

Evaluate Aircraft Leasing Agreement

GUIDANCE MATERIAL FOR INSPECTORS
CA AOC-024

SOUTH AFRICAN



CIVIL AVIATION AUTHORITY

AIR OPERATOR CERTIFICATION

CHAPTER : EVALUATE AIRCRAFT LEASE/INTERCHANGE AGREEMENT

Section 1 Background

1. Background

2. OBJECTIVE.

This chapter provides guidance for evaluating aircraft leases and interchange agreements for South African certificated operators.

3. GENERAL

A. Definitions

1. *Lease*: Any agreement by a person (the lessor) to furnish an aircraft to another person (lessee) to be used for compensation or hire purposes.
2. *Dry Lease*: Any agreement in which a lessor, (which could be an air carrier, bank, or leasing company) leases an aircraft without flight crewmembers to an air carrier (the lessee), and in which the lessee maintains operational control.
3. *Wet Lease*: Any agreement in which a lessor, leases an aircraft, with at least one pilot flight crewmember, to either a South African (S.A) operator, foreign operator, or a foreign person (the lessee).
4. *Interchange Agreement*: Any agreement between operators (S.A and foreign) in which the operational control of an aircraft is transferred for short periods of time from one operator to another. With this type agreement, the latter operator assumes responsibility for the operational control of the aircraft at the time of transfer.
5. *Operational Control*: Operation of aircraft as defined in Part 121 of the SACAR;
6. *Lessee*: The party using the aircraft under the provisions of a lease
7. *Lessor*: The party furnishing the aircraft under a lease

B. *Determining Operational Control of a Dry-Leased Aircraft*. Normally, operational control of any dry-leased aircraft rests with the lessee. In most dry lease agreements, the lessor is a bank of either a leasing or a holding company. In neither case will the lessor have the operational expertise, the facilities, or the desire to assume responsibility and liability for controlling the day-to-day operations of the aircraft.

C. *Determining Operational Control of Wet-Leased Aircraft*. The fact that the Department of Transportation (DOT) characterizes a lease as a wet lease does not necessarily make the lessor responsible for operational control

D. *Other Factors in Determining Operational Control of Leased Aircraft*

(1) CAR Parts 121 and 135 provide that the SACAA shall determine if a person has operational control if that person exercised authority and responsibility for a specified number of operational functions. This could include scheduling flights and crewmembers, initiating flights, and terminating flights.

(2) In cases where there is doubt or controversy over who exercises operational control, the Commissioner may

Consider additional factors, such as who is responsible for maintenance, servicing, and crewmember training.

7. INTERCHANGE AGREEMENTS

- a. An interchange agreement is a form of dry lease agreement. It allows an operator to dry lease aircraft to another operator for short periods of time. CAR Parts 121/127/138 and 135 prohibit listing an aircraft on both private operator's operations specifications and common carriage operations specifications.
- b. Occasionally, important details may be overlooked unless interchange conditions are closely monitored. Equipment variances can be potentially dangerous unless effective training or corrective action is taken before operations begin. For example, life rafts or an emergency radio might be improperly stowed during over-water flights on aircraft that have no provisions for their stowage, thus creating a hazardous condition in turbulent weather.

9. SACAA RESPONSIBILITIES

- a. *Determine SACAA Responsibility.* Approval of the operations specifications is the responsibility of the SACAA, assigned to the operator exercising operational control of the aircraft. This determination must be made by reviewing the specific assignment of operational control listed on the lease/interchange agreement by the SACAA.
- b. *Review the Lease.* An aircraft lease/interchange agreement is reviewed to determine if all of the responsibilities of the lessor/lessee are described. The inspector must ensure that the lease/interchange contains all effective dates and provisions required by regulation. Those items not required by regulation must be reviewed to determine their applicability and compatibility with the regulatory requirements.
- c. *The Lessor's Operator's Manual.* The lessor's manual must be reviewed for the following:

(1) The continuous airworthiness maintenance program, for the aircraft, engines, propellers (if applicable), and appliances

(2) The maintenance reliability program, if applicable

(3) A training program for the maintenance personnel on the aircraft

(4) Fueling procedures for the aircraft

(5) Provision for use of an approved Minimum Equipment List (MEL)

(6) Provisions for leasing the aircraft to the lessee

D. *The Lessee's Operator's Manual.* The lessee's manual must be reviewed for the following:

(1) To determine if the manuals provide adequate procedures and guidance for incorporating leased aircraft into its operating system

(2) Procedures for the use of the lessor's continuous airworthiness maintenance program, for the aircraft, engines, propellers (if applicable), and appliances

(3) Procedures for the use of the maintenance reliability program, if applicable

(4) Procedures in the maintenance training program that are adequate to provide for configuration differences,

if the aircraft is maintained under the lessor's maintenance program

(5) Fueling procedures for the aircraft

(6) Provisions for use of an approved MEL

E. *Aircraft Maintenance Records*. The lessor will maintain the aircraft maintenance record and ensure that the items required to be inspected, repaired, or overhauled are addressed in those records.

F. *Aircraft Conformity Inspections*. Aircraft conformity inspections are conducted to ensure that:

(1) Differences between aircraft already in a lessee's fleet and aircraft being leased are noted. These differences must be addressed with:

- Amendments to the lessee's operations
- (2) Configuration of the aircraft meets the regulatory requirements of the intended operation specifications
- Revisions to the lessee's maintenance manual/ Maintenance control manual

Section 2 Procedures

1. PREREQUISITES AND COORDINATION REQUIREMENTS

A. Prerequisites

- Knowledge of the regulatory requirements of CAR Parts 91, 121, 127, 135, and 138
- Successful completion of Airworthiness Inspector's Indoctrination Course for or previous equivalent

B. *Coordination*. This task requires coordination among maintenance, avionics, and operations Aviation Safety Inspectors (ASIs).

2. REFERENCES, FORMS, AND JOB AIDS

A. References

- Inspector's Handbook, Evaluate Part 121 Operator's Maintenance Records, and CAR Part 121/135 Operations Specifications

B. Forms

- SACAA Form, Operations Specifications

C. Job Aids

- Automated operations specifications checklists and worksheets

3. PROCEDURES FOR LEASE AGREEMENTS

A. *Determine if a Lease Agreement has Occurred*. Request a copy of the lease or lease memorandum.

(1) Determine who should be involved in the evaluation of the lease agreements.

(2) Determine personnel responsibility. If more than one personnel is involved, determine which person will be responsible for approving the operations and maintenance portions of the operations specifications.

B. *Review the Lease. Ensure that:*

(1) The lessor and lessee are properly identified on the lease

(2) The lease is signed by the appropriate personnel in both the lessor's and the lessee's organizations

(3) All strikeovers, erasures, and corrections are initialed by both the lessor and the lessee

- (4) The aircraft subject to the lease agreement are identified by aircraft make and model, registration number, and serial number
- (5) The effective dates of the lease are identified
- (6) Operational control is specifically designated
- (7) Responsibilities for performing maintenance are specifically designated
- (8) Responsibilities for keeping aircraft maintenance records are specifically designated

(9) Maintenance programs (lessee's or lessor's) that will be utilized are designated

C. *Review the Lessee's Manuals.* Ensure that the manual includes the following:

- (1) Procedures adequate to incorporate the leased aircraft into his operating system, i.e., aircraft acceptance checks, etc.
- (2) Provisions in the maintenance training program to account for any differences in the configuration of the leased aircraft from the existing fleet
- (3) A program that is adequate to provide for configuration differences if the aircraft is to be maintained under the lessee's maintenance program
- (4) A Minimum Equipment List (MEL) that is applicable to the leased aircraft

D. *Review the Aircraft Maintenance Records.*

E. *Perform an Aircraft Conformity Inspection.* After performing the inspection, review the results to ensure that the differences between the leased aircraft and the aircraft already in operation are identified and will be addressed in operation specifications and the lessee's maintenance control manual/ Manual of procedures.

4. PROCEDURES FOR INTERCHANGE AGREEMENTS

A. *Review the Agreement.* Ensure that:

- (1) The operator submits a written agreement or memorandum of the interchange agreement
- (2) The aircraft subject to the interchange agreement are identified by aircraft make and model, registration number, and serial number
- (3) The effective dates/times of the interchange are identified
- (4) Operational control is specifically designated
- (5) Responsibilities for performing maintenance are specifically designated
- (6) Responsibilities for keeping aircraft maintenance records are specifically designated
- (7) The maintenance program to be utilized is designated
- (8) All strikeovers, erasures, and corrections are initialed by both parties to the agreement
- (9) The interchange agreement or memorandum provides for all differences in aircraft configuration due to the operating or maintenance requirements of both operators

B. *Review the Lessor's Operator's Manual.* Review the following:

- (1) The continuous airworthiness maintenance program, for the aircraft, engines, propellers (if applicable), and appliances
- (2) The maintenance reliability program, if applicable
- (3) A training program for the maintenance personnel on the aircraft
- (4) Fueling procedures for the aircraft
- (5) Provision for use of an approved MEL
- (6) Provisions for leasing the aircraft to the lessee

C. *Review the Lessee's Operator's Manual.* Review for the following:

- (1) To determine if the manuals provide adequate procedures and guidance for incorporating leased aircraft into its operating system
 - (2) Procedures for the use of the lessor's continuous airworthiness maintenance program, for the aircraft, engines, propellers (if applicable), and appliances
 - (3) Procedures for the use of the maintenance reliability program, if applicable
 - (4) Procedures in the maintenance-training program that are adequate to provide for configuration differences, if the aircraft is maintained under the lessor's maintenance program
 - (5) Fueling procedures for the aircraft
 - (6) Provisions for use of an approved MEL
- D. *Analyze the Findings.* Evaluate all deficiencies to determine what corrections will be required.
- E. *Schedule a Meeting.* If deficiencies are discovered during the evaluation, advise the operator/applicant. Schedule a meeting with the operator/applicant to discuss the problem areas, if necessary.

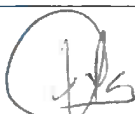

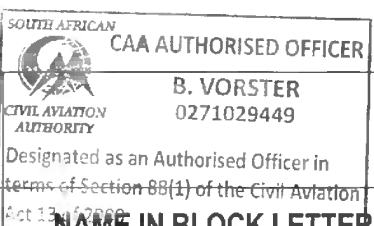
5. TASK OUTCOMES

A. *File the findings if any.*

B. Completion of this task will result in one of the following:

- (1) Approval of the agreement by accomplishing the following:
 - ❖ Sending a letter to the operator indicating acceptance of the agreement
 - ❖ Approval of operations specifications in accordance with CAR Part 121/127/135/138 Operations Specifications
 - (2) Disapproval of the agreement by sending a letter to the operator/applicant listing the reasons for disapproval
- C. *Document Task.* File all supporting paperwork in the operator/applicant's office file.

6. FUTURE ACTIVITIES. Normal surveillance.

REVIEWED & VALIDATED BY:		
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SIGNATURE OF SENIOR MANAGER: FOD	NAME IN BLOCK LETTERS	DATE
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