IMPLEMENTATION OF ICAO CONVENTION ARTICLE 83bis

1.0 PURPOSE

This Order is issued to provide guidance for inspectors when evaluating and approving applications by operators for the implementation of ICAO Article 83bis when the AOC holder leases a foreign registered aircraft or when a State registered aircraft is leased to an operator in another Contracting State.

2.0 REFERENCES

2.1 Regulations 27 and 29 of The Civil Aviation (Air Operators Certification and Administration) Regulations (Dry and Wet Leasing of Aircraft).

2.2 Article 83bis of ICAO Convention on International Civil Aviation.

2.3 Article 77 of ICAO Convention on International Civil Aviation.

2.4 Manual of Procedures for the Implementation of ICAO Article 83bis

3.0 INFORMATION GUIDANCE AND PROCEDURES

3.1 General Information

3.1.1 When an aircraft registered in a contracting States is operated under an agreement of lease, charter, or interchange of the aircraft or any similar arrangement by an operator who has no place of business in another contracting State, the State of Registry by Agreement with another State, may transfer all or part of its safety oversight functions as the State of registry to that other foreign State in respect of that aircraft.

3.1.2 Such transfer of oversight functions and duties may include:

   a) Enforcing compliance with the Rules and Regulations relating to the flight and manoeuvre of aircraft there in force.
   b) The rules and regulations that govern the carrying and use of radio transmitting apparatus aboard an aircraft.
   c) Issuing and rendering a valid aircraft Certificate of Airworthiness.
d) Issuing and rendering valid Pilot and other crew members Certificates of Competence and Licenses

3.1.3 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.

3.1.4 Under a wet and/or dry Lease Agreement the State of operation should have operational control over the aircraft in question.

3.2 Guidance

During the process of handling applications for the implementation of Article 83bis, the inspector shall make use of the guidelines spelt out in the Manual of Procedures for the Implementation of ICAO Article 83bis.

3.2.1 The inspector shall ensure that an operator intending to lease a foreign registered aircraft or to lease out a State registered aircraft to another Contracting State notifies the Authority at least thirty days (30) before the commencement of the lease.

3.2.2 The inspector shall have to satisfy himself that the operator applying for the implementation of Article 83bis is aware of the requirement 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 and crew in question.

3.2.3 If there is need for the State of Registry to transfer all or part of its functions and duties in respect of that aircraft and the operating crew, the two State Authorities must sign an Agreement of transfer of duties and safety oversight responsibility as, required by Regulations 27 and 29 of The Civil Aviation (Air Operators Certification and Administration) Regulations and Article 83bis of ICAO Convention on International Civil Aviation. Upon receiving the application, the inspector shall have to verify whether the State of operation for which the operator is seeking approval for implementation of Article 83bis is a signatory to Article 83bis.

3.2.4 The inspector shall ensure that the 83bis Agreement to be signed clearly indicates what duties and functions are being transferred by the State of Registry (and accepted by the State of operation) to the foreign Contracting State. The Agreement should also permit the State of Registry unrestricted access to the aircraft at any place and time.

3.2.5 The inspector will have to fully understand that 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. In so doing, the Authority shall have to make an audit of the foreign Authority before entering into Agreement with it on Article 83bis.

3.2.6 The inspector shall make a fact-finding Report with recommendations on whether the State of operation should or should not accept oversight duties and functions under the 83bis Agreement of an aircraft for which an operator has submitted an application.
3.3 Procedures of Article 83bis Application and Approval

The inspector handling the application for entering into an Article 83bis Agreement shall ensure that:

3.3.1 The operator 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.

3.3.2 The operator submits to the Authority the contact address, Fax Number, E-mail or any other formal contact of the State of operation’s Authority.

3.3.3 The application is evaluated to determine which safety oversight duties may be transferred or accepted as the case may be.

3.3.4 In case of leasing out a State registered aircraft, the Authority evaluates the lessee and State of operation’s capacity, capability and competence to undertake the effective safety oversight of the aircraft in question.

3.3.5 In case of accepting the safety oversight responsibilities, the Authority evaluates the lessee and its own capacity, capability and competence to undertake the effective safety oversight of the aircraft in question.

3.3.6 In either case, an 83bis Agreement clearly indicating the transferred (and accepted) duties and responsibilities is drawn and signed by the two State Authorities after a satisfactory and successful arrangement evaluation.

3.3.7 The signed 83bis Agreement is communicated to the ICAO Council for information, registration, publicising and communicating to the Authorities of the other contracting States.

3.3.8 The operator applying for the implementation of Article 83bis facilitates the Authority in the administering of the Article 83bis arrangement.

3.3.9 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 is kept by the Authority.

Civil Aviation Authority