

Insights and Commentary from Dentons

The combination of Dentons and Hanafiah Ponggawa & Partners (Indonesia) offers our clients access to 9000+ lawyers in 167 locations and 73 countries around the world.

This document was authored by representatives of Hanafiah Ponggawa & Partners prior to our combination's launch and continues to be offered to provide clients with the information they need to do business in an increasingly complex, interconnected and competitive marketplace.

AMENDMENT OF CIVIL AVIATION SAFETY REGULATIONS PART 47 CONCERNING AIRCRAFT REGISTRATION



New Provisions in MOT Reg. 52/2018

In general, MOT Reg. 52/2018 provides for aircraft registration in a more comprehensive manner than MOT Reg. 49/2009. MOT Reg. 52/2018 divides the provisions into 5 (five) sub-sections, 2 (two) of which are new provisions that did not previously appear in MOT Reg. 49/2009, i.e. provisions concerning aircraft procurement approval and aircraft registration certificates for aircraft manufacturers and dealers.

Sub Section A - General Rules

In this Sub Section A, the scope and terms used in this regulation are defined.

Sub Section B - Aircraft Procurement Approvals

This Sub Section B added aircraft procurement approval provisions to those which were originally found in MOT Decree 82/2004. Sub Section B also has new provisions which allows a maximum of 2 (two) applications for extensions of aircraft procurement approval with the requirement that an application for extension must be submitted no later than 1 (one) month before the expiration of the approval.

Sub Section C - Aircraft Registration Certificates

The provisions concerning aircraft registration certificate are refined in this Section C, by adding some provisions which were not previously found in MOT Reg. 49/2009. The new provisions in this Sub Section C include administrative requirements, procedures for registration, removal of registration marks and reporting of the changes in the registration data.

The Minister of Transportation ("MOT") promulgated MOT Regulation No. 52 of 2018 concerning Civil Aviation Safety Regulations Part 47 on Aircraft Registration on May 31, 2018 which has been effective since the date of its publication by the Minister of Law and Human Rights on 21 June 2018 ("MOT Reg. 52/2018"). MOT Reg. 52/2018 revoked Decree of MOT No. KM 82 of 2004 concerning Procurement Procedures for Aircraft and Helicopters ("MOT Decree 82/2004") and MOT Regulation No. KM 49 of 2009 concerning Civil Aviation Safety Regulations Part 47 on Aircraft Registration ("MOT Reg. 49/2009").

On the other hand, there are provisions that were previously set out in MOT Reg. 49/2009 but which are not now found in MOT Reg. 52/2018, including provisions concerning proof of ownership of aircraft. MOT Reg. 49/2009 stipulates that the proof of ownership may be in the form of "Purchase Evidence" or "Grant Certificate/Document" or other form acceptable to the Director General of Civil Aviation. MOT Reg. 52/2018 does not specifically regulate the form of proof of aircraft ownership as MOT Reg. 49/2009 previously did but only provides the formality of the proof of ownership that must be fulfilled in the application process.

Sub Section D - Aircraft Registration Certificates for Aircraft Manufacturers and Dealers

In addition to Sub Section B, this Sub Section D has new provisions that were not previously found in MOT Reg. 49/2009. Provisions in this Sub Section D includes the terms and procedures for applications, duration of the certificate and change of status, provisions on temporary registration marks and the limitation of the enforceability of this rule.

Sub Section E - Irrevocable Deregistration and Export Request Authorizations

Sub-Section E on Irrevocable Deregistration and Export Request Authorizations ("IDERA") is a fairly comprehensive compared to the IDERA provisions set forth in MOT Reg. 49/2009.

Sub Section E is divided into several sections covering the scope, procedures for issuance, recording and cancellation of IDERA, deregistration of aircraft using IDERA and certificate of airworthiness for export. In addition to those matters, Sub Section E also introduces a new instrument in respect of authority/power to deregister an aircraft or helicopter as specified in the next section below.

In relation to the procedures for IDERA recordation and cancellation, MOT Reg. 52/2018 expressly stipulates that the application for IDERA recordation and cancellation must be submitted by the Authorized Party to the Director General of Civil Aviation. However, MOT Reg. 52/2018 provides an opportunity for the Authorized Party to grant an authorization to another party to perform the process of filing the registration and cancellation of the IDERA. In the previous regulatory regime, IDERA provisions were only regulated in general stipulating that the IDERA must be acknowledged and recorded by the Director General of Civil Aviation if the applicant has completed the IDERA form correctly. Unlike MOT Reg. 52/2018, MOT Reg. 49/2009 provides that an IDERA may only be cancelled by an application from an Authorized Party or debtor with written consent from the Authorized Party.

Provisions Related to the Certified Designee

In addition to the IDERA provisions as above, Sub Section E MOT Reg. 52/2018 also introduces a new provision relating to the authority to apply for the deregistration of an aircraft or helicopter, whereby the Authorized Party may appoint another party as the sole authorized party to apply for the deregistration of the aircraft or helicopter ("**Certified Designee**"). Under MOT Reg. 52/2018, a Certified Designee is a party having a relationship with the Authorized Party under an agreement.

The appointment of the Certified Designee must be set forth in a Certified Designee Letter ("**CDL**") which must be acknowledged and recorded by the Director General of Civil Aviation and such appointment cannot be cancelled without prior approval of the Authorized Party.

The CDL recordation must be submitted by the Authorized Party to the Director General of Civil Aviation, while in the case of cancellation, the Certified Designee must be involved.

In the event that an agreement between an Authorized Party and Certified Designee has expired, the CDL must be cancelled and upon the cancellation, the Authorized Party shall again be the sole authorized party to apply for the deregistration of aircraft or helicopter in accordance with the provisions under the IDERA.

Unlike MOT Reg. 49/2009, MOT Reg. 52/2018 also provides that if there is any change of name and/or address of the Authorized Party or Certified Designee, it must be reported in writing by the Authorized Party or Certified Designee to the Director General of Civil Aviation enclosing a copy of the corporate document legalized by a notary in the country concerned. Upon the change of information, a letter of change will be issued stating the change filed and then the letter becomes an inseparable part of the IDERA or CDL document.

MOT Reg. 52/2018 expressly stipulates that the implementing regulation concerning the procedures for registration, cancellation and deletion of IDERA and CDL will be governed by operational technical guidelines and implementation guidelines that will be stipulated in a Regulation of the Director General of Civil Aviation.

-oOo-

The article above was prepared by Hendra Ong (Partner) & Ken Atyk Nastiti (Associate).

This publication is not intended to be a comprehensive review of all developments in the law and practice, or to cover all aspects of those referred to. Readers should take legal advice before applying the information contained in this publication to specific issues or transactions or matters. For more information, please contact us at hplaw@hplaw.co.id.

No part of this publication may be reproduced by any process whatsoever without prior written permission from Hanafiah Ponggawa & Partners.