



**GOVERNMENT OF INDIA**  
**OFFICE OF THE DIRECTOR GENERAL OF CIVIL AVIATION**  
**TECHNICAL CENTRE, OPPOSITE SAFDARJUNG AIRPORT, NEW**  
**DELHI**

**CIVIL AVIATION REQUIREMENT**  
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**Subject: Criteria for leasing of aircraft by Indian Operators.**

**1. Introduction**

- 1.1 One of the fundamental principles of the Convention on International Civil Aviation (the Convention) is that the aircraft have the nationality of the State in which they are registered. Therefore, each contracting State is responsible for ensuring that the aircraft on its civil register follow its laws and regulations in certain respects, especially airworthiness, even if the aircraft is operated outside its territory.
- 1.2 However, with the growing trend in aircraft leasing, the operational bases of aircraft sometimes transcend national boundaries and it becomes difficult for the State of Registry to exercise the desired control over its aircraft. In order to address this concern and to ensure that adequate regulatory control is exercised over aircraft, the Convention was amended to incorporate Article 83 *bis* therein.
- 1.3 Article 83 *bis* provides that when an aircraft registered in a contracting State is operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of

business, his permanent residence in another contracting State, the State of Registry may, by agreement with such other State, transfer to it all or part of its functions and duties as State of Registry in respect of that aircraft.

1.4 It is noteworthy that Article 83 *bis* is only an enabling provision which provides full flexibility to the contracting States to transfer all or any of the functions envisaged therein. It also establishes that agreements for the transfer of certain oversight functions from the State of Registry to the State of the Operator shall be recognised by all other Contracting States which have ratified Article 83 *bis*.

1.5 India has ratified Article 83 *bis* and is among more than 150 countries that have done so. Accordingly, the relevant provisions of the Aircraft Rules, 1937 have been amended whereby certain rules shall apply to a foreign registered aircraft or shall not apply to an Indian registered aircraft, depending upon the terms of the agreement between the Government of India and the State of Registry or the State of the Operator, as the case may be, for transfer of certain oversight functions.

1.6 A wet lease is leasing arrangement whereby one operator (lessor) provides an aircraft with crew, maintenance and insurance to another operator. A wet lease is for a short term requirement and may normally be used when there is a sudden or unanticipated requirement.

1.7 A dry lease is a leasing arrangement whereby an aircraft financing entity provides an aircraft without insurance, crew, ground staff, supporting equipments and maintenance etc. A dry lease is a long term lease and is typically used by leasing companies, where after aircraft registration, the aircraft is put on the lessee's own air operating permit.

## **2. Operations with leased aircraft**

Having regard to the above, it has been decided that no Indian operator shall take any aircraft on lease or give any aircraft on lease to a foreign operator without permission from the Director General of Civil Aviation, who may take a decision regarding the need to conclude an agreement between Government of India and the State of Registry or the State of the Operator under Article 83 *bis* of the Convention.

**3. Foreign registered aircraft leased to Indian operators**

3.1 In case an Indian operator intends to take a foreign registered aircraft on lease, charter or any similar arrangement from a person holding AOC issued by another contracting State, it shall provide the following information to DGCA at least 45 days prior to the proposed date of operation with leased aircraft, namely:-

- (i) Name and address of the Indian operator;
- (ii) Name and address of the lessor;
- (iii) Aircraft details including its nationality and registration;
- (iv) AOC details along with Ops. Specifications, if any, of the lessor;
- (v) Contact information of the regulatory authority of the State of Registry;
- (vi) A copy of the permission from MoCA for leasing an aircraft of the type proposed to be leased;
- (vii) A copy of the Letter of Intent;
- (viii) Planned arrangements for operation and maintenance of aircraft during the period of lease; and
- (ix) Proposed date of import into India.

**4. Indian registered aircraft leased to foreign operator**

In case an Indian operator intends to give an Indian registered aircraft on lease to an operator outside India, it shall provide the following information to DGCA at least 45 days prior to the proposed date of operation with leased aircraft, namely:-

- (i) Name and address of the Indian operator;
- (ii) Name and address of the lessee;
- (iii) AOC details alongwith Ops. Specifications of the lessee;
- (iv) Aircraft details including its registration;
- (v) A copy of the Letter of Intent;
- (v) Planned maintenance and operation of Indian registered aircraft under the foreign AOC; and
- (vi) Proposed date of export from India.

**5. Leasing aircraft from one Indian operator to another Indian operator.**

In case an Indian operator intends to take an aircraft on lease from another Indian operator, (for domestic or international operations), it shall

provide the following information at least 45 days prior to the purposed date of operation with leased aircraft, namely:-

- (i) Name and address of operator from whom the aircraft is intended to be leased;
- (ii) AOC details alongwith operations specifications of the lessee and the lessor;
- (iii) A copy of the permission from MoCA for leasing an aircraft of the type proposed to be leased.
- (iv) Aircraft type, registration no. and its main base.
- (v) Maintenance agency with scope of approval.
- (vi) A copy of the lease agreement, maintenance agreement, and the consent letter from original lessor.
- (vii) Any proposed amendment in the Operations Manual or other documents.
- (viii) A document giving details of the respective responsibilities of compliance with regulatory requirements such as FDTL, arrangements for Flight Operations Quality Assurance, flight dispatch, for the type of aircraft, and the responsibilities of the lessor and the lessee with regard to operation, maintenance and quality system of the aircraft.

Note: Reduction in notice period : The notice period of 45 days as stipulated in paragraphs 3.1, 4 and 5 may be dispensed with or reduced by DGCA if there are justifiable grounds to do so.

#### **6. Circumstances in which aircraft may be imported on wet lease**

- (i) the aircraft which was originally intended to operate the scheduled flight is grounded for technical reasons such as maintenance, inspection, mandatory checks, repairs, accident/incident or for any other reason beyond the control of the operator; or
- (ii) the existing lease agreement has expired and a new agreement is yet to be concluded; or
- (iii) to meet an emergency situation such as natural calamity, industrial unrest or any other similar situation; or
- (iv) for revival of sick operators who should have an agreement with the lessor for a period not exceeding six months and thereafter automatic conversion into dry lease for the remaining period of lease; or

- (v) for trying out feasibility of operations to new destinations or for special aerial work operations.

## **7. Grant of Permission**

- 7.1 Upon receipt of the information in accordance with paragraphs 3.1 and 4, DGCA may convene a meeting with the Indian operator with a view to finalising the arrangements and modalities for operation of the leased aircraft during the period of lease. Representatives of foreign operator as well as the foreign regulatory authority may also be allowed to participate in the meeting.
- 7.2 On the basis of the deliberations in the meeting, the DGCA shall take a decision regarding desirability of conclusion of an agreement under Article 83 *bis*, with the State of Registry or the State of Operator, as the case may be, for transfer of certain regulatory functions, as considered appropriate.
- 7.3 The DGCA may grant permission to the Indian operator for operations with leased aircraft subject to such conditions as he may think fit to impose.
- 7.4 After grant of permission, the Indian operator shall conclude a formal lease agreement. It shall be ensured that the terms of the agreement, if any, concluded between the State of Registry and the State of the Operator as well as the conditions stipulated in the permission letter shall be incorporated in the lease agreement.
- 7.5 A copy of the lease agreement shall be filed with the DGCA.
- 7.6 The leased aircraft shall be entered in or deleted from the Air Operator's Permit of the Indian operator.

## **8. Additional requirements for leasing of foreign registered aircraft by Indian operators**

A foreign registered aircraft leased to an Indian operator shall be allowed to operate in India only if the following requirements are met:-

- (i) The lessor shall hold a valid Air Operator Certificate (AOC) suitable for the type of operations proposed to be carried out in India.

- (ii) The lessee shall hold a permission from MoCA for leasing an aircraft of the type proposed to be leased.
- (iii) The aircraft shall have been type-certificated by the Federal Aviation Administration of USA or the Joint Airworthiness Authority of Europe or the Civil Aviation Authority of UK or by any other authority acceptable to DGCA.
- (iv) For passenger transportation, an aircraft older than 15 years and for cargo operations, an aircraft older than 25 years shall not be allowed to be taken on lease by an Indian operator. In addition, the aircraft should not have completed more than 75 percent of its design economic life or 45,000 pressurization cycles.

Note. – A relaxation from this requirement may be granted in absolutely exceptional circumstances subject to additional safety norms including an inspection of the aircraft and its records by DGCA.

- (v) The aircraft should be free from any accident. In case there has been an incident involving the aircraft proposed to be leased, the details shall be furnished to the DGCA.
- (vi) The pilots and engineers shall be security cleared by the Ministry of Home Affairs, Govt. of India.
- (vii) DGCA may stipulate additional requirements considered necessary for safe operation of aircraft in India which must be complied with before the aircraft is imported or operated in India.
- (viii) The maintenance programme and the Operations Manual as approved by DGCA for the Indian operator shall be applicable for maintenance and operation of the wet leased aircraft with suitable adaptations for the type of aircraft, if necessary.
- (ix) The flight crew and the maintenance personnel shall also follow the instructions of the Indian operator as well as those issued by the Indian DGCA. The non-compliant personnel shall be liable to be debarred from operating or maintaining the wet leased aircraft in India.
- (x) The Indian operator shall give thorough briefing to the foreign crew, about the Indian rules and regulations, standard departure and arrival procedures at Indian airports, standard operating procedures,

prohibited areas and precautions to be exercised while operating at various airports in India. The operator shall also maintain operational and flight records of the foreign crew to ensure that the FDTL are adhered to and their licences/ medical fitness and proficiency checks are all current.

- (xi) The leased aircraft including its crew shall be subject to surveillance by DGCA including monitoring of flight recorder data.
- (xii) The number of aircraft on wet lease shall not exceed 25 percent of the total fleet of aircraft endorsed on the AOP;
- (xiii) The Indian AOP holder shall exercise operational control of the aircraft.
- (xiv) The aircraft shall not have a passenger seating configuration of more than 70 seats;
- (xv) The wet-lease shall be permitted for a short period of 6 months only, during which period, the NSOP holder may convert it into dry lease by having the aircraft registered in India.
- (xvi) The aircraft on wet-lease may not operate on Cat I routes.
- (xvii) The security arrangements at operating airports will be approved by BCAS.
- (xviii) Continued Airworthiness Management function will be performed by an organization approved under CAR M and the aircraft maintained by an organization approved under CAR 145. International organizations of equivalent regulations may be accepted.
- (xix) FDTL for crew and cabin crew will either be as approved for Indian operator (lessee) or the FDTL used by lessor shall not be more permissive than that in DGCA regulations.
- (xx) The pilots shall comply with medical requirements in force for operators approved by DGCA.
- (xxi) The lessee shall audit the lessor's establishment to ensure compliance with DGCA/ EASA training standards, unless otherwise agreed by DGCA.

(xxii) DGCA and the State of operator shall reach an understanding on oversight responsibility by entering into an agreement or by exchange of correspondence (if wet-lease is for a short period, say 3 months or less).

(xxiii) Wet lease may not be allowed from countries where bilateral agreements do not permit such arrangements or from countries whose safety record is not satisfactory.

(xxiv) DGCA may withdraw permission for operation of an aircraft under wet lease if there is evidence showing that airworthiness and safety of the leased aircraft is not being properly maintained or the requirements stipulated above or any other safety rules or regulations are not being complied with.

Director General of Civil Aviation