

Guidelines on how to apply for registration of change of owner of aircraft

General

An aircraft may only operate in Denmark if it is registered either in Denmark or in another state.

The civil aviation legislation contains rules stating when you as owner have the *duty* to have the ownership of your aircraft registered in Denmark and when you have the *right* to have it registered.

Duty to registration

Danish licence

If the aircraft is used in commercial air transportation and it is covered by a *Danish licence* issued in accordance with the EU Regulation on licensing¹ the ownership of the aircraft shall be registered in Denmark irrespective of the owner's nationality. The aircraft is covered by the licence if it is on the operator's AOC (Air Operator Certificate).

Danish permission

If a permission to perform other commercial operations than air transportation (e.g. sightseeing, training, photography, commercial, agricultural and wire inspection flights) has been issued, the aircraft operated must be registered in Denmark.

Private flights - residence in Denmark

If an aircraft is used for private flights by persons or companies (irrespective of nationality) residing in Denmark, the change of ownership of the aircraft shall normally be registered in Denmark.

Right to registration

In order to make it possible for the Danish Transport, Construction and Housing Authority to carry out inspections with the aircraft on Danish register, § 7 of the Danish Air Navigation Act contains some basic requirements to the owner's and the aircraft's connection with Denmark. These requirements must be met in order to have the change of owner registered in Denmark.

Requirements to the owner:

If you own the aircraft personally, you must meet one of the items mentioned below under "*Persons*". If the aircraft is owned by a company etc., one of the items under "*Companies etc. (legal persons)*" must be met.

¹ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008

Persons

- If you are a Danish citizen you must be domiciled in Denmark *or* in a country in which an air-craft can only be registered if its owner is a citizen in the country in question.
- If you are a citizen in another EU country or EEC country (Norway and Iceland), and if you are connected with Denmark by virtue of the EU Regulations on the free movement for work-ers within the Community, the right to establishment or freedom to provide services.

Thus, it is not sufficient merely to be a citizen in another EU country. There must also be some connection with Denmark. It is not possible to set up general criteria for such connec-tion as it depends on a concrete evaluation in each individual case.

- If you are not a Danish citizen or covered by the EU regulations you can only have the air-craft registered in Denmark if you are permanently domiciled in this country *and* the aircraft is used with place of departure in Denmark.

Companies etc. (legal persons)

- The company shall be Danish and domiciled in Denmark *or* in a country in which the aircraft can only be registered if the company has the nationality of the country in question. In subsection 2 of § 7 of the Act you can see what is meant by Danish owner.
- The company shall be an EU or EEC company *and* be connected with Denmark by virtue of the EU Regulations on the free movement for workers within the Community, the right to es-tablishment or freedom to provide services.

Thus, it is not sufficient that the company is domiciled in another EU country. There must also be some connection with Denmark. It is not possible to set up general criteria for such connection as it depends on a concrete evaluation in each individual case.

The substance of the term *EU companies etc. (legal persons)* appears from Article 48 of the EC Treaty regarding equal rights for companies and persons. The provision has the following contents:

"Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Community shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of Member States. Companies or firms" means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making."

EEC companies are companies registered in states that, by special association agreement with the EU, have acceded the EU regulations on the free movement for workers within the Community, the right to establishment or freedom to provide services.

In order that the Danish Transport, Construction and Housing Authority may efficiently carry out inspections with the aircraft on Danish register, there may be special conditions attached to a registration, e.g. that the aircraft must be flown to Denmark when the airworthiness certificate is to be renewed so that we can inspect it.

Exemption

If the above-mentioned requirements are not met, exemption may in special cases be granted if the owner applies for it. It is a condition that the aircraft has some kind of connection with Denmark. (For further details, see Part 2.)

Application form

Part 1 - Information on the aircraft

We recommend that you fill in the form "*Application for registration of change of owner(s) in the Register of Danish Aircraft*". If you do, you can be sure that you include all the information requested.

The majority of the fields in the application form need no further explanation. Only the items which experience has shown result in questions will be clarified below.

Part 2 - Information on the applicant(s)

Owner's connection with Denmark

See "General" above.

Exemption

If the requirements regarding the owner's connection with Denmark are not met, *exemption* may in exceptional cases be granted if the owner applies for it. It is a condition that the aircraft is mainly used with place of departure in Denmark.

This implies that the *aircraft* must have some connection with Denmark.

It shall be stated in the application for exemption on which basis the owner is of the opinion that the condition regarding Danish connection is met, including:

- The owner's nationality
- Who will operate the aircraft
- What is the purpose of operating the aircraft
- Where the aircraft will be operated
- Who shall be responsible for the maintenance of the aircraft.

The application for exemption shall be signed by the owner of the aircraft. If the owner is a company, the document shall be signed by the person or persons who according to the company's provisions regulating the power to bind the company can make arrangements on behalf of the company. Documentation for the powers of the signer/signers to make arrangements on behalf of the company can be found in the Central Business Register (virk.dk). If the company is not registered in the Central Business Register, or if it is a firm, a union or a club etc., the articles and signed minutes from the latest general meeting or certification by a notary shall be enclosed. (Regarding certification by a notary, see part 3.)

Note: If the aircraft is chartered/leased by and shall be operated by a user resident in Denmark for a longer period of time, and this is the basis for the request for Danish registration, the application form "*Application for registration of aircraft in Denmark - Foreign owner, Danish user*" and the relevant guidelines shall be used.

Part 3 - Documentation etc.

Documentation for the owner's ownership of the aircraft

The Danish Transport, Construction and Housing Authority shall have documentation for the new owner's ownership of the aircraft.

Documentation may be appended in the form of a declaration of transfer of ownership, original contract of sale, Bill of Sale or similar document between the latest registered owner in the Register of Danish Aircraft and the present owner (the applicant). It must appear from the document that the aircraft has actually been transferred to the new owner.

The document regarding the transfer of ownership shall be signed by the former owner (the transferor).

If the transferor is a company, the document shall be signed by the person or persons who according to the company's provisions regulating the power to bind the company can make arrangements on behalf of the company. Documentation for the powers of the signer/signers to make arrangements on behalf of the company shall be enclosed in the form of an extract from the Danish Business Authority (not more than one year old). If the company is not registered in the Danish Business Authority, or if it is a firm, a union or a club etc., the articles and signed minutes from the latest general meeting or certification by a notary shall be enclosed. (Regarding certification by a notary, see below.)

If the aircraft is not transferred directly from the latest registered owner of the aircraft to the present owner (the applicant), but a number of transfers have been made since the latest registered owner was in possession of the aircraft (the aircraft may for example have been transferred from the latest registered owner x, from x to y, and finally from y to the applicant), the Danish Transport, Construction and Housing Authority shall have the above-mentioned documentation for ownership of the aircraft for each link of the "transfer chain".

Third party liability insurance

A third party liability insurance shall have been taken out for the aircraft in accordance with Regulation (EC) no. 785/2004 of 21 April 2004 on insurance requirements for air carriers and aircraft operators as amended by Regulation (EU) no. 285/2010 of 6 April 2010.

For aircraft in Greenland or the Faroe Islands the third party liability insurance shall be in accordance with Order no. 271 of 15 April 2005 on aircraft insurance and minimum limits for insurance for operations in Greenland and the Faroe Islands.

The applicant shall see to it that the insurance company in question submits a declaration* to the Danish Transport, Construction and Housing Authority stating that the compulsory insurance has been taken out.

*("Declaration on third-party liability insurance for damage caused to third-party on the surface").

Power to bind the company

The application form shall be signed by the owner of the aircraft. If the owner is a company, the document shall be signed by the person or persons who according to the company's provisions regulating the power to bind the company can make arrangements on behalf of the company. Documentation for the powers of the signer/signers to make arrangements on behalf of the company shall be enclosed in the form of an extract from the Central Business Register (virk.dk). If the company is not registered in the Central Business Register, or if it is a firm, a union or a club etc., the articles and signed minutes from the latest general meeting or certification by a notary shall be enclosed. (Regarding certification by a notary, see below.)

Power of Attorney

The owner of the aircraft always has the possibility to give another person Power of Attorney to sign the various documents to be used in connection with the registration of the aircraft. It must clearly appear from the Power of Attorney that the person in question can sign exactly the document in question. The Power of Attorney shall be signed by the owner of the aircraft. If the owner is a company, the document shall be signed by the person or persons who according to the company's provisions regulating the power to bind the company can sign on behalf of the company. Documentation for the powers of the signer/signers to make arrangements on behalf of the company shall be enclosed in the form of an extract from the Central Business Register (virk.dk). If the company is not registered in the Central Business Register, or if it is a firm, a union or a club etc., the articles and signed minutes from the latest general meeting or certification by a notary shall be enclosed. (Regarding certification by a notary, see below.)

The original Power of Attorney shall always be presented to the Danish Transport, Construction and Housing Authority.

Certification by a notary

If a document is signed by a foreign company, the company's provisions regulating the power to bind the company shall as an overriding rule be documented by a certification by a notary. The notary shall confirm the competence of the signer/signers to sign on behalf of the company. It is very important that the notary confirms that the signer/signers can sign exactly the document in question on behalf of the company (Bill of Sale, Power of Attorney etc.). A certification by a notary meeting the above-mentioned requirements may be worded as follows:

"On this [date] day of [month and year] before me personally appeared [the name of the person who has signed the application for exemption or the power of attorney], a person known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed in the within document and proved to that on the basis of satisfactory evidence that he/she was duly authorised to sign and execute the same on behalf of [the name of the company that owns the aircraft]."

Witness by hand and official seal.

[Signature and seal of the notary]"

Thus it is not satisfactory that the notary merely stamps and signs the document in question. Neither is it satisfactory that the signer's identity and/or position is certified by the notary.

Fee

A fee must be paid for registration in accordance with the Order on fees in force at any time. The Danish Transport, Construction and Housing Authority sends a bill to the applicant.

The application form and the required documentation etc. shall be submitted to:

Danish Transport, Construction and Housing Authority,

Attn.: Office for Aviation

Carsten Niebuhrs Gade 43, DK-1577 Copenhagen W, Denmark

Phone: +45 7221 8800 Fax: +45 7221 8888 www.tbst.dk info@tbst.dk

§ 7 of the Danish Air Navigation Act has the following wording:

"§ 7. An aircraft can only be registered in Denmark

- 1) if it has a Danish owner and the owner is resident or domiciled in Denmark or another state where the person in question cannot be registered owner of an aircraft because of his national-ity,
- 2) when the aircraft is owned by EU or EEC nationals or EU or EEC companies etc. (legal persons) to the extent these are covered by the European Community's regulations, or
- 3) when the aircraft is owned by a person residing in Denmark and the aircraft is used with place of departure in Denmark.

(2) Danish owners are:

- 1) The Danish state and institutions governed by the state.
- 2) Danish municipalities,
- 3) Danish nationals,
- 4) foundations domiciled in Denmark whose management consists exclusively of Danish nationals or persons covered by subsection (1), numbers 2 and 3,
- 5) organisations and similar unions domiciled in Denmark, of which at least half of the members are Danish nationals or persons covered by subsection (1), numbers 2 and 3,
- 6) limited companies of which the majority of partners are Danish nationals or persons covered by subsection (1), numbers 2 and 3, and the company is under the full control of these partners,
- 7) limited companies exclusively with a Danish management and board of directors domiciled in Denmark.

(3) In special cases the Minister of Transport may permit that an aircraft operated regularly with place of departure in Denmark, is registered even though the conditions in subsection (1) are not met."