stated that this was important to minimise the risk of a person deregistering a mortgage without the consent of the mortgagee.

IOM CAA response:

- Applications for mortgage discharge will continue to be stated as having to be submitted by or on behalf of the mortgagee.

Q19. Should applications made on behalf of the mortgagee require accompanying power of attorney?

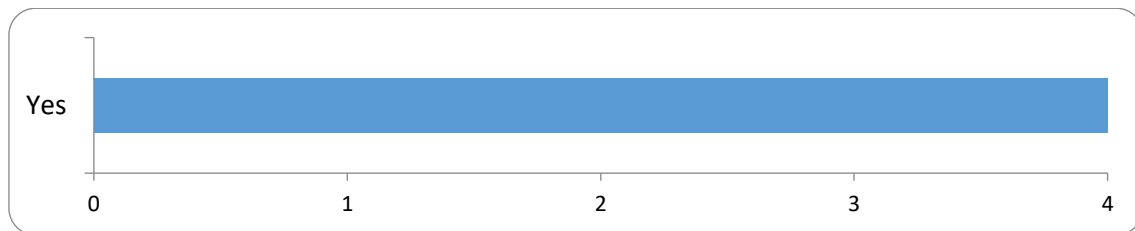


One additional comment stated that whilst power of attorney is routinely obtained, it should not be a legal requirement, and that declarations could be used on the application form instead.

IOM CAA response:

- We will further evaluate whether applications need to be accompanied by power of attorney and our proposal will be subject to further consultation.

Q20. Is the current required documentation to support an application to discharge a mortgage sufficient (i.e. a copy of the document of discharge or receipt for the mortgage money, or of any other document which shows, to the satisfaction of the Aircraft Registry, that the mortgage has been discharged)?

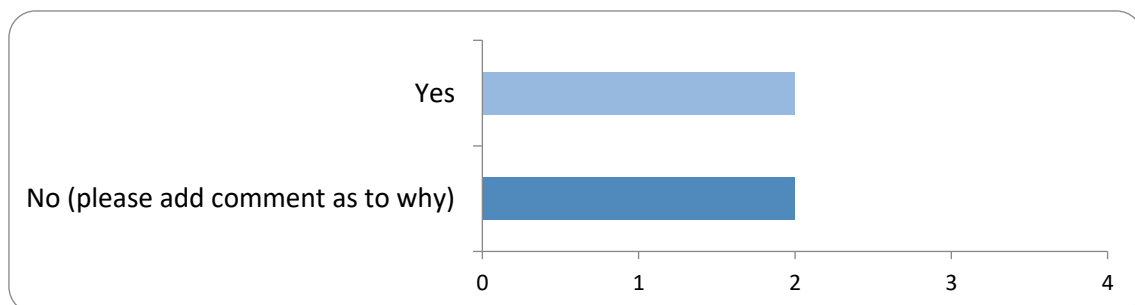


One additional comment was submitted highlighting that the discharge document is a letter confirming the mortgage/loan has been settled.

IOM CAA response:

- We plan to maintain the current required documentation to support an application to discharge a mortgage.

Q21. Should the document of discharge be certified by the applicant as a true copy?



One comment highlighted that the discharge document is a letter confirming the mortgage/loan has been settled.

One additional comment highlighted that they felt it was the only document where it was required, was at odds with the general acceptance of pdf documents and, can be logistically difficult.

IOM CAA response:

- We will further evaluate the subject of whether the mortgage document must be certified as a true and accurate copy and our proposal will be subject to further consultation.
- It is our intention that the new legislation will include an offence for filing false statements and forgery.

Q22. Please provide any comments/suggestions on processes to ensure appropriate rectification of the Register.

One additional comment highlighted that there was a need to be able to make amendments to particulars submitted at registration such as engine serial numbers.

Another comment was submitted proposing that the IOM ACA should have discretion to rectify the register, but any rectification by the Registry should be appealable/challengeable in the High Court.

IOM CAA response:

- The current definition of 'aircraft mortgage' extends to include any store of spare parts for that aircraft. Aircraft engines are considered to fall under the scope of 'spare parts'. We will draft legislation that enables submissions for amendments to the details pertaining to the store of spare parts, such as engine serial numbers etc. However, we do not plan to enact an explicit register of engine mortgages.
- We will draft legislation that enables the IOM CAA to propose rectifications to the register along with an appropriate appeals process.

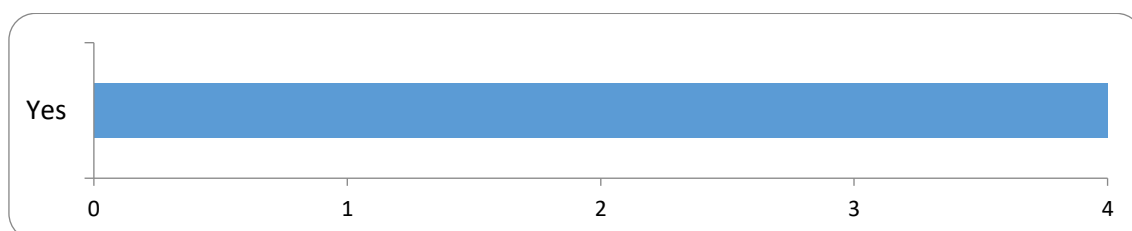
Q23. Please provide any comments or suggestions on the availability of mortgage searches and the potential publication of elements of the mortgage register to enable self-search

Two comments were provided, both of which proposed that the underlying mortgage details should be withheld.

IOM CAA response:

- We will draft legislation that facilitates persons being provided with mortgage entry and status information but which protects the details of the mortgagee and the mortgage agreement document.

Q24. Do you agree with the deletion of article 12 of the Mortgaging of Aircraft Order?

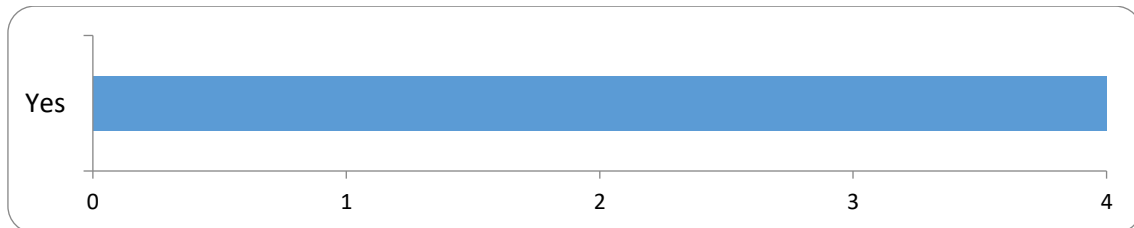


No additional comments were submitted.

IOM CAA response:

- The new legislation will no longer provide continued rights to the mortgagee following the deregistration of an aircraft from the aircraft register with their prior consent.

Q25. Do you agree that the proposed new legislation will specify that on deregistration of an aircraft with the consent of the mortgagee, the associated mortgage is also deregistered?

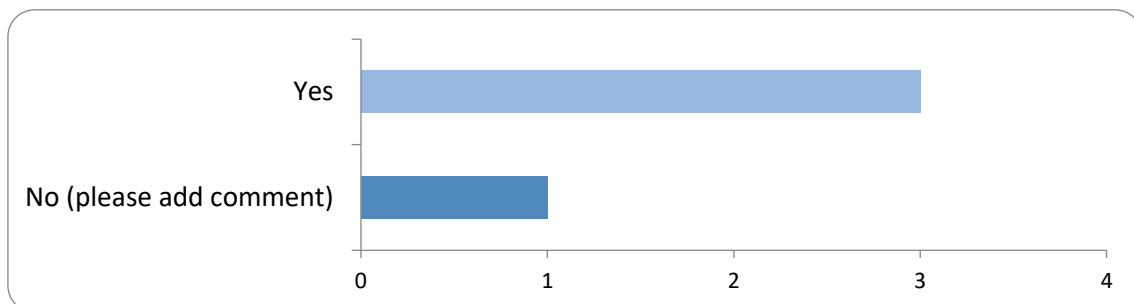


No comments were submitted.

IOM CAA response:

- Prior consent of the mortgagee for the aircraft to be deregistered will be provided through the requirement for the mortgagee in such circumstances to deregister the mortgage.

Q26. Do you agree with the deletion of article 13 of the Mortgaging of Aircraft Order?



One additional comment was submitted which highlighted that they felt article 13 created an important legal presumption of "constructive notice" to all persons of the existence of the mortgage, whether or not they have actual notice. It was also stated that the same legal concept exists with key documents filed in other public registers, and it exists to protect mortgagees by preventing persons claiming they were not aware of the existence of a mortgage.

IOM CAA response:

- We intend to maintain the equivalent of the current article 13 in the new legislation and will consult further on our next proposals.

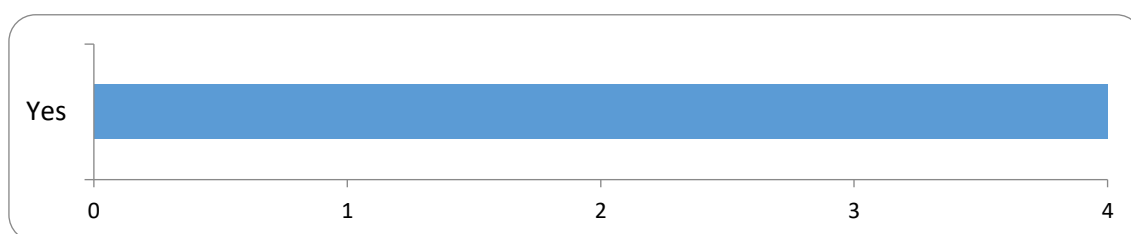
Q27. Please provide any comments/suggestions on the legislation desired to appropriately address the effect of mortgagor bankruptcy on the aircraft mortgage

Three respondents provided comments, all of which supported the retention of article 15. It was also highlighted that the Isle of Man does not currently have legislation equivalent to the UK Insolvency Act 1986, and that article 15 reflects Isle of Man insolvency law generally.

IOM CAA response:

- We will retain an equivalent to the current article 15 in the new legislation.

Q28. Do you agree with the proposed update of indemnity provisions that would protect Isle of Man government from liability except in the case of an action done in bad faith or that was incompatible with human rights obligations?



No comments were submitted.

IOM CAA response:

- The IOM CAA has identified that the Government Departments Act 1987¹ provides for the liability and indemnity provisions that address the points above; therefore, there is no intent for the new legislation to include this subject matter.

Q29. Please provide any comments or suggestions on addressing a situation where a single person had controlling and beneficial interest as both the mortgagee and the mortgagor

There was one response which highlighted justified commercial reasons for such situations, including the need for a lender company to seek security for the loan on commercial terms in order to protect itself from a potential default by a related borrower company. It was suggested that Registry powers to make amendments to the mortgage register could include the power to delete mortgages which, after due investigation, the Registry reasonably believes are not bona fide.

IOM CAA response:

¹ AT 13 of 1987

- We will further consider the subject of a single person with controlling and beneficial interest as both the mortgagee and the mortgagor and consult further on our next proposals.

Contact

Please submit any questions or comments on the content of this document by email to caa@gov.im or alternatively by post to:

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