



CIVIL AVIATION AUTHORITY OF BOTSWANA

GENERAL

ADVISORY

CIRCULAR

CAAB Document GAC-012

**IMPLEMENTATION
OF
ICAO ARTICLE 83*bis***

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1. PURPOSE

This General Advisory Circular (GAC) provides information and guidance for applying for, evaluating and approving Article 83bis requirements. This advisory circular is applicable in cases where the AOC holder leases a foreign registered aircraft or where a Botswana registered aircraft is leased to another Contracting State.

2. STATUS OF THIS ADVISORY CIRCULAR

This GAC is an original issuance.

3. EFFECTIVE DATE

This GAC becomes effective immediately.

4. APPLICABILITY

This GAC is applicable to holders of Air Operators Certificates (AOC) issued by the CAAB and Airworthiness Inspectors.

5. RELATED REGULATIONS

Copies may be obtained from the Government Printer.

- Civil Aviation (Air Operator Certification and Administration) Regulations, 2013: Regulation 29.(1)
- Civil Aviation (Airworthiness) Regulations

6. RELATED PUBLICATIONS

Copies may be obtained from Document Sales Unit, ICAO, 999 University Street, Montreal, Quebec, Canada H3C 5H7.

- ICAO Annex 6
- ICAO Annex 8
- ICAO Doc 8335
- ICAO Doc 9760
- ICAO Circular 295

7. DEFINITIONS AND ACRONYMS

7.1 The following definitions are used in this circular

Authority means the CAAB, unless otherwise specified.

Chicago Convention means the Convention on International Civil Aviation.

State of the Operator means the State in which the Operator's principal place of business is located, or if there is no such place, the Operator's permanent residence.

State of Registry means the State on whose register the aircraft is entered.

7.2 The following acronyms are used in this circular

AC Advisory Circular

AOC Air Operator Certificate

CAA Civil Aviation Authority

Advisory Circulars (ACs) are intended to provide advice and guidance to illustrate an acceptable means, but not necessarily the only means, of complying with the regulations, or to explain certain regulatory requirements by providing informative, interpretative and explanatory material. Where a regulation contains the words "prescribed by the Authority," the AC may be considered to prescribe a viable method of compliance, but status of that "prescription" is always "guidance" (never regulation).

- CAAB** Civil Aviation Authority of Botswana
- CARs** (Botswana) Civil Aviation Regulations
- GAC** General Advisory Circular
- ICAO** International Civil Aviation Organization

8. BACKGROUND

- 8.1 When an aircraft registered in a contracting State is operated under an agreement of lease, charter, or interchange of the aircraft or any similar arrangement by a foreign operator, the State of Registry may, by agreement with the State of the Operator, transfer all or part of its safety oversight functions as the State of registry to the State of the Operator in respect of that aircraft.
- 8.2 In the case of Botswana operators, Regulation 29.(1) of the Civil Aviation (Air Operator Certification and Administration) Regulations, 2013 permits an AOC holder to dry-lease a foreign registered aircraft for commercial air transport under Article 83*bis* of the Chicago Convention. In that case, there should be an agreement between the Authority and the State of Registry specifying airworthiness responsibility to be transferred to the Authority. Under Article 83 *bis*, Botswana Civil Aviation (Airworthiness) Regulations will apply to the extent agreed upon by the Authority and the State of Registry.
- 8.3 Such transfer of airworthiness functions and duties may include:
- (a) The rules and regulations that govern the carrying and use of radio transmitting apparatus aboard an aircraft.
 - (b) Issuing and rendering valid an aircraft Certificate of Airworthiness.
- 8.4 The transfer of functions does not have effect until the transfer Agreement has been registered with the ICAO Council and has been made public and its scope directly communicated to the Authorities of the other Contracting States.
- 8.5 Under a wet and/or dry Lease Agreement the State of operation should have operational control over the aircraft in question.

9. GUIDANCE

- 9.1 An operator intending to lease a foreign registered aircraft or to lease out a State registered aircraft to another Contracting State should notify the Authority at least thirty days (30) before the commencement of the lease.
- 9.2 It is required to notify the Authority how the aircraft safety oversight, certificate of airworthiness and operating crew licenses shall be managed when the State of registry cannot easily access the aircraft in question to ensure continued compliance with the approval terms and crew licenses validity requirements.
- 9.3 If there is need for the State of Registry to transfer all or part of its functions and duties in respect of that aircraft, the two State Authorities must sign an Agreement of transfer of duties and safety oversight responsibility as required by Regulations 29 of Botswana Civil Aviation (Air Operators Certification and Administration) Regulations, and Article 83*bis* of ICAO Convention on International Civil Aviation.
- 9.4 The Article 83*bis* Agreement should clearly indicate what duties and functions are being transferred by the State of Registry (and accepted by the State of operation) to the foreign Contracting State. It should also permit the State of Registry unrestricted access to the aircraft at any place and time.

- 9.5 It is the responsibility of the State of Registry transferring its safety oversight duties and responsibilities to ensure that the other Contracting State has the capacity, capability and competence to undertake the functions being transferred.
- 9.6 The State of operation should not accept oversight duties and functions under the Article 83bis Agreement of an aircraft for which it does not have the capacity, capability and competence to oversight.

10. ARTICLE 83bis APPLICATION AND APPROVAL PROCEDURE

- 10.1 A holder of an AOC issued by the Authority who wishes to lease or lease out an aircraft under an Agreement that shall necessitate the transfer or acceptance of safety oversight responsibilities to or from another Contracting State in accordance with the provisions of Article 83bis shall submit an application to the Authority indicating the likelihood of transferring oversight duties and responsibilities to the Authority in the State of operation.
- 10.2 The operator is required in addition to submit the contact address, Fax Number, E-mail or any other formal contact of the State of the Operator's CAA.
- 10.3 The application shall be evaluated to determine which safety oversight duties may be transferred or accepted as the case may be.
- 10.4 In case of leasing out a State registered aircraft, the Authority shall evaluate the leasee and State of operation's capacity, capability and competence to undertake the effective safety oversight of the aircraft in question.
- 10.5 In case of accepting the safety oversight responsibilities, the Authority shall evaluate the leasee and its capacity, capability and competence to undertake the effective safety oversight of the aircraft in question.
- 10.6 In either case, an 83bis Agreement clearly indicating the transferred (and accepted) duties and responsibilities shall be drawn and signed by the two State Authorities after a satisfactory and successful arrangement evaluation.
- 10.7 The signed 83bis Agreement shall be communicated to the ICAO Council for information, registration, publicising and communicating to the Authorities of the other contracting States.
- 10.8 The AOC holder applying for the implementation of Article 83bis shall facilitate the Authority in the administering of the Article 83bis arrangement.
- 10.9 A copy of the signed Article 83bis Agreement, communication to and from the ICAO Council and all documentation generated in the approval process and records of the Agreement on surveillance shall be kept by the Authority.


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For/Civil Aviation Authority of Botswana



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