



ESWATINI CIVIL AVIATION AUTHORITY

Advisor Circular

CAA-AC-AWS031

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1.0 PURPOSE

This Advisory Circular is issued to provide guidance and information for holders of AOC issued by the Authority and airworthiness inspectors to use when applying for, evaluating and approving Article 83bis Requirements. This Circular is applicable in both cases, i.e. when the AOC holder leases a foreign registered aircraft or when Eswatini registered aircraft is leased to another Contracting State.

2.0 REFERENCES

- 2.1 Regulations 19, 20 and 29 of The Civil Aviation (Air Operators Certification and Administration) Regulations (Dry and Wet Leasing of Aircraft).
- 2.2 Article 83*bis* of ICAO Convention on International Civil Aviation.
- 2.3 Article 77 of ICAO Convention on International Civil Aviation.
- 2.4 Chapter 12 of Safety Oversight Manual- Airworthiness (SOMA)
- 2.5 Regulation 26 of General Provisions.

3.0 INFORMATION GUIDANCE AND PROCEDURES

3.1 General Information

3.1.1 When an aircraft registered in a contracting States is operated under an agreement of lease, charter, or interchange of the aircraft or any similar arrangement by an operator who has no place of business in another contracting State, the State of Registry by Agreement with another State, may transfer all or part of its safety oversight functions as the State of registry to that other foreign State in respect of that aircraft.

3.1.2 Such transfer of oversight functions and duties may include:

- a) Enforcing compliance with the Rules and Regulations relating to the flight and maneuver of aircraft there in force.
- b) The rules and regulations that govern the carrying and use of radio transmitting apparatus aboard an aircraft.
- c) Issuing and rendering a valid aircraft Certificate of Airworthiness.
- d) Issuing and rendering valid Pilot and other crew members Certificates of Competence and Licenses

3.1.3 The transfer of functions does not have effect until the transfer Agreement has been registered with the ICAO Council and has been made public and its scope directly communicated to the Authorities of the other Contracting States.

3.1.4 Under a wet and/or dry Lease Agreement the State of operation should have operational control over the aircraft in question.

3.2 Guidance

3.2.1 An operator intending to lease a foreign registered aircraft or to lease out a *State* registered aircraft to another Contracting State should notify the Authority at least thirty days (30) before the commencement of the lease.

3.2.2 It is required to notify the Authority how the aircraft safety oversight, certificate of airworthiness and operating crew licenses shall be managed when the State of registry cannot easily access the aircraft in question to ensure continued compliance with the approval terms and crew licenses validity requirements.

3.2.3 If there is need for the State of Registry to transfer all or part of its functions and duties in respect of that aircraft and the operating crew, the two State Authorities must sign an Agreement of transfer of duties and safety oversight responsibility as, required by Regulations 19, 20 and 21 of The Eswatini Civil Aviation (Air Operators Certification and Administration) Regulations, Regulation 26 of General Provisions and Article 83bis of ICAO Convention on International Civil Aviation.

3.2.4 The 83bis Agreement should clearly indicate what duties and functions are being transferred by the State of Registry (and accepted by the State of operation) to the foreign Contracting State. It should also permit the State of Registry unrestricted access to the aircraft at any place and time.

3.2.5 It is the responsibility of the State of registry transferring its safety oversight duties and responsibilities to ensure that the other Contracting State has the capacity, capability and competence to undertake the functions being transferred.

3.2.6 The State of operation should not accept oversight duties and functions under the 83bis Agreement of an aircraft for which it does not have the capacity, capability and competence to oversight.

3.3 Procedures of Article 83bis Application and Approval

3.3.1 A holder of an AOC issued by the Authority who wishes to lease or lease out an aircraft under an Agreement that shall necessitate the transfer or acceptance of safety oversight responsibilities to or from another Contracting State in accordance with the provisions of Article 83bis shall submit an application to the Authority indicating the likelihood of transferring oversight duties and responsibilities to the Authority in the State of operation.

3.3.2 The operator is required in addition to submit the contact address, Fax Number, E-mail or Any other formal contact of the State of operation's Authority.

3.3.3 The application shall be evaluated to determine which safety oversight duties may be transferred or accepted as the case may be.

3.3.4 In case of leasing out a State registered aircraft, the Authority shall evaluate the lease and State of operation's capacity, capability and competence to undertake the effective safety oversight of the aircraft in question.

3.3.5 In case of accepting the safety oversight responsibilities, the Authority shall evaluate the lease and its capacity, capability and competence to undertake the effective safety oversight of the aircraft in question.

3.3.6 In either case, an 83bis Agreement clearly indicating the transferred (and accepted) duties and responsibilities shall be drawn and signed by the two State Authorities after a satisfactory and successful arrangement evaluation.

3.3.7 The signed 83bis Agreement shall be communicated to the ICAO Council for information, registration, publicizing and communicating to the Authorities of the other contracting States.

3.3.8 The AOC holder applying for the implementation of Article 83bis shall facilitate the Authority in the administering of the Article 83bis arrangement.

3.3.9 A copy of the signed Article 83bis Agreement, communication to and from the ICAO Council and all documentation generated in the approval process and records of the Agreement on surveillance shall be kept by the Authority.

**Approved by Director General
Civil Aviation Authority**