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1. GENERAL.

On the basis of statutory authority it is vested with by the Civil Aviation Proclamation 616/2008 **Part Nine Article 92 sub article 2**, Ethiopian Civil Aviation Authority (ECAA) Director General issues Directives which contain mandatory information about standards, practices and procedures acceptable to the Authority.

2. PURPOSE.

This Directive is issued to provide obligatory information and guidance related to aircraft leasing arrangements involving Ethiopian registered aircraft and foreign registered aircraft operated by Ethiopian AOC holders. It contains information for concerned parties on continuing airworthiness and flight safety issues that need to be addressed.

3. APPLICABILITY.

This Directive applies to Ethiopian Air Operator Certificate (AOC) holders involved or intending to be involved in aircraft operational leasing arrangements. Operational leasing arrangements are leasing arrangements described in paragraph 9 and paragraph 10 of this Directive. Financial or capital leases (e.g. sale and lease back arrangements between an operator and financial institutions) are not addressed in this Directive.

4. EFFECTIVE DATE.

This DIRECTIVE is effective from **1st July 2019**.

5. REFERENCES.

Ethiopian Civil Aviation Rules and Standards, ICAO Doc 8335, ICAO Doc 9760 and ICAO Circular 295.


6. INTRODUCTION.

In a lease arrangement, the leased aircraft may be registered in a State which is different from the State which issues the Air Operator Certificate. It is therefore essential, for regulatory reasons, that the lessor and lessee are familiar with the requirements of the State of Registry and the State of the Operator. Typical obligations expected by the State of Registry and the State of the Operator are described in this Directive to provide an idea of the regulatory compliance that the lessor and lessee can expect.

7. COMPLIANCE TO REGULATORY REQUIREMENTS

- 7.1 The information in this Directive does not override any applicable Ethiopian regulatory requirements.
- 7.2 When the leasing arrangement involves safety oversight by foreign Authority(s), the leasing arrangement should include information on compliance with relevant Rules and Standards of both ECAA and the foreign Authority(s).

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7.3 Any and all requirements which apply to aircraft registration eligibility in Ethiopia relating to aircraft age as required by ECARAS Part 4 are also applicable to any foreign registered aircraft which is intended to be operated by AOC holders in Ethiopia by any type of lease arrangement.

8. DEFINITIONS

Lease:

An agreement by a person (the lessor) to furnish an aircraft to another person (the lessee) to be used for compensation or hire purposes.

Lessor:

The party furnishing the aircraft under a lease.

Lessee:

The party using the aircraft under the provisions of a lease.

Dry Lease:

A lease arrangement whereby a lessor provides an aircraft without crew to the lessee.

Wet Lease:

A lease arrangement whereby a lessor provides an aircraft with crew to the lessee.

Damp Lease:

A lease arrangement whereby a lessor provides an aircraft with partial crew to the lessee.

State of Registry:

The State on whose register the aircraft is entered.

State of the Operator:

The State where the principal place of business of the operator is located, or if no such business exists, the permanent residence of the operator.


Operator:

A person, organization or enterprise having an Air Operator Certificate (AOC) engaged in aircraft operations to carry out specific commercial air transport operations.

Operational Control:

The exercise of authority over the initiation, continuation, diversion or termination of a flight in the interest of the safety of the aircraft and the regularity and efficiency of the flight.



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Operational Leases:

Refers to leasing arrangements described in paragraph 10.

9. TYPES OF OPERATIONAL LEASING ARRANGEMENTS

- 9.1 This section describes the types of operational leases. Parties involved in a leasing arrangement should note the responsibilities of each party with respect to the airworthiness and operation of the leased aircraft.
- 9.2 In a **wet or damp lease arrangement**, the lessor assumes operational control of the aircraft operations. Aircraft operations must be in compliance with the requirements in the lessor's air operator certificate for the duration of the lease.
- a) Wet or damp Lease (out) of Ethiopia registered aircraft to a foreign operator ("**Wet Lease Out**"). Regulatory requirements related to Ethiopia registered aircraft will apply. The Ethiopian AOC holder will be responsible for the operational control of the aircraft for the duration of the lease. In the case of a damp lease, the qualification and operational control of crew provided by the lessee should be addressed and aligned with the lessor's operations policies.
 - b) Wet or damp lease (in) a foreign registered aircraft by the Ethiopian AOC holder ("**Wet Lease In**") Regulatory requirements related to the foreign Authority where the aircraft is registered will apply. The lessor will be responsible for the operational control of the aircraft for the duration of the lease. In the case of a damp lease, the qualification and operational control of crew provided by the lessee should be addressed and aligned with the lessor's operations policies.
 - c) Wet or damp lease of Ethiopian registered aircraft between Ethiopian AOC holders ("**Intra State Wet Lease**") Regulatory requirements related to Ethiopian registered aircraft applies. The lessor will continue to be responsible for the operational control of the aircraft for the duration of the lease. In the case of a damp lease, the qualification and operational control of crew provided by the lessee should be addressed and aligned with the lessor's operations policies.
- 9.3 In a **dry lease arrangement**, the lessee usually assumes operational control of the aircraft. The aircraft is operated under the lessee's air operator certificate. Compliance to other relevant regulatory requirements would depend on the civil aviation authority of the State where the aircraft is registered.
- a) Dry lease (out) of Ethiopian registered aircraft to a foreign operator without change of aircraft registration ("**Dry Lease Out**"). Regulatory requirements related to Ethiopian registered aircraft will apply. The lessee will be responsible for the operational control of the aircraft under its AOC for the duration of the lease.
 - b) Dry lease (in) of foreign registered aircraft by Ethiopian AOC holder without change of aircraft registration ("**Dry Lease-In**"). The foreign regulatory requirements related to the foreign registered aircraft will apply. The Ethiopian AOC holder will be responsible for the operational control of the aircraft for the duration of the lease.



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10. AIRCRAFT REGISTERED WITH THE AUTHORITY OF THE LESSEE

- 10.1 Parties to a dry lease agreement may register the aircraft with the Authority of the lessee. This change of registration of the leased aircraft will result in the lessee being solely responsible for the operational control and the airworthiness of the aircraft.
- a) Dry lease-(out) of Ethiopian registered aircraft to a foreign operator with change of aircraft registration. Regulatory requirements related to Ethiopia registered aircraft will not be applicable when the aircraft is de-registered from the Ethiopia registry. The leased aircraft may be re-registered back onto the Ethiopia registry at the end of the lease provided it meets all applicable ECAA requirements at the time of re-registration. However, if the aircraft which has been dry leased out is wholly owned by Ethiopian individual or company, the aircraft may be eligible for re-registration in Ethiopia even though the age of the aircraft does not meet the age requirements of ECARAS Part 4, provided that other regulatory and safety requirements are met.
 - b) Dry lease-(in) of foreign registered aircraft by Ethiopian AOC Holder with change of aircraft registration. This is similar to registering an aircraft by the Ethiopian AOC holder. The Ethiopian AOC holder will comply with all regulatory requirements related to the Ethiopian registered aircraft and be responsible for the operational control of the aircraft for the duration of the lease.

11. RESPONSIBILITIES OF THE STATE OF REGISTRY AND STATE OF THE OPERATOR

- 11.1 Operators intending to engage in leasing arrangement should familiarize themselves with the responsibilities of the State of Registry and the State of the Operator, in the event that the aircraft is registered in a State different from the State responsible for oversight of its operations. It is important that the responsibilities of the lessor and lessee to be explicitly specified in the lease agreement between the lessor and lessee, to provide for proper airworthiness and operational oversight and control of the aircraft to be leased.
- 11.2 The **State of Registry** is the State on whose register the aircraft is entered. The State of Registry is responsible for the safety oversight and airworthiness standards for aircraft on its register, including those aircraft that are leased. The person or organization to which the aircraft is registered must ensure that the aircraft comply with all applicable requirements of the State of Registry. The responsibilities of the State of Registry include:
- a) notifying the State of Design that it has entered such an aircraft type on its register.
 - b) ensuring that the aircraft airworthiness standards of the State of Registry are maintained.
 - c) issuing and validating the airworthiness certificate for aircraft (CoA) on its register.
 - d) overseeing the continuing airworthiness of the aircraft according to the standards of the State of Registry, regardless of where it is operated in the world.
 - e) ensuring that personnel performing maintenance work on the aircraft meets the experience, knowledge and skill requirements in accordance with the requirements of the State of Registry.

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- f) ensuring that flight crew operating the aircraft meets the experience, knowledge and skill requirements to safely operate the aircraft in accordance with the requirements of the State of Registry.
 - g) ensuring that operational personnel related with the aircraft operation continues to meet the standards required by the State of Registry.
 - h) ensuring timely and appropriate actions are in place to correct all deficiencies highlighted by the flight crew on the maintenance of the aircraft and its operation.
 - i) informing the organization responsible for the type design on the faults, malfunctions, defects and other occurrences that cause or might cause adverse effects on the continuing airworthiness of the aircraft.
 - j) ensuring that mandatory continuing airworthiness information from the State of Design is assessed and appropriate action is taken in a timely manner.
- 11.3 The State of the Operator is the State where the principal place of business of the operator is located, or if no such business exists, the permanent residence of the operator. The operator of the aircraft must make sure that the operations of the aircraft meet the requirements of the State of the Operator. The responsibilities of the State of the Operator include ensuring that its operators are able to:
- a) demonstrate safe and efficient operations prior to the initiation of any flight operations.
 - b) conduct operations with respect to the original certification criteria or operational specifications on a continuing basis.
 - c) take timely and necessary actions to resolve safety issues that are found with respect to the maintenance of aircraft, flight operations and other air operator responsibilities, including the actions of the operator's personnel.

12. ECAA LEASING POLICY

- 12.1 To provide clarity on the safety responsibilities expected from the lessee and lessor, ECAA expects, at the minimum, the following obligations from the lessee and lessor in accordance with the respective types of leasing arrangements as shown in Table 1 below.

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Table 1: Obligations expected from Lessee and Lessor in Operational Leases

<p>Scenario Obligations</p> <p>All Leases</p> <p>a. The applicant will need to demonstrate the need to enter into aircraft operational leasing arrangements.</p> <p>b. The applicant will need to ensure that provisions are made in the leasing arrangement to enable ECAA inspectors to conduct necessary inspections.</p> <p>Wet Leases</p> <p>a. The lessee and lessor must hold valid Air Operator Certificates throughout the duration of the lease.</p> <p>b. The lessor should retain operational control of the aircraft.</p> <p>c. For wet leasing arrangements among Ethiopian air operators, the lessee must ensure that the lessor maintains the aircraft as per the lessor's approved maintenance program.</p> <p>d. For wet-lease in arrangements, the lessee must ensure that reportable occurrences and incidents affecting the leased aircraft are reported to ECAA.</p> <p>Dry Leases</p> <p>a. For Dry Lease Out arrangements, the lessee must maintain the subject aircraft to Ethiopia requirements.</p> <p>b. For Dry Lease In arrangements, the lessee must ensure that the aircraft equipment relating to flight operations meets Ethiopia's requirements.</p> <p>Note 1</p> <p>In all other types of leasing arrangements, Part 5 and 8 of the Rules and Standards require Ethiopian AOC holders to report to ECAA all reportable occurrences involving the leased aircraft.</p>

- 12.2 ECAA may, on a case by case basis, prescribe additional requirements relating to the lease arrangement.
- 12.3 In order to maintain effective safety oversight, ECAA will set limits to the duration of operational leases. The limit to the duration of a lease, in accordance to the type of operational lease, is stipulated in Table 2.
- 12.4 Ethiopian AOC holders that need to lease an aircraft for a period longer than the stipulated period in Table 2 will need to provide justifications to ECAA for the requested extended lease duration.



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Table 2: Durations for Operational Leases

Scenario Duration

- Wet Lease In:** 6 months, subject to a one time extension of an additional 6 months.
- Dry Lease In:** 12 months, subject to a one time extension of an additional 12 months
- Wet Lease Out:** 6 months, subject to a one time extension of an additional 6 months.
- Dry Lease Out:** 12 months, subject to a one time extension of an additional 12 months.
- Intra State Wet Lease:** 12 months, subject to a one time extension of an additional 12 months.


13. ARTICLE 83BIS TO THE CHICAGO CONVENTION – TRANSFER OF STATE OF REGISTRY RESPONSIBILITIES

- 13.1 Article 83bis to the Chicago Convention provides for the transfer of certain safety oversight responsibilities from the State of Registry to the State of the Operator. Such a transfer shall be recognized by all other States which have ratified Article 83bis. The transfer of responsibility may involve functions and duties under Article 12, 30, 31 or 32 a) of the Chicago Convention, which address rules of the air, radio licensing, certificates of airworthiness, and personnel licenses respectively.
- 13.2 Where the lease arrangement involves more than one Authority, the State of Registry may, if it is unable to discharge all or part of its responsibilities as a State of Registry, transfer part or all of these responsibilities to another State. This transfer is subject to the mutual agreement of the other State (usually the State of the Operator). The instrument used to effect the transfer is an **Article 83bis agreement between the two States**.
- 13.3 ECAA transfers its safety oversight responsibilities to other Authorities. However, ECAA may accept the transfer of State of Registry responsibilities from another Authority, if it deems it necessary to maintain effective oversight of the aircraft. ECAA will inform the affected Ethiopian AOC holders when ECAA has entered into an Article 83bis agreement with the foreign Authority.

14. INFORMATION REQUIRED IN THE LEASE AGREEMENT

- 14.1 Application for approvals of lease arrangements shall be submitted in writing together with detailed descriptions of the party(s) responsible for the operational control and continuing airworthiness for the aircraft in the lease arrangement. Depending on the complexities of the lease arrangement, ECAA may require more information in order to determine that all airworthiness and operational issues are addressed.




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The minimum information required is as follows:

- a) the lessor and lessee are properly identified;
- b) the aircraft subject to the lease agreement is identified by aircraft make and model, registration number and manufacturer's serial number;
- c) the effective dates of the lease are properly identified;
- d) In the case of a lease-in arrangement:
 - i) the Certificate of registration of the aircraft
 - ii) name and address of the registered owner of the aircraft
 - iii) a copy of the Certificate of Airworthiness
 - iv) proof of the maintenance schedule approval from the foreign Authority
 - v) Arrangements for the continuing airworthiness of the aircraft during the lease period. This would include, but is not limited to, pre- and post- lease airworthiness standards, availability of up-to-date maintenance approved data, acceptable qualifications and training of certifying staff, reporting of defects and incidents that may affect the airworthiness of the aircraft and handling of mandatory airworthiness information.
 - vi) Arrangements to address any operational matters during the lease period. This would include but not limited to acceptable qualifications and training of operational personnel like pilots and cabin crew, details of how operational deficiencies will be addressed, reporting of incidents, etc.
- e) Type of lease (lease-in/out, wet, damp, dry)
- f) Duration of the lease arrangement
- g) Copy of the lease agreement or description of the lease provisions. The lease agreement or description of the provisions should include information on:
- h) Changes to the operations specifications for AOC holders, as applicable, as a result of the lease agreement
- i) Area of operations for the aircraft including where it will be based;
- j) the State of Registry and the airworthiness code under which the aircraft will be maintained are identified;
- k) the maintenance/inspection programme that will be utilized is specifically identified.

Note:

In the event of a temporary change of operator, such as during a dry lease, the aircraft records must be made available to the new operator.

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The above information is necessary for ECAA to determine whether proper operational control and continuing airworthiness oversight for the aircraft are in place for the duration of the lease.

15. ECAA APPROVAL

15.1 ECAA's approval shall be sought for lease arrangements involving Ethiopian AOC holders and/or Ethiopian registered aircraft.

15.2 Approval of the lease arrangement is dependent on applicant's demonstration of the following:

- all the necessary changes arising from the lease arrangement are identified; and
- all parties involved in the lease arrangement have sufficient knowledge and adequate resources to fulfill their roles and responsibilities with regard to the continuing airworthiness and operational control of the aircraft for the duration of the lease.

15.3 Where appropriate, the attachments to the AOC (Maintenance of Leased Aircraft and Aircraft Leasing Operations) will be amended to reflect the approval of the lease arrangement.

15.4 Lessees are required to carry the following documents in the aircraft at all times for the duration of the lease:

- a) a certified true copy of the lease agreement between the lessor and lessee.
- b) a certified true copy of the AOC and its corresponding specifications.
- c) a certified true copy of the Article 83bis agreement, if applicable.
- d) flight crew licenses issued or validated by the State of Registry.

ETHIOPIAN CIVIL AVIATION AUTHORITY AIRCRAFT LEASING DIRECTIVE

Approved by:

Signature

Date: 13th June 2019

Director General, Ethiopian Civil Aviation Authority

