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## **Aircraft Leasing**

**This Operational Directive contains information that is intended for mandatory compliance.**

Recipients are asked to ensure that this Operational Directive is copied to all members of their staff who may have an interest in the information (including any 'in-house' or contracted maintenance organisations and relevant outside contractors).

### **1. Reason and Explanation**

- 1.1 The Authority has recognised that ORO.AOC.110 provides for requirements placed on EU Member States and these have been transposed out of context through the direct adoption of these technical standards by the issuance of Civil Aviation Directive CAD-OPS/P8.
- 1.2 The purpose of this Directive is to provide for substitute requirements, policies and arrangements in regards to aircraft leasing as applicable in Seychelles which may be utilised in lieu of the above text whilst maintaining the principles of the requirements.
- 1.6 The purpose of this Operational Directive is to set substitute requirements, policies and arrangements in regards to aircraft leasing that may be utilised in lieu of ORO.AOC.110 whilst maintaining the principles of the requirements by operators conducting operations under Part CAT.

### **2. Operational Directive and Applicability**

- 2.1 The Authority, in exercise of its powers under regulation 85 of the Civil Aviation (Safety) Regulations 2017, directs the operator ('a specified operator') of any aircraft which is:
  - (a) registered in the Seychelles; and
  - (b) conducting Commercial Air Transport operations:to comply with the requirements set out in paragraphs 3 to 10 of this directive.

### 3. Terminology

3.1.1 For the purpose of this document, the following terminology is used:

- Lease- A contractual arrangement whereby a properly licensed air carrier gains commercial control of an entire aircraft without transfer of ownership.
- Lessor- The owner of an aircraft who leases it to another party for a specified period of time.
- Lessee- The party who leases an aircraft from the owner for a specified period of time.
- Dry lease- A contractual lease agreement where an aircraft is operated under the AOC of the lessee. It is normally a lease of an aircraft without crew, operated under the commercial control of the lessee and using the lessee's airline designator code and traffic rights. The State of Registry remains that of the lessor unless there has been a registered agreement of transfer of such responsibilities to the State of the lessor under Article 83*bis* of the ICAO Chicago Convention. The State of Operator is that of the lessee.
- Wet lease- A contractual lease agreement where an aircraft operated under the AOC of the lessor. It is normally a lease of an aircraft with crew (flight and cabin crew), operated under the commercial control of the lessee and using the lessee's airline designator code and traffic rights. The State of Registry and State of Operator remain that of the lessor.
- Damp lease- Aircraft operated under the AOC of the lessor with partial flight or cabin crew of the lessee. It is normally a lease operated under the commercial control of the lessee and using the lessee's airline designator code and traffic rights. The State of Registry and State of Operator remain that of the lessor.
- Financial or capital lease- A lease used by air operators to avoid the otherwise substantial capital outlays/debt required in purchasing aircraft directly from the manufacturer, or to reduce taxation or other costs.  
Note — For example, an air operator may lease an aircraft from a bank or other financial institution. Financial leases are long-term arrangements that give the outward appearance of ownership, e.g. the aircraft bear the air operator's name/logo and are frequently registered in the air operator's State.
- Charter- A non-scheduled operation using a chartered aircraft. In a charter of an aircraft, a portion of or the entire capacity of the aircraft is hired or purchased privately by one or more entities, which may re-sell it to the public (this occurs most frequently in non-scheduled passenger air operations which is why they are popularly known as "charter flights").

## 4. Requirement: Aircraft Leasing

### 4.1 Any lease-in

- (a) any lease agreement concerning aircraft used by a Seychelles AOC holder shall be subject to prior approval of the Authority.
- b) In the case of any lease-in applications, the operator shall satisfy itself through a due diligence process the lessors and lessor's regulatory Authority meet an equivalent level of safety. This shall include ensuring that:
  - i) The State does not have any significant safety concern raised by ICAO as part of the USOAP.
  - ii) The aircraft are not included in the list of operators subject to operational restrictions, registered in a State of which all operators under its oversight are subject to an operating ban or from an operator that is subject to an operating ban pursuant to Regulation (EC) No 2111/2005 or the FAA International Safety Assessment Programme.
  - (iii) The lessor is not in possession of exemptions to local regulations in contravention to ICAO Annex 6 or that the State has not filled differences to ICAO Annex 6 or 8 critical standards.

### 4.2 Dry lease-in

- (a) A Seychelles AOC holder shall not dry lease-in an aircraft without the approval of the Authority. Any conditions which are part of this approval must be included in the lease agreement.
- (b) With regard to aircraft that are dry leased-in, any differences from the requirements prescribed in EASA Part CAT.IDE. and CS-26, are notified to and are acceptable to the Authority.

### 4.3 Wet or Damp lease-in

- (a) A Seychelles AOC holder shall not wet or damp lease-in an aircraft without the approval of the Authority.
- (b) With regard to aircraft that are wet leased-in the Seychelles AOC holder shall ensure that:
  - (i) the foreign operator holds a valid AOC and appropriate Operations Specifications issued in accordance with ICAO Annex 6;
  - (ii) the safety standards of the foreign operator with regard to continuing airworthiness and air operations are equivalent to the applicable requirements established by Part M; and
  - (iii) the aircraft has a standard C of A issued in accordance with ICAO Annex 8.; and
  - (iv) Any additional requirements made applicable by the Authority are complied with.

#### 4.4 Dry lease-out

- (a) A Seychelles AOC holder shall not dry-lease-out an aircraft without the approval of the Authority.
- (b) The application shall be accompanied by copies of the intended lease agreement or description of the lease provisions, except financial arrangements, and all other relevant documentation.
- (c) With regard to aircraft that are dry leased-out for the purpose of commercial air transportation to any operator (lessee) of a State which is signatory to the Chicago Convention, the following conditions shall be met:
  - (i) The Authority has exempted the operator (lessee) from the relevant provisions of EASA Air OPS and, after the foreign regulatory authority has accepted responsibility in writing for surveillance of the maintenance and operation of the aircraft, has removed the aircraft from its AOC; and
  - (ii) The aircraft is maintained according to an approved maintenance programme.

#### 4.5 Wet or Damp lease-out

- (a) Prior to the wet lease-out of an aircraft, Seychelles AOC holder shall notify the Authority of the following:
  - (i) the aircraft type, registration markings and serial number;
  - (ii) the name and address of the lessee;
  - (iii) a copy of the lease agreement or description of the lease provisions, except financial arrangements; and
  - (iv) the duration of the lease agreement.
- (b) With regard to aircraft that are wet/damp leased-out, an aircraft complete crew may be provided to another entity provided that all the functions and responsibilities prescribed in EASA ORO.AOC, shall remain the Seychelles AOC holder as the lessor.

### 5. Dry lease-in: Policies and arrangements

#### 5.1 Policies

- a) Dry lease-in applications shall be considered for a maximum period of one year only. Approval is usually given up to seven months initially, extendable for up to a further five months, subject to review by the Authority.
- b) It is usual for the Authority only to approve dry lease-in of foreign registered aircraft where it is a type and design that is acceptable to the Authority. Airworthiness Notice Number 6 provides further information. Any changes to aircraft configuration and operational equipment may require further investigation and the acceptability should be verified with both the State of Registry and the Flight Operations and Flight Crew Licensing Inspectorate. Where it is a type not operated by the lessee, an application for AOC variation is necessary.

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- c) The Authority shall establish contact with the State of Registry of the lessor to formalise all matters relating to either a transfer of ICAO Annex 6 responsibilities (State of Operator) and/or transfer in whole or in part of the State of Registry responsibilities (Article 83 *bis*) as appropriate for the duration of the lease. Under a transfer of ICAO Annex 6 or if excluded from the Article 83 *bis* agreement, crew shall hold licenses or validations as appropriate issued by the State of Registry. It is the responsibility of the operator (lessee) to obtain such licenses as appropriate.
  - d) The transfer of ICAO Annex 6 responsibilities (State of Operator) ensures that it is clear that operational, continuing airworthiness and maintenance requirements are that prescribed by the Authority as applicable in Seychelles. The Authority shall inherit full flight operations, continuing airworthiness and maintenance safety oversight responsibilities for the duration of the lease. Operators intending on dry leasing-in aircraft that will remain on the register of the lessor's regulatory authority and where there is no Article 83 *bis* in force, should note that the State of Registry still maintains the responsibility of issuance of Certificates of Airworthiness and therefore reserve the right to accept or refuse the arrangements of the lease by the lessor.
  - e) The Seychelles AOC holder remains responsible for the management of the maintenance programme for the duration of the lease. The aircraft's existing Maintenance Programme, as approved by the State of Registry, will have to be reviewed to ensure that it adequately addresses all of the maintenance required under the Seychelles AOC holder CAMO approval, including special operational rules e.g. RVSM, AWOPS, ETOPS and others. Any changes to the maintenance programme will have to be approved in accordance with Part M (M.A.302). Alternatively the leased aircraft may be added to the Seychelles operator's existing Maintenance Programme, if agreed by the State of Registry.
  - f) The Seychelles AOC holder's Technical Log must be used for the duration of the lease.
  - g) Operators are reminded of noise regulations which restrict the use of non noise-compliant aircraft and are advised to check that the aircraft satisfies current regulations and requirements before entering into any binding agreement.
  - h) The Seychelles AOC holder (lessee) will be directed under the Civil Aviation (Safety) Regulations to apply the relevant parts of the said regulations to the foreign aircraft. In effect, this amounts to treating the aircraft as if it were on the Seychelles register.
  - i) Where the foreign registered aircraft is not identical with others of the type being operated, the Seychelles AOC holder shall include in the Operations Manual details of any special procedures such as specific performance data. Aircraft differences should also be reviewed in accordance with requirements of ORO.FC.125 or ORO.CC.130 for differences training.
  - j) The operator shall take into account the aircraft modification state, its equipment and the content of the minimum equipment list (MEL).
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## 5.2 Submissions

5.2.2 In addition to the application, the following information is required by the Authority:

- a) the aircraft type, model and serial number;
- b) the name and address of the registered owner;
- c) State of Registry, nationality and registration marks;
- d) certificate of airworthiness and statement from the registered owner that the aircraft fully complies with the airworthiness requirements of the State of Registry;
- e) copy of the lease agreement
- f) routes to be flown;
- g) the reason for requiring the lease;
- h) the period of the lease and whether or not it is proposed to put the aircraft on the Seychelles register in the future;
- i) the design standard of the aircraft and, in particular, any failure to comply with the applicable Seychelles airworthiness requirements for certification;
- j) the proposed arrangements for maintenance of the aircraft;
- k) EASA CAT.IDE and CS-26 Compliance Statements
- l) the name of the department or a contact in the foreign civil aviation authority dealing with the lease. The foreign operator may have this information. However, the foreign Authority will normally make initial contact with the Authority.
- m) the name of the individual who will act as co-ordinator for the Seychelles operator.

## 6. Dry lease-out: Policies and arrangements

### 6.1 Policies

- a) Dry lease-out applications shall be considered for a maximum period of one year only. Approval is usually given up to seven months initially, extendable for up to a further five months, subject to review by the Authority.
- b) The foreign operator will have to comply with all parts of the Civil Aviation regulations relating to a Seychelles registered aircraft unless exempted therefrom by the Authority. One pre-requisite for such exemption is that the Authority has made satisfactory arrangements with the State of the lessee for the transfer of ICAO Annex 6 responsibilities (State of Operator) and/or State of Registry responsibilities under Article 83 *bis*.
- c) The decision of the Authority regarding the transfer of ICAO Annex 6 responsibilities (State of Operator) and State of Registry responsibilities under Article 83 *bis* agreements will be predominately based on the duration of the lease, the level of compliance of the lessee's authority and the level of confidence of the Authority in regards to their standard and level of safety oversight capabilities. The Authority shall review past ICAO USOAP results and any additional relevant sources of information.

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- d) The arrangements for continuing airworthiness management and maintenance of the aircraft, during the period of the lease, should be defined by the Seychelles AOC holder (lessor). In cases where ICAO Annex 6 responsibilities (State of Operator) responsibilities have not been transferred, the Seychelles AOC holder shall ensure that the continuing airworthiness management is carried out under its own CAMO approval with the maintenance being done by an appropriately approved maintenance organization (AMO). In such cases, the aircraft Maintenance Programme of the Seychelles AOC holder may, with the approval of the Authority, be amended to include any specific requirements for the foreign AOC operator.
  - e) The State of the foreign operator should not endorse the implementation of any modifications without prior approval of the Authority (State of Registry). An interface document should define the procedure for the approval of the changes to the type design.
  - f) In cases where ICAO Annex 6 responsibilities (State of Operator) responsibilities has been transferred to that of the lessee, the Seychelles AOC holder shall implement a quality monitoring programme of the lease agreements to ensure an acceptable continuing airworthiness standards and management of the aircraft.
  - g) The foreign operator will not be exempted from Regulation 15 of the Civil Aviation (Safety) Regulations, 2017, i.e. crews will need to hold appropriate Seychelles licenses or have their own national licenses validated for which a charge will be levied.
  - h) In the case where ICAO Annex 6 responsibilities have been transferred, the Authority will issue an exemption from the relevant parts of the Civil Aviation regulations and a Flight Crew Licensing Block Validation for pilots' licenses as appropriate.
  - i) The approval for ETOPS operation is not transferable with the aircraft. Where a Seychelles aircraft is transferred to a non ETOPS operator, responsibilities should be defined regarding the continuing airworthiness of the ETOPS configuration of the aircraft.
  - j) Prior to the aircraft returning into operation within the Seychelles operator's fleet, the Seychelles AOC holder shall ensure that the following points are considered and addressed:
    - i) The Aircraft Maintenance Programme may require further amendment to remove any specific requirements of the foreign AOC operator.
    - ii) The aircraft is returned to the Authority required operational configuration, including special operational rules e.g. RVSM, AWOPS, ETOPS and others, and that all modifications and repairs satisfy the requirements of Airworthiness Notices 6 and 20.
    - iii) The aircraft's maintenance status, including structural sampling and corrosion control programmes, is up to date and correct and as per the Seychelles AOC holder's approved Aircraft Maintenance Programme.
    - iv) The maintenance carried out during the period of the lease has been certified by a suitably approved Aircraft Maintenance Organisation.
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- k) The Seychelles AOC holder as the lessor shall nominate a co-ordinator for the lease and a contact in the foreign operator's authority who will be dealing with such lease arrangements.

## 6.2 Submissions

6.2.2 In addition to the application, the following information is required by the Authority:

- a) the aircraft type, model and serial number;
- b) the name and address of the foreign operator;
- c) the period of the lease including ferry flights, if these are to be done by the foreign operator;
- d) copy of the lease agreement;
- e) routes to be flown; and
- f) the number of foreign pilots or flight engineers who require a Validation for their flight crew license.

## 7. Wet lease-in: Policies and arrangements

### 7.1 Policies

- a) Wet lease-in of foreign registered aircraft will be considered for a maximum period of one year only. Approval is renewable for further periods of up to one year provided the appropriate safety standards are met and the Seychelles AOC holder can demonstrate within reason that the criteria stipulated in 7.1 (b) below apply.
- b) The Seychelles AOC holder shall demonstrate compliance in their initial application or renewed consideration with one of three criteria:
  - i) Exceptional needs – which has an approval duration of up to seven months with the possibility of an extension for a further seven months. No further extensions are then permitted;
  - ii) Seasonal capacity needs – which cannot reasonably be satisfied with aircraft registered in the Seychelles, for which the approval can be renewed on this basis; and
  - iii) Operational difficulties – which it is not possible or reasonable to cover with aircraft registered in the Seychelles, for which the approval will be limited to the duration strictly necessary for overcoming the difficulties.
- c) The Authority shall not approve an agreement for a wet lease to a Seychelles AOC holder unless safety standards equivalent to those required of the Seychelles AOC holder are met. Paragraphs (d) to (j) indicate how the Authority will determine the equivalence of safety standards.
- d) Where the Authority already has sufficient information about the lessor and the level of supervision exercised by the lessor's regulatory Authority to know that equivalent standards are met, it may be in a position to issue the Approval without additional work. Similarly, where it has sufficient knowledge that equivalent safety standards are not met, it will refuse an Approval without additional work.



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- e) Where the Authority's knowledge of the lessor and/or the lessor's regulatory Authority is incomplete or not previously documented, the Authority will, before granting an Approval, carry out an Equivalent Safety Assessment (ESA) to assure itself that equivalent safety standards are met by the lessor. This cost shall be met by the Seychelles AOC holder (lessor).
  - f) The framework ESA, in addition to the application, shall include a pre-audit questionnaire to be completed by the Seychelles AOC holder in collaboration with the lessor and the lessor's regulatory authority. Following the receipt of the application, pre-audit questionnaire and supporting documents, the Authority will conduct a desk-top review prior to an ESA visit. The ESA visit will normally be for a period of 4-5 days and will include members from the Flight operations and Flight Crew Licensing Inspectorate and the Airworthiness and Engineer Licensing Inspectorate. Should the application also include provision for the carriage of Dangerous Goods, the Authority may additionally include a Dangerous Goods Inspector. The visit on the first and last day will usually be to the lessor's regulatory authority and the remainder days to the lessor.
  - g) Where it has been established that an ESA visit is required as part of the assessment, the Authority may give consideration to granting an interim 10 week Approval thereby allowing the lease to commence before the audit is carried out. This interim Approval will not be granted where the Authority has no knowledge of the lessor or of the lessor's regulatory authority or such knowledge as it has suggests that equivalent safety standards are not met. Any continuation of the lease beyond 10 weeks will require the Authority's audit to determine that safety standards equivalent to Seychelles national regulations and technical standards are met. Moreover, any interim Approval given for the 10 week lease will be revoked if, during those 10 weeks, the audit reveals that equivalent safety standards are not being met by the lessor or the level of supervision exercised by the lessor's regulatory authority is deemed inadequate.
  - h) Once the determination has been made by the Authority that an Approval may be conveyed, the Approval will be valid for a maximum period of one year from the commencement of the lease. Should there subsequently be an application to extend the lease approval period, the Authority will give due consideration to continued validity and applicability of the criteria outlined in 7.1 (b), but may require that the lessor be re-audited, at the Seychelles AOC holder's expense, to verify that equivalent safety standards are being maintained.
  - i) Where an applicant wishes to wet lease an aircraft for a period of 10 weeks or less, the Authority may grant an Approval without an audit for the duration of the lease, provided it is satisfied that the safety standards of the lessor are comparable to those set by Seychelles national regulations and technical standards. This provision will facilitate the one-off short lease but it cannot be used by one applicant or a succession of applicants for a series of short leases. In this respect, the 10 week period starts from the first day of the initial approval and ends on the seventieth day thereafter.
  - j) In view of the ESA process, Seychelles AOC holders intending on utilising such leasing mechanisms to cater for repeated short term needs such as unavailability of aircraft due to long term maintenance activity, should give due consideration to making adequate arrangement in advance for a shortlist of pre-approved operators.

## 7.2 Submissions

7.2.1 In addition to the application, the following is required by the Authority:

- a) completed ESA pre-audit questionnaire and supporting documentation;
- b) the aircraft type, model and serial number;
- b) the name and address of the foreign operator;
- c) the period of the lease including ferry flights, if these are to be done by the foreign operator;
- d) copy of the lease agreement; and
- e) routes to be flown.

## 8. Wet lease-out: Policies and arrangements

### 8.1 Policies

The Seychelles AOC holder (lessor) shall consider the following items for the purpose of a Charter or wet/damp lease out operation:

- a) Compliance Monitoring System
- b) Operations Manual
- c) Ground Handling
- d) Maintenance Requirements
- e) Operational Control
- f) Assessment and Authorisation of Aerodromes
- g) Aerodrome Operating Minima
- h) Routes and Area of Operation- Equipment carriage
- i) Routes and Area of Operation- Maps and charts
- j) Operations in areas with specified navigation performance requirements
- k) ETOPS Assessment
- l) Fuel Policy
- m) Low visibility operations – Aerodrome considerations
- n) Performance - General
- o) Load Control
- p) Crewing Arrangements
- q) Route and Aerodrome Competence qualification
- r) Flight Time Limitations

### 8.2 Submissions

In addition to the application, the operator shall make an appropriate submission commenting on the elements detailed in 7.1. The request and the associated submission should be made as one package and be signed by the Nominated post holder or deputy as the focal point to ensure that all arrangements which may emanate from different personnel or departments have been satisfactorily addressed.

## 9. Additional considerations for dry lease-in and wet lease-in operations

- a) It should be noted that the fundamental premise of EASA ORO.AOC and that of the Chicago Convention is that aircraft should be registered in the State responsible for issuing the AOC. This is to ensure that the national civil aviation authority is able to exercise and discharge its State of Registry and State of Operator responsibilities. The various forms of leases are intended and shall be viewed as controlled mechanism for temporary alleviation where it can be demonstrated within reason that such leases are required. Under no circumstance shall such leases be considered for initial applicants of an AOC or subsequent continuous reliance based entirely on the premise of such leases to the extent that an operator does not qualify for an AOC or that the discharge of responsibilities of Seychelles as the State or Registry and/or the State of Operator is diminished.
- b) Operators are reminded that considerations and implications in regards to traffic rights and other air transport issues shall be directed as a separate application to the following contact:

Head of Air Transport  
Seychelles Civil Aviation Authority  
P.O Box 181  
Mahe  
Seychelles

## 10. Application

Applications shall be made in writing to:

Head Flight Operations and Flight Crew Licensing Inspectorate  
Safety Regulation  
Seychelles Civil Aviation Authority  
P.O Box 181  
Mahe  
Seychelles

## 11. Queries

- 11.1 Any queries as a result of this Operational Directive should be addressed to Head of Flight Operations and Flight Crew Licensing Inspectorate at the following e-mail address: [hfo@scaa.sc](mailto:hfo@scaa.sc)

## 12. Revocation and Commencement

- 12.1 This Operational Directive comes into force **20<sup>th</sup> August 2019** and will remain in force until revoked by the Authority.

Head Flight Operations and Flight Crew Licensing Inspectorate