

DEPARTMENT OF TRANSPORT

No.R

AVIATION ACT, 1962 (ACT NO 74 of 1962)

TWENTY NINTH AMENDMENT TO THE CIVIL AVIATION REGULATIONS, 1997

The Minister of Transport has under section 22(1) of the Aviation Act, 1962 (Act No 74 of 1962) made the regulations in the Schedule hereto.

SCHEDULE

1. DEFINITION

In these regulations unless the context otherwise indicates “the Regulations” means the Civil Aviation Regulations, 1997, published by Government Notice No R.1219 of 26 September 1997 and R.1255 of 17 October 1997, as amended by Government Notice No R. 1735 of 24 December 1997, Government Notice No R. 1041 of 14 August 1998, Government Notice No R. 1148 of 18 September 1998, Government Notice No R. 1664 of 14 December 1998, Government Notice No R. 1701 of 31 December 1998, Government Notice No R.639 of 21 May 1999, Government Notice No R. 170 of 17 February 2000, Government Notice No R. 171 of 18 February 2000, Government Notice No R. 558 of 22 June 2001, Government Notice No R. 559 of 22 June 2001, Government Notice No R. 559 of 30 August 2002, Government Notice No R. 1367 of 15 November 2002, Government Notice No R. 1368 of 15 November 2002, Government Notice No 1369 of 15 November 2002, Government Notice No R. 1370 of 15 November 2002, Government Notice No R. 1371 of 15 November 2002, Government Notice No R. 1372 of 15 November 2002, Government Notice No R. 434 of 28 March 2003, Government Notice No 435 of 28 March 2003 Government Gazette No R.1375 of 1 October 2003, Government Gazette No 1340 of 31 March 2004, Government Notice No 807 dated 4 August 2006 and Government Notice No 1371 dated 28 December 2006.

AMENDMENT OF REGULATION 1.00.1 OF THE REGULATIONS

2. Regulation 1.00.1 of the Regulations is herewith amended by-

- a) the insertion of the following definition after the definition of “airborne collision avoidance system”:

“**air carrier**” means a commercial air transport operator providing either a scheduled or a non-scheduled air service;”

b) the insertion of the following definition after the definition of “airframe”:

“**airline**’ means a commercial air transport operator providing a scheduled air service;”;

c) the insertion of the following definition after the definition of “air service”:

“**air service operator**’ means a commercial air transport operator providing one or more of the following namely, a scheduled, a non-scheduled or a general air service;”;

d) the insertion of the following definitions after the definition of “area navigation”:

“**Article 83**’ means the provisions of Article 83 of the Convention on International Civil Aviation (Chicago Convention), 1944;

“**Article 83 bis**’ means that provision of Article 83 Bis of the Convention on International Civil Aviation (Chicago Convention), 1944;

“**Article 83 bis Agreement**’ means an agreement between two Contracting States that have ratified Article 83 bis, in terms of which the State of Registry transfers all or some of its functions and duties to the State of the Operator and with the agreement being subsequently registered with ICAO in terms of Article 83;”.

e) the insertion of the following definition after the definition of “continuity”:

“**Contracting State**’ means a State which is a signatory to the Convention on International Civil Aviation of 1944 (signed at Chicago on the 7th December, 1944), and “non-Contracting State” means any other State;”;

f) the insertion of the following definition after the definition of “current flight plan”:

“**damp lease**’ means an operating lease in terms of which the aircraft is leased with a partial crew;”;

g) the insertion of the following definition after the definition of Document SA-CATS-ROA”:

“**dry lease**’ means an operating lease in terms of which only the aircraft is leased without crew and the Lessee has legal possession of the aircraft;”;

h) the insertion of the following definition after the definition of “final approach fix”:

“**financial or capital lease**’ means an arrangement in terms of which the aircraft is leased from a bank or other financial institution (lessor), whereby the aircraft gives

the outward appearance of ownership by the operator (lessee), and is usually registered in the State of the operator;”;

- i) the insertion of the following definitions after the definition of “lateral navigation”:

“**‘lease’** when used in reference to an aircraft means a contractual arrangement between a lessor and lessee whereby a properly licensed air service operator gains commercial control of an entire aircraft without transfer of ownership, and which may be in the form of any of the following:

- (a) financial / capital lease;
- (b) operating lease;
 - (i) dry lease;
 - (ii) damp lease;
 - (iii) wet lease; or
 - (iv) sub-charter as defined;

‘lessee’ with reference to an aircraft lease means the party to which the aircraft is leased;”;

‘lessor’ with reference to an aircraft lease means the party from which or whom the aircraft is leased;”;

- j) the insertion of the following definitions after the definition of “operating certificate”:

“**‘operating lease’** means an arrangement in terms of which an air service operator (lessee) obtains the use of an aircraft owned or operated by another party (lessor) for a defined period;

‘operational control’ means the exercising 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: Provided that in the case of wet and damp leases, the aircraft shall be under the continual and exclusive operational control of the Lessor’s pilot in command and operated under Lessor’s Standard Operating Procedures (SOP’s);”;

- k) the substitution for the definition of “operator” of the following definition:

“**‘operator’** means a natural or artificial entity, holding a valid licence and operating certificate or equivalent thereof authorizing such person to conduct scheduled or non-scheduled or general air services and may be referred to as airline, air carrier, air service operator, or commercial air transport operator, as defined;”;

- l) the insertion of the following definitions after the definition of “student pilot-in-command instrument time”:

“**sub-charter**’ means a wet lease-in by an air service operator (the lessee) from an air service operator in his or her own right (the lessor) on short notice and for a period not exceeding five consecutive days;

‘**sub-lease**’ when used in reference to an aircraft means the lease of a leased aircraft to or by a third party;”;

- m) the insertion of the following definition after the definition of “visual metrological conditions”:

“**wet lease**’ means an operating lease in terms of which the aircraft is leased with crew, and in respect of which the lessor remains responsible for the aircraft’s maintenance, operational control (as defined), and hull and third-party liability insurance.”.

INSERTION OF PART 48 INTO THE REGULATIONS

3. THE FOLLOWING PART IS HEREWITH INSERTED AFTER PART 47 INTO THE REGULATIONS:

PART 48

LEASING OF AIRCRAFT

LIST OF REGULATIONS

48.01	General
48.01.1	Application
48.02	Financial or capital leases
48.02.1	Filing of lease agreement
48.03	Operating leases
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- 48.06.2 Personnel licensing
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- 48.06.4 Recognition
- 48.06.5 Transfer of responsibilities

SUBPART 48.01 GENERAL

Application

- 48.01.1** (1) This Part applies to all aircraft lease agreements involving South African and foreign registered aircraft and South African air services operators.
- (2) The provisions of this Part apply *mutatis mutandis* in respect of any dry lease agreement whereby either the lessor or the lessee is a South African entity but not an air service operator.
 - (3) The provisions of this Part apply *mutatis mutandis* in respect of any sub-lease agreement.

SUBPART 48.02 FINANCIAL OR CAPITAL LEASES

Filing of lease agreement

- 48.02.1** (1) Any South African operator, who enters into a financial or capital lease agreement as lessee in respect of an aircraft, must –
- (a) provide the Commissioner with a certified copy thereof; and
 - (b) adhere to the provisions of Convention on the International Recognition of Rights in Aircraft Act, 1993 (Act 59 of 1993), where applicable.
- (2) Any aircraft, acquired on a financial or capital lease, to be used for the provision of an air service, shall –
- (a) be deemed to be on a dry lease, and the provisions of regulation 48.03.1 shall apply *mutatis mutandis*; and
 - (b) be put on the South African Civil Aircraft Register, if not already so registered, in accordance with the provisions of Part 47.

SUBPART 48.03 OPERATING LEASES

Dry lease-in

- 48.03.1** (1) An operator who intends to dry lease-in an aircraft for the purpose of providing an air service therewith, shall apply to the Commissioner in the appropriate form as prescribed in Document SA-CATS-LEAS, signed by both parties, together with the appropriate fee as prescribed in Part 187 prior to approval to dry lease-in the aircraft. Where a dry lease involving a foreign operator is approved by the Commissioner, a copy of the duly completed form prescribed in Document SA-CATS-LEAS, must be forwarded to the International Air Services Council or the Domestic Air Service Council, as applicable, for record keeping purposes.
- (2) The oversight responsibilities in respect of a dry lease-in of a foreign registered aircraft may be fully or partially transferred in terms of an Article 83 bis Agreement from the appropriate authority of the State of Registry to the appropriate authority of the State of the Operator.
- (3) Subject to such conditions as he or she may determine, the Commissioner may grant approval for the lease agreement if satisfied that –
- (a) the aircraft to be leased-in is type-certificated in accordance with the requirements prescribed in Part 21;
 - (b) the aircraft to be leased-in will be maintained in accordance with an approved maintenance schedule and current manufacturers maintenance manual;
 - (c) the aircraft to be leased-in will be operated under the operating certificate held by the lessee and the applicant will not operate the air service concerned contrary to any provision of the Act, the Civil Aviation Offences Act, 1972, the International Air Services Act, 1993 or the Air Service Licensing Act, 1990;
 - (d) the applicant (the lessee) will comply with the provisions of regulation 48.03.6;
 - (e) if a foreign-registered aircraft, –
 - (i) the transfer of responsibilities, as contemplated in sub-regulation (2), has been effected;
 - (ii) the appropriate authority of the State of Registry is in a position to carry out its oversight responsibilities effectively;

- (iii) the duration of the dry lease-in is for a period not exceeding six consecutive calendar months in any 12-months period calculated from the commencement date of the lease; and
 - (iv) the number of foreign registered aircraft leased by the operator referred to in sub-regulation (1) may not constitute more than half the number of aircraft listed on that operator's operating certificate.

- (4) When the conditions, contemplated Sub-regulation (3)(e), are not met, the aircraft to be dry leased-in must be registered in the Republic as prescribed in Part 47 of these Regulations, and –
 - (a) the aircraft shall be subject to the airworthiness certification, maintenance, and inspection procedures prescribed by the Regulations in respect of South African registered aircraft;
 - (b) the responsibility or custody of the aircraft and control of all operations shall be vested in the lessee operator;
 - (c) the responsibility for the airworthiness and maintenance of the aircraft shall be vested in the lessee operator; and
 - (d) the registration of the aircraft shall be valid only for the duration of the lease agreement, and for as long as the aircraft is operated in accordance with the Regulations, the terms or conditions specified in the lessee operator's operating certificate, the related operations specifications, and the lessee operator's operations and maintenance control manuals.

- (5) The conditions of approval, referred to in Sub-regulation (3), must be made part of the lease agreement, and in particular must specify the responsibilities of the parties involved in respect of –
 - (a) airworthiness of the aircraft and performance of maintenance;
 - (b) signing the maintenance release;
 - (c) flight and cabin crew member certification;
 - (d) crew member training, competency and currency;
 - (e) scheduling of crew members;
 - (f) dispatch or flight-following; and
 - (g) insurance arrangements.

- (6) A dry lease agreement between South African operators must include the arrangements concerning the party's respective responsibilities in respect of the airworthiness of the aircraft.

DRY LEASE-OUT

- 48.03.02** (1) An operator of a South African registered aircraft may dry lease-out the aircraft to any other South African operator (the lessee), subject to the provisions of sub-regulation (2).
- (2) The provisions, referred to in Sub-regulation (1), include confirmation in the lease agreement –
- (a) of the parties' respective responsibilities in respect of the continued airworthiness of the aircraft; and
 - (b) that the aircraft will be operated in terms of the operating certificate held by the lessee.
- (3) An operator (the lessor) of a South African registered aircraft may dry lease-out the aircraft to any other operator (the lessee) in a Contracting State.
- (4) Upon application to the Commissioner by an operator (the lessor) of a South African registered aircraft in the appropriate form as prescribed in SA-CATS-OPS 121, 127 or 135, as applicable, the Commissioner may remove the aircraft from the operating certificate held by such operator.
- (5) The removal, contemplated in sub-regulation (4), in respect of an aircraft to be dry leased-out to an operator in a Contracting State, shall be conditional on –
- (a) the appropriate authority of the State of the Operator to whom such aircraft is dry leased concluding an Article 83 bis Agreement with the Minister whereby it has accepted responsibility for surveillance of the maintenance and operation of such aircraft in terms of the applicable requirements of Sub-Part 48.06; and
 - (b) such aircraft being maintained according to an approved maintenance schedule and current manufacturers maintenance manual.
- (6) When a South African registered aircraft is dry leased-out to an operator in a State that is not a Contracting State, the Commissioner may not transfer responsibility for surveillance of the maintenance and operation of the aircraft to the relevant authority of that State, and the lessor operator shall be liable for any costs incurred by the Authority in carrying out its oversight function in respect of such aircraft. The lessor operator shall be liable also for any such costs in respect of an aircraft for which no transfer of duties, as contemplated in Sub-regulation (5)(a), has been agreed upon.

- (7) The provisions of Sub-regulations (5) and (6) shall apply *mutatis mutandis* in respect of a dry leased-out aircraft remaining on the operating certificate of the lessor.

WET LEASE-IN

48.03.3 (1) A South African operator who intends to wet lease-in an aircraft for the purpose of providing an air service therewith, must –

- (a) be the holder of an appropriate operating certificate applicable to the category and type of aircraft, as defined in the Air Services Licensing Act, 1990(Act No 115 of 1990) and the International Air Services Licensing Act, 1993(Act No 60 of 1993)); and
 - (b) Apply to the Commissioner in the appropriate form as prescribed in Document SA-CATS-LEAS, signed by both Parties, together with the appropriate fee as prescribed in Part 187 for prior approval to wet lease in the aircraft. . Where the Commissioner approves a wet lease-in involving a foreign operator, a copy of the duly completed form prescribed in Document SA-CATS-LEAS must be forwarded to the International Air Services Council or the Air Service Licensing Council, as applicable, for record keeping purposes.
- (2) The duration of the lease agreement concerned, in respect of foreign-registered aircraft, shall be limited to a maximum period of six consecutive calendar months in any 12-months period calculated from the commencement date on which the Commissioner furnishes prior approval in terms of Sub-regulation (1) (b).
- (3) The approval referred to in Sub-regulation (2) must, subject to such conditions as the Commissioner may determine, be granted if such aircraft –
- (a) is wet leased-in from an operator (the lessor) who is the holder of an operating certificate or similar document issued by an appropriate authority;
 - (b) has been type-certificated by an appropriate authority;
 - (c) holds a valid certificate of airworthiness or similar document issued by an appropriate authority;
 - (d) is maintained and operated in accordance with safety standards at least equivalent to the safety standards referred to in these

Regulations in respect of aircraft operated in a commercial air transport operation; and

- (e) will be operated in terms of the operating certificate or similar document held by the lessor: Provided that, if the operator concerned is a foreign operator, the appropriate authority of the State of the Operator and the Minister may enter into an Article 83 bis Agreement as provided for in Sub-Part 6 in terms of which it is agreed that the aircraft shall be operated in terms of the operating certificate of the South African lessee, and that certain specified oversight responsibilities be transferred from that authority to the Commissioner.
- (4) The lessee must –
 - (a) satisfy the Commissioner that the safety standards of the lessor are not less than the applicable safety standards referred to in these Regulations; and
 - (b) ensure that any law applicable to the aircraft to be wet leased-in, and the maintenance or operation thereof, is complied with.
 - (5) The total number of wet leased-in aircraft, either foreign or South African registered, may not constitute more than half the number of aircraft listed on the operating certificate of the operator referred to in Sub-regulation (1) (the lessee).
 - (6) The conditions of approval referred to in Sub-regulation (1)(b) must be part of the lease agreement between the lessor and the lessee.
 - (7) Should any agreement, contemplated in Sub-regulation (3)(e), have been concluded, such agreement must be formally registered with the Council of ICAO and the appropriate authority of any third State affected must be notified.

WET LEASE-OUT

- 48.03.4** (1) The South African operator of a South African registered aircraft who intends to wet lease-out the aircraft to any non South African operator, where the non South African operator is licensed in a non contracting State, must remain the operator of the aircraft in terms of his or her operating certificate, and responsibility for surveillance of the maintenance and operation of such aircraft may not be transferred to the appropriate authority of the State of the Operator to which such aircraft is wet leased-out. The provisions of Regulation 48.03.2(6) in respect of the cost of oversight by the Authority shall apply *mutatis mutandis*.

- (2) Subject to the provisions of Sub-regulation (3), the South African operator of a South African registered aircraft may wet lease-out the aircraft to any non South African operator in a Contracting State. In such case, and upon application to the Commissioner by such operator in the form as prescribed in SA-CATS-OPS 121, 127 or 135 as applicable, the Commissioner may remove the aircraft from the operating certificate held by such South African operator: Provided that –
 - (a) the appropriate authority of the State of the Operator to whom such aircraft is wet leased has accepted, in writing, responsibility for surveillance of the maintenance and operation of such aircraft, as provided for in Article 83 bis of the Convention; and
 - (b) such aircraft is maintained according to an approved maintenance schedule.
- (3) A wet leased-out South African registered aircraft may only be used by a non South African licensed Lessee operator, in commercial air transport operations to and from the Republic if the Lessee has the underlying traffic rights to enter South Africa. The South African registered wet leased aircraft need not be listed on the Foreign Operator's Permit of the Lessee.
- (4) A South African operator, intending to wet lease-out an aircraft to another South African operator must apply to the Commissioner in the appropriate form as prescribed in Document SA-CATS-LEAS, signed by both parties, together with the appropriate fee as prescribed in Part 187 for prior approval to wet lease out the aircraft. Where the Commissioner approves a wet lease-out of an aircraft to another South African operator, a copy of the duly completed form prescribed in Document SA-CATS-LEAS must be forwarded to the Air Services Licensing Council or the International Air Services Council, as applicable, for record keeping purposes.
- (5) Any conditions prescribed by the Commissioner in granting such approval must be incorporated by the operators into the Lease Agreement.
- (6) Notwithstanding Sub-regulation (4) and (5), the Commissioner may provide any South African operator with a list of South African operators from whom aircraft may be wet leased-in by such operator without prior approval.
- (7) A South African operator, who agrees to wet lease-out an aircraft to another South African operator, must remain the operator of the aircraft and must retain the functions and responsibilities prescribed in his or her operating certificate.
- (8) Notwithstanding the provisions of Sub-regulation (5), the lessee operator, who in terms of the Air Services Licensing Act, 1990, or International Air Services Act 1993 (as the case may be) is required to be actively and effectively in control of

the air service, must ensure that the lessor operator adheres to the conditions of the latter's operating certificate and its operating specifications, which conditions may not be in conflict or less than the conditions of the lessee operator's operating certificate.

- (9) The terms of an approved wet lease agreement between South African operators must include –
- (a) the arrangement concerning the operating certificate under which the flights with the leased aircraft shall be operated; and
 - (b) any deviation from the operating certificate under which the flights with the leased aircraft shall be operated.

DAMP LEASE

48.03.05

- (1) When an aircraft is wet leased with only a partial crew (whether flight or cabin crew) the provisions of Regulations 48.03.3 and 48.03.4 shall apply *mutatis mutandis* in respect of the crew provided as part of the lease, while Regulations 48.03.1 and 48.03.2 shall apply *mutatis mutandis* in respect of the crew provided by the lessee.
- (2) The cabin or flight crew members provided by the lessee for the operation must undergo the Standard Operating Procedures (SOP) training of the lessor prior to the commencement of any commercial air transport operation.

SUBPART 48.04

SUB-CHARTERS

SUB-CHARTERS

- 48.04.1** (1) In exceptional circumstances, as contemplated in Document SA-CATS-LEAS, an operator may sub-charter an aircraft with or without flight crew: provided that –
- (a) the sub-charter period does not exceed five consecutive days; and
 - (b) the Commissioner, within 24 hours, is informed of such sub-charter by the sub-charterer.
- (2) In the case of Part 121 operations, this provision may only apply to wet lease operations.
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SUBPART 48.05 INSURANCE

INSURANCE

48.05.01 Any reference to insurance in this Part means a reference to the prescribed compulsory insurances in terms of the Air Services Licensing Act, 1990 (Act No 115 of 1990), the International Air Services Act, 1993 (Act No 60 of 1993), and the Aviation Act, 1962 (Act No 74 of 1962).

SUBPART 48.06 TRANSFERS OF RESPONSIBILITIES BETWEEN STATES

CHICAGO CONVENTION

- 48.06.1** (1) The Minister, being duly authorised, may in the case of dry or wet leased aircraft in accordance with the requirements contained in this Sub- Part –
- (a) enter into an Article 83 bis Agreement for the transfer of certain or all the functions and duties of the State of Registry of an aircraft from the State of Registry to the State of Operator, where such functions and duties can more adequately be discharged by the State of the Operator; and
 - (b) thereafter register such agreement with the Council of ICAO pursuant to Article 83 bis.
- (2) The functions and duties, referred to in sub-regulation (1)(a) are the functions and duties allocated by the Convention to the State of Registry in respect of –
- (a) Article 12 of the Convention: “Rules of the Air”, including the prosecution of all persons violating the rules and regulations relating to the flight and manoeuvre of aircraft in force in a particular Contracting State;
 - (b) Article 30 of the Convention: “Aircraft radio equipment”, including the installation and operation of radio transmitting apparatus in aircraft operated in the air space of a Contracting State;
 - (c) Article 31 of the Convention: “Certificates of airworthiness”, the issuing or rendering valid thereof by the State of Registry; and
 - (d) Article 32 of the Convention: “Licences of personnel”, the issuing or rendering valid thereof by the State of Registry.
- (3) The transfer of any function or duty, contemplated in Sub-regulation (1) (a) shall not have effect in respect of any other Contracting State before either –

- (a) the Article 83 bis Agreement between the States in which it is embodied has been registered with the ICAO Council and made public pursuant to Article 83; or
 - (b) the existence and scope of the Article 83 bis Agreement have been directly communicated to the appropriate authorities of the other Contracting State or States concerned by a State party to the agreement.
- (4) Similarly as provided for in Sub-regulation (1), the Minister may accept certain or all of the functions and duties of the appropriate authority of a State of Registry in respect of an aircraft on that State's aircraft register and, to the extent provided for in terms of the relevant Article 83 bis Agreement, deem such aircraft to be a South African aircraft for the purpose of these regulations.

PERSONNEL LICENSING

- 48.06.2** (1) A South African air services operator who dry leases-in a foreign aircraft must satisfy the Commissioner that –
- (a) the flight and cabin crew to be designated for duty on the aircraft already possess valid licences or approvals issued by the State of Registry, or that arrangements have been made for such personnel to obtain the necessary licences or approvals; and
 - (b) all the regulations of the State of Registry in respect of personnel licensing and the allocation, training and checking of flight and cabin crew are adhered to.
- (2) If there is reasonable belief that the lessee operator is not complying with the appropriate regulations of the State of Registry, contemplated in Sub-regulation (1)(b), the appropriate authority of that State must be advised and a request made that the matter be investigated.
- (3) In terms of an Article 83 bis Agreement as contemplated in Regulation 48.06.01, the Minister may take responsibility for oversight of the matters contemplated in Sub-regulation (1)(b).
- (4) In respect of a South African aircraft, dry leased-out to a foreign operator, the Commissioner may, on conditions prescribed by him or her, issue validations to the lessee operator's flight and cabin crew members, designated for duty on the leased aircraft; and
- (5) The validation, contemplated in Sub-regulation (4), may be issued in the format prescribed in Document SA-CAT-LEAS.

AIRWORTHINESS

- 48.06.3** (1) A South African air services operator who dry leases-in a foreign aircraft must satisfy the Commissioner that –
- (a) the aircraft maintenance organisation, responsible for the continued airworthiness of the aircraft, already possesses valid licences or approvals issued by the State of Registry, or that arrangements have been made for such organisation to obtain the necessary licences or approvals; and
 - (b) the organisation, contemplated in Paragraph (a), must carry out its maintenance functions in accordance with all the applicable regulations of the State of Registry.
- (2) In the case of a reasonable belief that the lessee operator is not complying with the applicable regulations of the State of Registry, contemplated in Sub-regulation (1)(b), the appropriate authority of that State must be advised and a request made that the matter be investigated.
- (3) In terms of an agreement as contemplated in Regulation 48.06.01, the Minister may take responsibility for oversight of the matters contemplated in Sub-regulation (1)(b).
- (4) In respect of an aircraft, dry leased-out to a foreign operator, the Commissioner may, on conditions prescribed by him or her, approve a foreign-based aircraft maintenance organisation to carry out all or part of the maintenance on the aircraft in accordance with the aircraft's approved maintenance schedule and remove the aircraft from the South African Civil Aircraft Register for the duration of the dry lease-out, facilitating its registration in the State of the Operator.

RECOGNITION

- 48.06.4** (1) The Commissioner shall recognise an Article 83 bis Agreement between two Contracting States that have ratified Article 83 bis whereby the State of the Operator is substituted for the State of Registry, within the limits established by the transfer arrangements, provided that –
- (a) the Article 83 bis Agreement has been duly registered with ICAO according to Article 83; or
 - (b) the affected third-party States have been informed directly by at least one of the States party to the Article 83 bis Agreement.

- (2) The Commissioner may not be obliged to recognise the transfer of functions and duties between States that are not parties to Article 83 bis or States that are parties to it, but which have not registered the Article 83 bis Agreement with ICAO or where South Africa has not been informed directly by at least one of the States party to the Article 83 bis Agreement, of the transfer.
- (3) The Commissioner must recognise the validity of licences and certificates, where Contracting States that have ratified Article 83 bis have transferred the authority to issue or render valid crew licences and certificates of airworthiness pursuant to Article 83 bis from the State of Registry to the State of the Operator, if he or she has been officially informed of such transfer provided that these licences and certificates have been issued or rendered valid by the appropriate authority of the State of the Operator, fully meeting the requirements of Annexes 1 and 8 to the Convention on International Civil Aviation, 1944.

TRANSFER OF RESPONSIBILITIES

48.06.5

- (1) The Article 83 bis Agreement must specifically mention the functions and duties to be transferred and those functions not mentioned will be deemed to remain with the State of Registry. A listing of responsibilities regarding airworthiness that may or may not be transferred between States is contained in Document SA-CATS-LEAS.
- (2) Where an Article 83 bis Agreement has been concluded with an appropriate authority of another State to transfer certain or all of the functions and duties of the Authority, the State of Registry shall be relieved of responsibility and, where applicable, of liability in respect of the functions and duties duly transferred to the Authority, and the latter must apply these regulations.
- (3) The Department of Transport must ensure that prescribed information concerning the existence of an Article 83 bis Agreement relating to aircraft operating to or from the Republic's territory is promptly relayed to any South African authority involved in inspection.
- (4) For the purpose of identifying individual States' responsibility for safety oversight on the occasion of any verification process, such as ramp inspections, a certified true copy of the Article 83 bis Agreement and of the operating certificate under which the aircraft is operated and in which it is listed must be carried on board the aircraft at all times while the Article 83 bis Agreement is in force.

- (5) Document SA-CATS-LEAS contains examples of suitable Article 83 bis Agreements.

AMENDMENT OF PART 121 OF THE REGULATIONS

4. Part 121 of the Regulations is herewith amended by the deletion of Regulations 121.01.5, 121.01.6, 121.01.7, 121.01.8, 121.01.9 and 121.01.10

AMENDMENT OF PART 127 OF THE REGULATIONS

5. Part 127 of the Regulations is herewith amended by the deletion of Regulations 127.01.5, 127.01.6, 127.01.7, 127.01.8, 127.01.9 and 127.01.10.

AMENDMENT OF PART 135 OF THE REGULATIONS

6. Part 135 of the Regulations is herewith amended by the deletion of Regulations 135.01.5, 135.01.6, 135.01.7, 135.01.8, 135.01.9 and 135.01.10.

SHORT TITLE AND COMMENCEMENT

7. This Amendment is called the Twenty-Ninth Amendment of the Civil Aviation Regulations, 1997, and will come into operation 30 days after publication in the Government Gazette.