

Telephone No. : 4622495  
Telegraphi Address:  
Commercial : AIRCIVIL  
NEW DELHI  
Aeronautical : VIDDYAYX  
E Mail: [dri@dgca.nic.in](mailto:dri@dgca.nic.in)  
Fax 011 24629221

**GOVERNMENT OF INDIA**  
**AERONAUTICAL INFORMATION SERVICES**  
**DIRECTOR GENERAL OF CIVIL AVIATION**  
**OPPOSITE SAFDARJUNG AIRPORT**  
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(Kanu Gohain)  
Director General of Civil Aviation

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**REQUIREMENTS FOR OPERATION OF SCHEDULED AIR SERVICES  
TO/FROM INDIA BY FOREIGN AIRLINES WITH LEASED AIRCRAFT**

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**1. Introduction**

- 1.1 The concept of registration as enshrined in the Convention on International Civil Aviation (hereinafter referred to as “the Convention”) implies responsibility by the State of Registry for the ability of aircraft to operate safely. Each Contracting State must ensure that every aircraft listed on its register complies with the laws and regulations that apply to the flight of aircraft, regardless of where the aircraft may be operated.
- 1.2 States may experience difficulties in regulating and enforcing the requirements relating to air safety when aircraft entered on their register are based in another State. Often, as a result of commercial agreements such as the lease, charter or interchange of aircraft, the State of Registry may lose control over safety compliance and may not be able to exercise its functions and duties adequately.
- 1.3 In response to concerns about the safety implications associated with the growing trend in aircraft leasing and consequent movement of operational bases across national boundaries, the international aviation community developed Article 83 *bis* of the Convention. It entered into force on 20<sup>th</sup> June, 1997 and has received overwhelming support globally. So far, more than 150 Contracting States of ICAO, including India, have ratified/acceded to the Article 83 *bis*.

- 1.4 Article 83 *bis* of the Convention reflects the general desire of Contracting States to transfer certain functions and duties normally incumbent on the State of Registry to the State of the Operator, in the case of lease, charter or interchange of an aircraft or any similar arrangement. It is a discretionary and flexible instrument available to those that ratify it, but unless functions and duties are clearly identified and reassigned by a transfer agreement, they continue to rest with the State of Registry. Article 83 *bis* also provides that the aircraft in respect of which responsibilities are intended to be transferred shall also be clearly identified in such agreement.
- 1.5 The transfer of supervisory functions and duties normally attached to the State of Registry should render international air navigation safer, since the State having the closest ties with the operator concerned will have the necessary supervisory authority to carry out effective safety oversight of the aircraft and its crew in accordance with the requirements of the relevant Annexes to the Convention.
- 1.6 The Contracting States which have ratified Article 83 *bis* of the Convention are bound to recognize the State of the Operator as substituting for the State of Registry, within the limits established by the agreement. Conversely, the States which are not parties to Article 83 *bis*, or States which are parties to it but have not been duly informed about such an agreement, are not bound to recognize the transfer of functions and duties.
- 1.7 India has acceded to Article 83 *bis* of the Convention and has also suitably amended the Aircraft Rules, 1937 for carrying out the provisions of this Article.

## **2. Requirements for operation with a leased aircraft**

- 2.1 Pursuant to Article 83 *bis* of the Convention and relevant provisions of the Aircraft Rules, 1937, it has been decided that before undertaking operation of scheduled air services to/from India with an aircraft registered in a State other than the State of the Operator, the designated airlines shall be required to make a request in writing to the Director General of Civil Aviation for grant of permission for such operations. The application shall be made at least 15 days prior to the proposed date of operations with leased aircraft and shall be accompanied by a copy each of the lease agreement as well as the agreement reached between the State of Registry and the State of the Operator – both being parties to Article 83 *bis* of the Convention – for transfer of safety oversight functions from the former to the latter.
- 2.2 In case the State of Registry or the State of the Operator is not a party to Article 83 *bis* of the Convention, or if both the States are parties to Article 83 *bis* but have not entered into an agreement for transfer of the safety

oversight functions, the lessee airline shall be required to produce a letter from its aeronautical authorities spelling out the circumstances under which the scheduled flights are proposed to be operated with an aircraft registered in a State other than the State of the Operator. Such aeronautical authorities shall also be required to give an undertaking that they shall be responsible for the operational and safety control of the aircraft.

2.3 The Director General of Civil Aviation may not grant permission for operation with leased aircraft, if it is satisfied that –

- (i) the lease agreement tantamounts to giving the lessor airline access to traffic rights not otherwise available to that airline;
- (ii) the financial benefits to be obtained by the lessor airline through such agreement is related to the financial success of the operations of the lessee airline; and
- (iii) the leased aircraft does not meet the standards relating to airworthiness, operation of aircraft, licensing of personnel etc. as established from time to time under the Convention.

### **3. Exemptions**

3.1 An agreement between the State of Registry and the State of the Operator for transfer of the safety oversight functions shall not be insisted upon in the following cases:-

- (i) the aircraft which was originally intended to operate the scheduled flight is grounded for technical reasons such as maintenance, inspection, mandatory checks or for any other reason beyond the control of the operator; or
- (ii) operation with leased aircraft is necessitated by the fact that the existing lease agreement has expired and a new agreement is yet to be concluded; or
- (iii) the aircraft has been leased or chartered to meet an emergency such as natural calamity, industrial unrest or any other similar situation; or
- (iv) the aircraft is proposed to be operated under a short-term lease not exceeding three months.

3.2 In order to avail of the exemptions mentioned in paragraph 3.1 above, the airline operator shall make an application to the Director General of Civil Aviation clearly stating therein the circumstances under which operations are to be carried out with leased aircraft.

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