

Regulation (EC) No. 1008/2008 ('Third Package Regulation')

Article 13(1) of Regulation (EC) No. 1008/2008 states that 'Community air carriers may freely operate wet-leased aircraft registered within the Community except where this would lead to endangering safety'. The regulation also sets the criteria that must be met for the lease of non-Community aircraft. A summary is provided below:

a) Dry lease-out to a Community Operator

In accordance with Article 13(2) of Regulation (EC) No. 1008/2008 an Approval under UK law¹ is required, and for aeroplanes undertaking Commercial Air Transport (CAT) EU-OPS 1.165 applies.

b) Dry lease-out to a Third Country Operator

In accordance with Article 13(2) of Regulation (EC) No. 1008/2008 an approval under UK law is required. For a dry lease-out of an aeroplane to an entity other than a Community operator an exemption from the relevant provisions of EU-OPS is also required.

c) Dry lease-in

In accordance with Article 13(2) of the Regulation (EC) No. 1008/2008, an Approval under UK law is required, and for aeroplanes undertaking CAT EU-OPS 1.165 applies. For a dry lease-in of an aeroplane from an entity other than a Community operator any differences from the requirements in EU-OPS Subparts K and L, and EU-OPS 1.005(b) covering retroactive airworthiness requirements, must be notified to and accepted by the CAA.

EU-OPS 1.180(a)(1) requires that aeroplanes operated under a Community AOC have a standard Certificate of Airworthiness issued in accordance with Commission Regulation (EC) No. 748/2012. Operators should be aware of this requirement when applying for a dry lease-in of an aeroplane from an entity other than a Community operator.

Where the aircraft is being operated outside the Community, a Permit under ANO 2009 Article 223 will also be required in addition to the Approval. The Permit is issued by the DfT.

d) Dry leasing of a UK registered aircraft to a UK AOC Holder

UK AOC holders dry leasing G-registered aircraft are able to use Official Record Series 4 (ORS4) – Approval of Leases (otherwise referred to as the CAA 'blanket approval') to meet the safety approval requirement of Article 13(2).

e) Wet lease-out

An Approval is not required.

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References to UK law in this and subsequent paragraphs means the Statutory Instruments (SI) 2009 No. 41.

f) Wet lease-in from a Community Operator

In accordance with Article 13(2) of Regulation (EC) No. 1008/2008, an approval is required under UK law or, for aeroplanes undertaking CAT, EU-OPS 1.165 applies.

Where the aircraft is being operated outside the Community, a Permit under ANO 2009 Article 223 will also be required in addition to the Approval. The Permit is issued by the DfT. Category B operators must apply for a Category A Operating Licence if they wish to wet lease-in one or more Category A aircraft.

g) Wet lease-in from Third Country Operator

An Approval is required under Article 13(3) of Regulation (EC) No. 1008/2008. In order to obtain an approval the operator must:

- i) satisfy the CAA that equivalent safety standards will be maintained; and
- ii) demonstrate compliance to the DfT, via the CAA leasing co-ordinator with one of three criteria:
 - (A) Exceptional needs which has an approval duration of up to seven months, with the possibility of an extension for a further seven months. No further extensions are then permitted.
 - (B) Seasonal capacity needs which cannot reasonably be satisfied with aircraft registered in the Community – for which the approval can be renewed.
 - (C) Operational difficulties which it is either not possible or reasonable to cover with aircraft registered in the Community – for which the approval will be limited to the duration strictly necessary for overcoming the difficulties.

Once the DfT is satisfied they will issue a Permit under ANO 2009 Article 223.

Applicants wishing to wet lease-in an aeroplane should also note the requirements contained in EU-OPS 1.165(c)(2).

Category B operators must apply for a Category A Operating Licence if they wish to wet lease-in one or more Category A aircraft.

2 SI 2009 No. 41 covers the nomination of the CAA as the Competent Licensing Authority, and provides a legal basis for issuing leasing approvals under Regulation (EC) No. 1008/2008.