

AERONAUTICAL CIRCULAR CIVIL AVIATION AUTHORITY – MACAO, CHINA

SUBJECT: *AIRCRAFT LEASING*

EFFECTIVE DATE:

15 Aug 2016

CANCELLATION:

AC/OPS/015R00

GENERAL:

The President of Civil Aviation Authority – Macao, China, in exercise of his power under Paragraph 89 of the Air Navigation Regulation of Macao (ANRM) and Article 35 of the Statutes of Civil Aviation Authority, approved by the Decree-Law 10/91/M, established this Aeronautical Circular (AC).

1 Introduction

Pursuant to Paragraph 4) of Article 7 of Regulamento Administrativo n.º 10/2004, for the purpose of ensuring safety and liability standards and compliance with any applicable conditions, all leasing arrangements entered into by air carriers holding a valid Air Operator Certificate (AOC) issued by the AACM, shall receive prior approval from the AACM.

The purpose of this AC is to regulate the procedures and policies which govern the approval of such an application.

2 Applicability

This AC applies when an operator holding a valid AOC issued by the AACM wishes to enter into a leasing arrangement.

3 Terminology

Terms used in this AC have the following meaning:

Macao Operator. An operator holding a valid AOC issued by the AACM.

Lease. A contractual arrangement whereby a properly licensed air carrier gains commercial control of an entire aircraft without transfer of ownership.

Dry lease. Lease of an aircraft where the 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.

Wet lease. Lease of an aircraft where the aircraft is operated under the AOC of the lessor. It is normally a lease of an aircraft with crew, operated under the commercial control of the lessee and using the lessee's airline designator code and traffic rights.

Note: The provisions applying to wet leases are also intended to apply to leases with a partial crew (sometimes known as damp leases) and short notice wet leases (sometimes known as sub-charters).

4 Leasing Policy

4.1 Dry Lease-In

A Macao operator shall ensure that the leased-in aircraft is in compliance with Macao requirements and airworthiness standards or if there is any difference, those differences are notified to and are acceptable to the AACM.

The aircraft must have a maintenance programme and a technical log system approved by the AACM prior to the commencement of the leasing.

The AACM's approval for the use of dry leased aircraft by a Macao Operator will be provided for a limited and pre-determined period of time.

4.2 Wet Lease-In

Before granting approval to a Macao Operator to lease in an aircraft, the AACM shall be satisfied, if necessary by means of an audit, that:

- the lessor meets safety standards equivalent to those that the Macao Operator is required to meet under its AOC;
- the lessor is a holder of a valid AOC or equivalent document; and
- the leased-in aircraft has a Standard Certificate of Airworthiness in accordance with ICAO Annex 8.

- The leased-in aircraft shall meet all Macao operational requirements, such as ACAS, EGPWS, etc, unless exempted.

The AACM's approval for the use of wet leased aircraft by a Macao Operator will be provided for a limited and pre-determined period of time.

Consumers shall be informed, as soon as practicable and in any event prior to boarding, of the actual operator if a flight is to be operated with a wet-leased-in aircraft.

4.3 Dry Lease-Out

A Macao Operator may dry lease-out an aircraft for the purpose of commercial air transportation to any operator provided the following conditions are met:

- The AACM has exempted the Macao Operator from the relevant provisions of Macao Civil Aviation laws and regulations and, after the regulatory authority of the lessee has accepted responsibility in writing for surveillance of the maintenance and operation of the aircraft, has removed the aircraft from its AOC; and
- the aircraft is maintained according to an approved maintenance program.

4.4 Wet Lease-Out

A Macao Operator providing an aircraft and crew to another entity and retaining all the functions and responsibilities resulting from its AOC shall remain the operator of the aircraft.

The AACM may delegate its functions and duties in what concerns the leased aircraft in the aeronautical authority of the lessee on the terms of article 83 bis of the Chicago Convention on International Civil Aviation or of an arrangement between both authorities.

5 Authorization Process

Macao Operators shall submit to the AACM the following information:

- For all leasing agreements, copy of the draft of the agreed lease contract stating the following information:
 - type of lease;
 - names of the parties to the agreement;
 - name, address and signature of lessee or person responsible for operational control of the aircraft under the lease agreement, including a statement that such individual and the parties to the lease agreement fully understand their respective responsibilities under the application regulations;

- start date and duration of lease;
- number and type of aircraft;
- name of air carrier under whose AOC the aircraft will be operated and maintained;
- name of air carrier with commercial control of the aircraft; and
- Operations and Maintenance arrangements for the leasing operations.

Note: For the leasing arrangement, operators should take into account which party is responsible for all relevant items relating to the planned leasing operations, such as:

- crew member licensing and training;
 - airworthiness of the aircraft and performance of maintenance;
 - operational control, including dispatch and flight following;
 - scheduling of crew members;
 - signing the maintenance release;
 - method of establishing minimum flight altitudes;
 - method of determining aerodrome operating minima;
 - flight time, flight duty periods and rest periods;
 - aircraft-specific minimum equipment list (MEL);
 - procedure for electronic navigation data management; and
 - specific operations, such as EDTO, PBN, MNPS and RVSM etc.
- For the lease-in agreements, copies of the following lessor's documents:
 - AOC and operations specifications;
 - Aircraft Registration Certificate;
 - Airworthiness Certificate;
 - Aircraft Noise Certificate;
 - evidence of passenger and third party insurance; and
 - Authorization from the appropriate authorities for the leasing arrangement.
 - For the lease-out agreements, copies of the following lessee's documents:
 - AOC and operations specifications;
 - evidence of passenger and third party insurance; and
 - Authorization from the appropriate authorities for the leasing arrangement.

The Macao operator shall provide the AACM with reports of safety audits on flight operations, maintenance, and ground handling.

The AACM may require any additional information, for example concerning the reason for the lease and the planned operations, to the extent that such information is necessary to ensure compliance with local rules and international obligations.

The AACM may subject the approval of the leasing agreement to any conditions that may find relevant; such conditions shall be included in the lease agreement.

After all of the requirements for the application of approval are satisfactorily met, the AACM will amend the operations specifications of the AOC holder. The amendment to the operations specifications shall contain the following information:

- The names of the parties to the agreement and the duration of the agreement;
- the make, model, and registration of each aircraft involved in the agreement;
- a statement specifying the party deemed to have operational control;
- any other item, condition, or limitation the AACM determines necessary; and
- the expiration date of the lease agreement.

6 Leasing of Aircraft at Short Notice

In circumstances where a Macao Operator is faced with an immediate, urgent and unforeseen need for a replacement aircraft, the approval required by paragraph 4 above may be deemed to have been given provided that:

- the lessor is an operator holding a valid AOC;
- the lease-in period does not exceed 5 consecutive days; and
- the AACM is immediately notified of the use of this provision.

7 Reimbursement of Costs

Macao Operators will be responsible for the reimbursement of all costs in relation to any investigation or audit required by the AACM with respect to applications to operate leased aircraft.

- END -