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THE PROTECTION OF INTERESTS IN AIRCRAFT OBJECTS RULES, 2026 : REGULATORY CLARITY OR CONTINUED TURBULENCE?

- Payal Singh

ABSTRACT

With the passing of the Protection of Interests in Aircraft Objects Act of 2025 and the January 2026 Rules¹, India reached an important milestone toward compliance with the Cape Town Convention. In light of the Go First insolvency and of the subsequent lack of domestic law to render the Treaty obligations at least somewhat enforceable, this article analyses the extent to which the 2026 Rules provide the regulatory certainty demanded by aircraft lessors and financiers. It focuses on the most important changes to the Rules from a previous, problematic draft. Of particular interest to this article are the narrowing of non-consensual lien categories, the transformation of a parallel register to an information system, and the introduction of the two month Alternative A waiting period. Though these changes are to be welcomed, this article also addresses the remaining interpretative voids, in particular, the virtue of the non-judicial remedy and the hierarchy of the Rules vis-à-vis the Insolvency and Bankruptcy Code, and compares India's reform with similar instances in Ireland, the United States and the United Kingdom.

I. INTRODUCTION

¹ Protection of Interests in Aircraft Objects Rules, 2026, Gazette of India, pt. II, section 3(i) (Jan. 30, 2026)

For about 20 years, India held a peculiar standing on the global stage of aircraft finance². After signing the Cape Town Convention and the Aircraft Protocol in 2008 and delivering a few formal statements, India, more or less, abandoned the whole treaty. Despite these shortcomings, lessors continued financing Indian carriers because of the market's substantial size, but the risks of a jurisdiction that spoke Cape Town while remaining in non-compliance were always factored in. That gap between promise and practice unraveled in a spectacular manner with the voluntary insolvency of Go First in May 2023. The National Company Law Tribunal accepted the petition in the span of eight days, the Section 14 moratorium was enacted, and lessors, who had validly recorded international interests, were frozen out of their own aircraft for a number of months³. The Aviation Working Group reduced India's Compliance Index score from 63.5 to 50 and downgraded its Variable A (legislative) score from 3.5 to 2 out of 5 during the same year⁴.

The Protection of Interests in Aircraft Objects Act, 2025 took effect on 1 May 2025⁵, and the delegated legislation that this article examines, the Protection of Interests in Aircraft Objects Rules, 2026, were published by the Ministry of Civil Aviation on 30 January 2026⁶. The legal uncertainty culminated in January 2025, when the NCLT ordered Go First's liquidation. By December 2024, lessors had repossessed 28 of the airline's 54 aircraft, yet the process was protracted and costly. The Rules are not merely technical subordinate legislation. Instead, they will define the extent of the Act's commitments to creditor remedies as well as the de-registration and insolvency timeframes, and will either translate those commitments into a rational system or allow those commitments to be discretely undermined by the Rules. This article will analyze whether the 2026 Rules will finally provide the much-needed regulatory certainty to creditors and lessors, and to the members of the Aviation Working Group, or, as one of the previous draft versions of the Rules

² International Interests in Mobile Equipment, Nov. 16, 2001, 2307 U.N.T.S. 285; Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, Nov. 16, 2001, 2367 U.N.T.S. 517.

³ In re Go Airlines (India) Ltd., Company Petition No. (IB)-264(PB)/2023, National Company Law Tribunal [NCLT] (India, May 10, 2023), *aff'd*, Company Appeal (AT) No. 202/2023, National Company Law Appellate Tribunal [NCLAT] (India, May 22, 2023).

⁴ Aviation Working Group, Cape Town Convention Compliance Index (2023), <https://www.awg.aero/> (last visited June 20, 2026).

⁵ Protection of Interests in Aircraft Objects Act, 2025, No. 17 of 2025, India Code (2025)

⁶ Protection of Interests in Aircraft Objects Rules, 2026, Gazette of India, pt. II, section 3(i) (Jan. 30, 2026) [hereinafter 2026 Rules].

suggested⁷, whether these Rules will provide an alternative form of turbulence in India's civil aviation.

The stakes are very real. Nearly eighty percent of India's commercial passenger fleet is leased as opposed to owned. This figure is significantly higher than the global average. Recently, Indian carriers have made orders to both Airbus and Boeing, putting in orders of hundreds of planes and financially committing tens of billions of dollars⁸. The implications are not hypothetical for passengers. For every basis point added to the cost of leasing because of uncertain Indian repossession law, the cost will be passed on to the passengers. This is why the delegated rule and the stipulation of quarterly reporting deserves the same scrutiny as the parent statute.

II. THE TREATY ARCHITECTURE AND INDIA'S LONG ROAD TO IMPLEMENTATION

The Cape Town Convention (or "Aircraft Protocol"), a joint initiative between UNIDROIT and ICAO (International Civil Aviation Organization), was concluded in November 2001 in Cape Town⁹. It comprises an electronic mechanism that allows any creditor (lessor, mortgagee, conditional seller) to register their international interest in an airframe, engine, or helicopter without regard to where the debtor is incorporated or where the dispute arises¹⁰. In Article XI of the Protocol, perhaps the most important commercial provision, states are provided with the ability to choose one of two insolvency regimes: one allows the creditor an unconditional right to repossess at the end of a 'waiting period' stated in the state's declaration (as version of the United States Bankruptcy Code long afforded to US lessors)¹¹; the other, but, leaves more flexibility to

⁷Chambers & Partners, Draft Aircraft Objects Rules, 2025: A New Trajectory or Regulatory Turbulence? (Oct. 24, 2025), <https://chambers.com/> (last visited June 19, 2026).

⁸SCC Online Blog, India's Aviation Sector Takes a Global Stage with the Notification of Protection of Interests in Aircraft Objects Rules, 2026 (May 30, 2026), <https://www.scconline.com/blog/> (last visited June 20, 2026).

⁹ Convention on International Interests in Mobile Equipment, Nov. 16, 2001, 2307 U.N.T.S. 285.

¹⁰ Convention on International Interests in Mobile Equipment, *supra* note 9, arts. 7, 16, 29.

¹¹Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, Nov. 16, 2001, 2367 U.N.T.S. 517, art. XI; 11 U.S.C. section 1110 (2018)

the insolvency court. India, in its declaration under Article XXX(3), chose Alternative A in full and fixed the waiting period at two months¹².

The problem was that the Declaration is not domestic law. The Convention was not expressly incorporated into Indian law, so when the question was actually presented in Go First, Indian courts had nothing to rely on but the Insolvency and Bankruptcy Code, 2016¹³. Section 14(1)(d) of the Code prohibits any action for recovery of corporate debtor property, aircraft included. Neither the National Company Law Tribunal nor the National Company Law Appellate Tribunal could come up with a text which could make an exception for Cape Town creditors¹⁴. The Ministry of Corporate Affairs attempted to fill the void halfway through the crisis by issuing a notification on 3 October 2023 exempting lease and security transactions from the moratorium. The Delhi High Court later brought the notification retrospectively in the Go First litigation¹⁵. But a notification issued under the Code is very fragile to create an international financing market, and lessors admitted it loudly.

III. WHAT THE ACT AND THE 2026 RULES ACTUALLY DO

The Protection of Interests in Aircraft Objects Act, 2025 confers the Convention and Protocol with legal effect in India and designates the Directorate General of Civil Aviation as the “registry authority” domestically¹⁶. Section III of the Act, like Article VIII and Article X of the Convention, restates the rights of the creditor in default¹⁷— revoke the agreement, take possession or control of the aircraft object, obtain deregistration and export. Section XII refers to jurisdiction, prepared keeping in mind the confusion over jurisdiction that had arisen earlier in the case Jet Airways insolvency¹⁸. None of these provisions, however, establish the operational mechanisms required

¹²UNIDROIT, Declarations of the Republic of India (Apr. 30, 2025), <https://www.unidroit.org/> (last visited June 18, 2026).

¹³ Insolvency and Bankruptcy Code, No. 31 of 2016, India Code.

¹⁴Rohit Kapoor, Airline Insolvency in India & Ratification of Cape Town Convention, IBC Laws (2025), <https://ibclaw.in/> (last visited June 21, 2026).

¹⁵Accipiter Investments Aircraft 2 Ltd. v. Union of India, W.P.(C) 6569/2023 (Delhi High Court Oct. 3, 2023).

¹⁶ Protection of Interests in Aircraft Objects Act, 2025, No. 17 of 2025, India Code, section 4

¹⁷ 2025 Act, ch. III; Convention on International Interests in Mobile Equipment, *supra* note 9, art. 8; Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, *supra* note 11, art. X.

¹⁸ 2025 Act, ch. XII, section 42–45.

for a creditor to repossess an aircraft object in a timely manner. That operational detail is what the Rules were meant to supply.

Draft Rules were first out for public consultation on 17 September 2025, and I wish to briefly dwell on them here as the final Rules can only be understood as an abbreviation for the debate that followed. Three proposals alarmed lessors: a parallel domestic register for international interests running alongside the International Registry; a requirement that creditors notify the DGCA before exercising any remedy; and most controversially, a list of “dues” — airport charges, navigation fees, fuel charges, and unpaid employee wages — that a creditor would have to pay before an aircraft leaves the country¹⁹. Lessors correctly pointed out that no justification was offered was offered for treating an aircraft lessor as a guarantee of the airline’s unrelated obligations to the state and its employees, an obligation that mirrors the unpaid dues left behind by Kingfisher Airlines and Jet Airways²⁰. Aviation Working Group placed India on a “watchlist” in relation to the draft, warning that the introduction of non-Convention liens and lack of an explicit insolvency primacy clause was putting India’s compliance score at risk²¹.

The final Rules, notified on 30 January 2026, retreat from the most aggressive version but retain its basis. Rule 5 establishes an “Information System”, an electronic platform organized aircraft-by-aircraft rather than a parallel register of title, something the Ministry was very careful not to do after the parallel registry criticism²². The Information System does not affect the creation of an international interest or its priority as recorded in the International Registry; it is purely a transparency mechanism. Rule 6 requires that a debtor running an aircraft with an international interest notify the DGCA within thirty days of the aircraft’s Indian registration, including details of the creditor, the debtor and any mortgagee; aircraft already on the Indian Register when these Rules took effect get a six month window of time, until 30 July 2026²³. Rule 7 requires debtors to

¹⁹Allen & Gledhill, India: The Protection of Interests in Aircraft Objects Rules, 2026 (2026), <https://www.allenandgledhill.com/> (last visited June 19, 2026).

²⁰Lessors Protest India’s Draft Rules on Payment of Dues to Reclaim Jets, Reuters, <https://www.reuters.com/> (last visited June 20, 2026).

²¹Lexology, Global Aircraft Lessors Raise Concerns Over India’s Draft Aircraft Repossession Rules (Nov. 3, 2025), <https://www.lexology.com/> (last visited June 22, 2026).

²² 2026 Rules, *supra* note 6, r. 5.

²³ 2026 Rules, r. 6.

report quarterly a small list of “Appendix A Dues” – airport operator charges, route navigation and terminal navigation charges, fuel charges as a public service, and GST payable on the lease or finance transaction²⁴. Notably, and this was the concession that made the biggest impact on the AWG, financier and lessor dues are not included in this list, and the open-ended list of “unrelated dues” that worried commentators on the Draft Rules has been narrowed. Notably, on February 12, 2026, the Ministry issued a corrigendum to the Rules, making minor textual corrections—a reminder that the regulatory framework remains subject to refinement

The Rules also retain the non-consensual interests proposed in the Draft Rules: liens for unpaid employee wages, government dues on taxes or charges imposed upon the aircraft, and rights arising from a court order attaching the aircraft to satisfy a judgment, may all be registered against the International Registry, but no longer subject to the priority Article 39(1)(a) of the Convention that the employee wage claims enjoy. For enforcement, the creditor must notify the DGCA of the declared default via a prescribed form before exercising any remedy, which it must acknowledge receipt by the end of the following day and give notice to stakeholders and debtor by the end of the next working day, with debtors and stakeholders having three working days to upload any outstanding Appendix A Dues into the system. The DGCA may also issue directions on non-judicial remedies – the process by which a creditor takes possession without going to a court – a draft of this direction must remain on the DGCA website for comments for fourteen days, unless the DGCA decides otherwise²⁵. While the Rules require a 14-day consultation period for DGCA directions, the DGCA retains discretion to dispense with this requirement in ‘public interest’—a provision that could reintroduce regulatory unpredictability.

The most consequential provision from a comparative law perspective is Rule 9’s treatment of the insolvency “waiting period.” It codifies, finally, in delegated legislation rather than an ad hoc notification, the two calendar months beginning on the date of insolvency. This period runs from the effective date of the insolvency declaration under the Insolvency and Bankruptcy Code, which runs for two calendar months from the insolvency commencement date (Section 14 of the IBC)²⁶.

²⁴ 2026 Rules, r. 7 & Appendix A.

²⁵ 2026 Rules, r. 13.

²⁶ 2026 Rules, r. 9; Insolvency and Bankruptcy Code, *supra* note 13, section 14

During that period, the resolution professional must preserve the aircraft, maintain it in conformity with the lease or security agreement, and give access to the creditor maintenance records and security information; and only if the debtor or resolution professional cured all defaults arising from the insolvency filing itself and committed to perform all future obligations thereunder, will be allowed to keep the aircraft²⁷. Once the waiting period has expired, no recourse under the Convention or Protocol “may be prevented or restricted,” and the DGCA must decide upon any deregistration or export application in accordance with the Bharatiya Vayuyan Adhiniyam, 2024²⁸. This is an attempt to give Alternative A's two-month clock legitimate primacy over the IBC moratorium. Crucially, the Rules expressly provide an overriding effect over inconsistent provisions of other laws, including the IBC—a significant departure from the pre-2025 position. This is designed to prevent the two regimes from fighting it out in court.

IV. CLARITY, OR JUST A DIFFERENT SHAPE OF UNCERTAINTY?

There is a solid argument that the 2026 Rules represent a positive step forward. They provide the DGCA with a structured record for specific types of aircraft that did not exist previously (replacing what one commentary described as a “regime with ‘no prescribed forms’ and no fixed timelines”). The Rules also eliminate the multiple, India-only register idea that would have placed an additional layer of title risk, next to the International Registry, that creditors currently rely on worldwide. The Rules also reduce the waiting period and the steps surrounding it by implementing subordinate legislation that has the force of law, as opposed to an unclear moratorium-exemption notification. This should reduce the type of litigation that made Go First's aircraft repossession an extremely prolonged process.

Caution remains warranted. The updated versions of the categories for non-consensual liens still likely exceed what India's Article XXX(3) declaration would consider. It is unclear whether the Aviation Working Group will view them as compliant or as persistent irritants. This will have to wait until the next contentious insolvency and the tests of the disputes in practice²⁹. The rules will

²⁷ 2026 Rules, r. 9(2)–(3).

²⁸ Bharatiya Vayuyan Adhiniyam, No. 16 of 2024, India Code.

²⁹ Harshita Kushwah, Navigating Turbulence: Indian Insolvency Regime and the Cape Town Convention in the Light of Go First Voluntary Insolvency, IBC Laws (2025), <https://ibclaw.in/> (last visited June 22, 2026).

function optimally when there is no disagreement between a resolution practitioner and a creditor about what "preservation of the aircraft" entails. The fourteen-day consultation requirement for DGCA's directions has an element of procedural fairness. However, it postpones many details on the non-judicial settlement processes. This has been the source of regulatory uncertainty in the past. A formal examination of the interaction of Rule 9 and the Insolvency and Bankruptcy Code remains an exercise in statutory interpretation. The Rules will provide some guidance on the interpretation but will not provide a definitive answer. Only a court will determine whether the delegated legislation under the 2025 Act will take precedence over a moratorium under another Act of Parliament.

As one commentator has observed, while the Aircraft Objects Act, 2025 resolves the moratorium conflict at the level of statutory text, India's procedural and institutional landscape may prevent the two-month repossession window from functioning as a genuinely self-executing remedy. The Rules provide a framework, but their efficacy depends on the DGCA's administrative capacity, the resolution professional's cooperation, and judicial interpretation.

V. BRIEF COMPARATIVE GLANCE

India's experience is comparable to that of other countries. A comparative analysis yields the following: Ireland, the primary European aircraft leasing country, implemented the Convention in 2005 without an Article XI declaration. As a consequence, Ireland's domestic examinership, which can last over one hundred days, continued to bind aircraft creditors³⁰. Up until then, aircraft leasing creditors were treated the same way as any other ordinary unsecured creditor. Ireland was the first country in Europe to provide a declaration of Alternative A, which up until then, was a conceptual framework without a practical effect for aircraft creditors. In 2017, it adopted Alternative A and modified its examinership laws. Aircraft leases, security contracts, and conditional sales were excluded from the operation of Irish examinership and were subject to a regime that is functionally equivalent to section 1110 of the U.S. Bankruptcy Code. The relevant lesson from the Irish experience, to anyone evaluating the twelve-month delay in India during which Alternative A

³⁰McCann FitzGerald, Ireland Adopts Alternative A (May 12, 2017), <https://www.mccannfitzgerald.com/> (last visited June 21, 2026).

would not take effect, is that the declaration of Alternative A without a related change to the domestic system is primarily cosmetic. In the case of Ireland, it also required a legislative amendment to the Irish examinership system to treat aircraft creditors any differently from unsecured creditors.

The U.S. didn't need rules like these because an independent expert believed that U.S. bankruptcy courts would apply a foreign debtor's Article XI Alternative A directly and without the need for further domestic laws. The UK and China adopted a sixty-day waiting period, as opposed to India's two months, which shows that "compliance" with Article XI allows states significant leeway³¹. The UK's model legislation implementing the Cape Town Convention has served as a template for many common law jurisdictions, including India's current framework. The EU presents an even more cautionary example. Since aircraft leasing only partially falls within the EU's competence, the member states cannot individually provide for Alternative A, and the Cape Town Convention Academic Project has had to publish formal correspondence with the Convention's principal drafter concerning Article XI and its interpretation when an airline's center of main interests is located in the EU — an issue that, years after Ireland's legal reform, has only been partially addressed in both English and Irish legal cases.

Ireland, UK, and US, and the ambition to which India's Rules 2026 are expressly pointing, all share the same, simple, unequivocal priority: that the end of the Waiting Period is the point when the creditor's rights to the aircraft are immune from any additional discretion of domestic insolvency. India's Rules state as much explicitly in Rule 9. That Indian Courts will apply Rule 9 with similar regularity and consistency as those in Ireland and US have applied their respective rules is the unanswered question for the next Indian insolvency to resolve.

VI. CONCLUSION

The 2026 Rules are best read as a course correction rather than a finished product. The Ministry of Civil Aviation listened, at least partially, to the criticism the Draft Rules attracted, scaled back

³¹Global Restructuring Review, Aviation: Cramming Cape Town Creditors (Dec. 15, 2020), <https://globalrestructuringreview.com/> (last visited June 23, 2026).

the parallel-register concept, and narrowed the dues for which a creditor is effectively held liable before it can fly an aircraft out of the country. That is a genuine improvement on the position lessors faced during the Go First insolvency, when there was no statutory waiting period at all and exemption from the moratorium rested on a notification of contested effect. At the same time, the Rules leave open exactly the sort of interpretive questions — the scope of non-consensual liens, the content of directions not yet issued, the ultimate relationship between Rule 9 and section 14 of the Insolvency and Bankruptcy Code — that tend to surface only when an airline actually defaults. A deeper constitutional question also remains: whether delegated legislation under the 2025 Act can override the IBC, a parliamentary statute. This issue may ultimately require judicial resolution. India has, in other words, built a considerably better aircraft than it had in 2023. Whether these provisions will withstand their first real test in practice remains to be seen. If implemented effectively, the Rules are expected to enhance confidence among aircraft lessors, lenders, and export credit agencies, potentially reducing risk premiums and improving access to aircraft leasing on more favourable terms.