



OF THE PHILIPPINES
CERTIFIED XEROX COPY
(NOT VALID WITH ERASURES/ALTERATION)

[Signature] 05-30-214

AIDA S. ROMULO
Chief, Central Records
and Archives Division

MEMORANDUM CIRCULAR NO. 11-12, Series of 2012

TO : ALL CONCERNED

FROM : THE DIRECTOR GENERAL
CIVIL AVIATION AUTHORITY OF THE PHILIPPINES

SUBJECT : SUPPLEMENTAL RULES AND REGULATIONS ON
APPROVAL AND REGISTRATION OF WET LEASE
ARRANGEMENT AND OPERATION OF FOREIGN
REGISTERED AND OR OWNED AIRCRAFT

- REFERENCES:** 1. 1987 Constitution of the Philippines
2. Civil Aviation Authority Act of the Philippine (Republic Act Number 9497);
3. Philippine Civil Aviation Regulation (PCAR) Part 9; and
4. Revised Administrative Code of Administrative Circular of 1987

RULES AND REGULATIONS ON REGISTRATION OF LEASE ARRANGEMENT AND OPERATION OF FOREIGN-REGISTERED AND/OR OWNED AIRCRAFT

1.0.0.0 Definition of Terms

- (a) "Aircraft" refers to any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface. The term "aircraft", when used in these regulations shall refer to civil aircraft only, and will not include State or public aircraft.
- (b) "Airman license" refers to a written authorization or permission issued to any person for the exercise of the privileges of flying, maintaining, controlling, directing, dispatching, instructing or any other civil aviation activity which is regulated and supervised by the Authority.
- (c) "Air Operator Certificate (AOC)" refers to a certificate authorizing an operator to carry out specified commercial air transport operations.
- (d) "CAAP or Authority" refers to the Civil Aviation Authority of the Philippines.
- (e) "Crew member" refers to a person assigned to perform duties on an aircraft in flight.
- (f) "Foreign commercial aircraft" for purposes of this regulation means any civilian and commercial aircraft, not being a Philippine registered aircraft, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations within borders or airspace of the Philippines, whether on a scheduled or chartered basis.
- (g) "International commercial air transport" refers to the carriage by aircraft of persons, mail or cargo for remuneration or hire between any two (2) or more countries.
- (h) "Lease" for purposes of this regulation means a contractual arrangement calling for the lessee (user) to pay the lessor (owner) for use of an aircraft.
- (i) "Philippine registered aircraft" for purposes of this regulation means aircraft with RPC number and tag.
- (j) "Registration" for purposes of this regulation means the act of registering aircraft including its engines, propeller, appliances and other aircraft equipment covered by the lease agreement.
- (k) "Insurance" for purposes of these regulations means operating an aircraft with a valid insurance covering aircraft hull, each person, freight and mail on board aircraft, and third parties liability.
- (l) "Total Wet Lease" is a type of wet lease where the responsibility over the aircraft, crew, maintenance and insurance rest with the lessor.

1.5.0.0 Lease of Foreign-Registered Aircraft

In addition to the requirements of PCAR Part 9.2.3.2/Part 9.2.3.4 and Part 9.2.3.2/Part 9.2.3.4 of the Implementing Standards (IS), the following regulations are hereby promulgated:

- (a) In case of total wet lease, the operational control is deemed to be with the lessor.

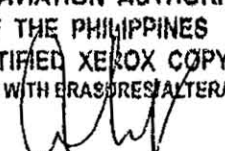
- (b) In case of total wet lease, the aircraft and its registration involved will remain in the nationality of AOC and OPSPEC of the lessor. Thus, for the purpose of this regulation, expiration of the lessor's AOC shall automatically suspend the lease agreement.
- (c) In case of any other wet lease, and the parties do not expressly stipulate who should assume operational control, the same is presumed to be with the lessee and Philippine civil aviation regulations (PCAR) shall be applied.
- (d) In case of a wet lease other than a total-wet lease, and the operational control is with the lessee who is a holder of a CAAP-AOC, the State of Registry and the lessee of said aircraft should allow the application of the provisions of PCAR on airworthiness, registration and marks of aircraft, flight operations, and qualification of airmen.
- (e) Any holder of a Philippine AOC shall apply for an amendment of its AOC and OPSPEC to reflect any type of wet lease agreement.
- (f) Any holder of a CAAP-AOC cannot engage in any type of wet lease arrangement without a valid and subsisting insurance coverage. Thus for the purpose of this regulations, the operation in the Philippines of the aircraft subject of a wet lease arrangement is deemed suspended upon termination or expiration of the insurance coverage.
- (g) For the purpose of these regulations, the lessee shall submit to the Authority an original copy or certified original of the portion of the AOC and OPSPEC of the lessor reflecting the lease arrangement.
- (h) In case of foreign-AOC holder who are party to a lease of commercial aircraft intended to be operated in the Philippines, the lessee/operator shall comply with the existing bilateral air agreement with the Philippines and aviation regulations of CAAP.
- (i) Sub-leasing of a foreign-registered aircraft to a Philippine-AOC holder should comply with legal requirements on contracts, rules on operational control, and CAAP aviation rules and regulations.

2.0.0.0 Method of Recording of Foreign Aircraft Covered by a total wet lease agreement

The Authority shall record the following documents affecting foreign registered aircraft and all interest therein evidenced by originals of the documents filed, attaching the official receipt as proof of payment for registration purposes, in chronological order, in files kept for that purpose and indexed to show:

- (a) AOC, OPSPEC of the lessor and airworthiness certificate in case of total wet lease including its engines, appliances and equipment;
- (b) A valid insurance coverage/
- The names of the parties to the lease agreement;
- (c) The date of the instrument and the date and time it is recorded;

CIVIL AVIATION AUTHORITY
OF THE PHILIPPINES
CERTIFIED XEROX COPY
(NOT VALID WITH ERASURES/ALTERATION)


AIDA S. ROMULO
Chief, Central Records
and Archives Division

2.5.0.0 Validity and effectivity of Registration of Lease Agreement

- (a) Registration made pursuant to the provisions of these regulations shall be valid and binding upon filing of application thereof and payment of the corresponding fee.
- (b) No document affecting title to or any interest in such aircraft, aircraft engines, propellers, appliances, or spare parts shall be valid except as between the parties thereto, unless the document is registered pursuant to these regulations.

EFFECTIVITY:

This Supplemental Regulation shall take effect immediately after compliance with the requisite single publication and a copy filed with the U.P. Law Center – Office of the National Administrative Register.

So Ordered. Signed this 15th day of May 2012, Pasay City, Philippines.


RAMON S. GUTIERREZ