



**CIVIL AVIATION DEPARTMENT
MALDIVES**

**NOTICE OF PROPOSED RULE MAKING
NPRM NO: 2011-11**

28 November 2011

ASC OPS 1-4

Aircraft Leasing

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1. Purpose of this NPRM

The purpose of this NPRM is to promulgate supplementary information about the ASC OPS 1-4 (Aircraft Leasing), to Maldivian Air Operator Certificate holders.

This Circular provides information and guidance related to aircraft leasing arrangements involving Maldivian AOC holders. It contains information for interested parties on continuing airworthiness and flight safety issues that need to be addressed.

2. Background to the Proposal

When a Maldivian Air Operator Certificate holder involves or intends to involve in an operational leasing arrangement, it is essential that the lessor and the lessee are familiar with the requirements of the State of Registry and the State of the Operator. Typical obligations expected by the State of Registry and the State of the Operator are described in this ASC to provide an idea of the regulatory compliance that the lessor and lessee can expect.

This ASC has been adapted from the CAAS AC AOC-8(2) dated 11 April 2011.

3. Key Stakeholders

The following are identified by the CAD as key stakeholders in the proposed amendments to regulations contained in this NPRM:

- Island Aviation Services Ltd
- Maldivian Air Taxi Pvt Ltd
- Trans Maldivian Airways Pvt Ltd
- Mega Global Air Services (Maldives) Pvt Ltd
- Asian Academy of Aeronautics
- Villa Air Pvt. Ltd

4. Submissions on the NPRM

4.1 Submissions are invited

Interested persons are invited to participate in the making of the proposed rules by submitting written data, views, or comments. All submissions will be considered before final action on the proposed rule making is taken.

4.2 How to make a submission

Comments on this proposal may be forwarded (*preferably by e-mail*), using the NPRM Submission Form given in Appendix 1. The NPRM Submission Form is also available on the CAD website www.aviainfo.gov.mv.

Submissions may be sent by the following methods:

by mail: 11th Floor, Velaanaage
Ameerahmedmagu, Male', 20096,
Republic of Maldives

fax: + 960 3323039

e-mail: safety@aviainfo.gov.mv

4.3 Final date for submissions

Comments must be received before 11th December 2011.

4.4 Availability of the NPRM

Any person may obtain a copy of this NPRM from:

CAD website: www.aviainfo.gov.mv/regulations/nprm.php

or from:

11th Floor, Velaanaage
Ameerahmedmagu, Male', 20096,
Republic of Maldives

4.5 Further Information

For further information contact the Regulation Project Coordinator:

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5 Proposed Rule Amendments

Nil



Hussain Jaleel
DEPUTY DIRECTOR GENERAL



CIVIL AVIATION DEPARTMENT
Republic of Maldives

AIR SAFETY CIRCULAR

ASC OPS 1-4
Aircraft Leasing

Initial Issue, 31 December 2011

1. REGULATORY COMPLIANCE

Compliance with this Circular is mandatory for Maldivian Air Operator Certificate (AOC) holders involved or intending to be involved in operational leasing arrangements. Finance leases, capital leases and dry leases with the change of aircraft registration are not addressed in this Circular.

2. RELATED REGULATIONS

This Circular relates specifically to MCAR-OPS 1 and MCAR-M.

3. PURPOSE

The purpose of this Circular is to provide information and guidance related to aircraft leasing arrangements involving Maldivian AOC holders. The Circular contains information for interested parties on continuing airworthiness and flight safety issues that need to be addressed.

4. INTRODUCTION.

In a lease arrangement, the leased aircraft may be registered in a State that is different from the State that issues the Air Operator Certificate. It is therefore essential, for regulatory reasons, that the lessor and lessee are familiar with the requirements of the State of Registry and the State of the Operator. Typical obligations expected by the State of Registry and the State of the Operator are described in this ASC to provide an idea of the regulatory compliance that the lessor and lessee can expect.

5. TYPES OF OPERATIONAL LEASING ARRANGEMENTS

5.1 This section describes the types of operational leases. Parties involved in a leasing arrangement should note the responsibilities of each party with respect to the airworthiness and operation of the leased aircraft.

5.2 In a **wet or damp lease arrangement**, the lessor assumes operational control of the aircraft operations. Aircraft operations must be in compliance with the requirements in the lessor's air operator certificate for the duration of the lease.

a. Wet Lease-In

(Wet or damp lease of a foreign registered aircraft by a Maldivian Operator)

Regulatory requirements related to the foreign Authority where the aircraft is registered will apply. The lessor will be responsible for the operational control of the aircraft for the duration of the lease. In the case of a damp lease, the qualification and operational control of crew provided by the lessee should be addressed and aligned with the lessor's operations policies.

b. Intrastate Wet Lease

(Wet or damp lease of Maldivian registered aircraft between Maldivian Operators)

Regulatory requirements related to Maldivian registered aircraft apply. The lessor will continue to be responsible for the operational control of the aircraft for the duration of the lease. In the case of a damp lease, the qualification and operational control of crew provided by the lessee should be addressed and aligned with the lessor's operations policies.

5.3 In a **dry lease arrangement**, the lessee usually assumes operational control of the aircraft. The aircraft is operated under the lessee's air operator certificate. Compliance to other relevant regulatory requirements would depend on the civil aviation authority of the State where the aircraft is registered.

a. Dry Lease-In

(Dry lease of foreign registered aircraft by a Maldivian Operator without change of aircraft registration)

The foreign regulatory requirements related to the foreign registered aircraft will apply. The Maldivian Operator will be responsible for the operational control of the aircraft for the duration of the lease.

5.4 **Lease-Out** of Maldivian registered aircraft is not permitted.

6. CAD'S LEASING POLICY

6.1 To provide clarity on the safety responsibilities expected from the lessee and lessor, CAD expects, at the minimum, the following obligations from the lessee and lessor in accordance with the respective types of leasing arrangements as shown in Table 1.

Table 1: Obligations expected from Lessee and Lessor in Operational Leases

Scenario	Obligations
All Leases	a The applicant will need to demonstrate the need to enter into aircraft operational leasing arrangements.

	b The applicant will need to ensure that provisions are made in the leasing arrangement to enable CAD inspectors to conduct necessary inspections.
	c When the leasing arrangement involves safety oversight by foreign Authority(s), the leasing arrangement should include information on compliance with relevant regulations of both CAD and the foreign Authority(s).
Wet Leases	a The lessee and lessor must hold valid air operator certificates throughout the duration of the lease.
	b The lessor should retain operational control of the aircraft.
	c For wet leasing arrangements among Maldivian air operators, the lessee must ensure that the lessor maintains the aircraft as per the lessor's approved maintenance program.
	d For wet-lease in arrangements, the lessee must ensure that reportable occurrences and incidents affecting the leased aircraft are reported to CAD
Dry Leases	a For Dry Lease In arrangements, the lessee must ensure that the aircraft equipment relating to flight operations meets Maldivian requirements.

6.2 CAD may, on a case by case basis, prescribe additional requirements relating to the lease arrangement.

6.3 The number of leases is restricted to 25% of the aircraft registered in the Operators name, rounded to the next higher whole number.

6.4 In order to maintain effective safety oversight, CAD will set limits to the duration of operational leases. The limit to the duration of a lease, in accordance to the type of operational lease, is stipulated in Table 2.

Table 2: Durations for Operational Leases

Scenario	Durations
Wet Lease	3 months, subject to one time extension of an additional 3 months
Dry Leases	6 months
Intra State Wet Lease	12 months, subject to a one time extension of an additional 12 months

7. INFORMATION REQUIRED IN THE LEASE AGREEMENT

7.1 Application for approvals of lease arrangements should be submitted in writing together with detailed descriptions of the party(s) responsible for the operational control and continuing airworthiness for the aircraft in the lease arrangement. Depending on the complexities of the lease arrangement, CAD may require more information in order to determine that all airworthiness and operational issues are addressed.

7.2 The minimum information required is as follows :

- a. Parties involved in the lease arrangement
- b. Make, model the serial number of the aircraft involved in the lease arrangement
- c. In the case of a lease-in arrangement:
 1. the State of Registry and registration marks
 2. name and address of the registered owner of the aircraft
 3. a copy of the Certificate of Airworthiness
 4. proof of the maintenance schedule approval from the foreign Authority
- d. Type of lease (wet, damp, dry)
- e. Duration of the lease arrangement
- f. Copy of the lease agreement or description of the lease provisions. The lease agreement or description of the provisions should include information on :
 1. Arrangements for the continuing airworthiness of the aircraft during the lease period. This would include, but is not limited to, pre- and post- lease airworthiness standards, availability of up-to-date maintenance approved data, acceptable qualifications and training of certifying staff, reporting of defects and incidents that may affect the airworthiness of the aircraft and handling of mandatory airworthiness information.

Note: In the event of a temporary change of operator, such as during a dry lease, the aircraft records must be made available to the new operator.
 2. Arrangements to address any operational matters during the lease period. This would include but not limited to acceptable qualifications and training of operational personnel like pilots and cabin crew, details of how operational deficiencies will be addressed, reporting of incidents, etc.
- g. Changes to the operations specifications for AOC holders, as applicable, as a result of the lease agreement
- h. Area of operations for the aircraft including where it will be based

The above information is necessary for CAD to determine whether proper operational control and continuing airworthiness oversight for the aircraft are in place for the duration of the lease.

8. CAD APPROVAL

8.1 Approval of the lease arrangement is dependent on applicant's demonstration of the following:

- a. all the necessary changes arising from the lease arrangement are identified; and

- b. all parties involved in the lease arrangement have sufficient knowledge and adequate resources to fulfil their roles and responsibilities with regard to the continuing airworthiness and operational control of the aircraft for the duration of the lease.

8.2 Where appropriate, the attachments to the AOC will be amended to reflect the approval of the lease arrangement.

8.3 Lessees are required to carry the following documents in the aircraft at all times for the duration of the lease:

- a. a certified true copy of the lease agreement between the lessor and lessee.
- b. a certified true copy of the AOC and its corresponding specifications.
- c. flight crew licences issued or validated by the State of Registry.

9. RESPONSIBILITIES OF THE STATE OF REGISTRY AND STATE OF THE OPERATOR

9.1 Operators intending to engage in leasing arrangement should familiarize themselves with the responsibilities of the State of Registry and the State of the Operator, in the event that the aircraft is registered in a State different from the State responsible for oversight of its operations. It is important that the responsibilities of the lessor and lessee to be explicitly specified in the lease agreement between the lessor and lessee, to provide for proper airworthiness and operational oversight and control of the aircraft to be leased.

9.2 The **State of Registry** is the State on whose register the aircraft is entered. The State of Registry is responsible for the safety oversight and airworthiness standards for aircraft on its register, including those aircraft that are leased. The person or organisation to which the aircraft is registered must ensure that the aircraft comply with all applicable requirements of the State of Registry. The responsibilities of the State of Registry include:

- a. Notifying the State of Design that it has entered such an aircraft type on its register.
- b. Ensuring that the aircraft airworthiness standards of the State of Registry are maintained.
- c. Issuing and validating the airworthiness certificate for aircraft (CoA) on its register.
- d. Overseeing the continuing airworthiness of the aircraft according to the standards of the State of Registry, regardless of where it is operated in the world.
- e. Ensuring that personnel performing maintenance work on the aircraft meets the experience, knowledge and skill requirements in accordance with the requirements of the State of Registry.
- f. Ensuring that flight crew operating the aircraft meets the experience, knowledge and skill requirements to safely operate the aircraft in accordance with the requirements of the State of Registry.

- g. Ensuring that operational personnel related with the aircraft operation continues to meet the standards required by the State of Registry.
- h. Ensuring timely and appropriate actions are in place to correct all deficiencies highlighted by the flight crew on the maintenance of the aircraft and its operation.
- i. Informing the organisation responsible for the type design on the faults, malfunctions, defects and other occurrences that cause or might cause adverse effects on the continuing airworthiness of the aircraft.
- j. Ensuring that mandatory continuing airworthiness information from the State of Design is assessed and appropriate action is taken in a timely manner.

9.3 The **State of the Operator** is the State where the principal place of business of the operator is located, or if no such business exists, the permanent residence of the operator. The operator of the aircraft must make sure that the operations of the aircraft meet the requirements of the State of the Operator. The responsibilities of the State of the Operator include ensuring that its operators are able to:

- a. Demonstrate safe and efficient operations prior to the initiation of any flight operations.
- b. Conduct operations with respect to the original certification criteria or operational specifications on a continuing basis.
- c. Take timely and necessary actions to resolve safety issues that are found with respect to the maintenance of aircraft, flight operations and other air operator responsibilities, including the actions of the operator's personnel.

10. EFFECTIVITY

This Circular becomes effective on 01 January 2011.

For the Civil Aviation Department
Hussain Jaleel
DEPUTY DIRECTOR GENERAL