

APPLICATION GUIDE

FOR U.S. APPLICANTS

FOR A LICENCE TO OPERATE A

SCHEDULED INTERNATIONAL SERVICE

pursuant to the Air Transport Agreement

between the Government of the

United States of America

and the Government of Canada

signed on March 12, 2007

*Information
and
Instructions*

revised March 2010

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PART I

GENERAL INFORMATION

A. Relevant Acts and Regulations

The issuance of a licence by the Canadian Transportation Agency (the Agency) and the operation of air services are governed by the following:

- (i) the *Canada Transportation Act* (the Act);
- (ii) the *Air Transportation Regulations* (the ATR);
- (iii) the *Canadian Transportation Agency General Rules*; (General Rules); and
- (iv) the *Aeronautics Act* and associated regulations.

These documents are available through:

Department of Justice Canada
284 Wellington Street
Ottawa, Ontario
Canada K1A 0H8
Website: <http://laws.justice.gc.ca/en/C-10.4/index.html>

You are encouraged to acquire the aforementioned documents and to familiarize yourself with their contents.

SHOULD THERE BE ANY DISCREPANCY BETWEEN WHAT IS CONTAINED IN THIS DOCUMENT AND WHAT IS CONTAINED IN THE CANADA TRANSPORTATION ACT AND THE AIR TRANSPORTATION REGULATIONS, THE ACT AND THE REGULATIONS SHALL PREVAIL.

B. Definitions

In this document,

“Air service” means a service, provided by means of an aircraft, that is publicly available for the transportation of passengers or goods, or both.

“Canadian aviation document” in this guide, refers to any licence, permit, accreditation, certificate or other document issued by the Minister under Part I to or with respect to any person or in respect of any aeronautical product, aerodrome, facility or service (for the purpose of this guide, Transport Canada refers this document as a **“Canadian Foreign Air Operator Certificate”**).

“Certificated Maximum Carrying Capacity” means

- (a) the maximum number of passengers specified in the Type Approval Data Sheet or the Type Certificate Data Sheet issued or accepted by the competent Canadian authority for the aircraft type and model, or
- (b) in respect of a particular aircraft that has been modified to allow a higher number of passengers, the maximum number of passengers specified in the Supplemental Type Approval or the Supplemental Type Certificate issued or accepted by the competent Canadian authority.

“International Service” means an air service between Canada and a point in the territory of another country.

“MCTOW” means the maximum certificated take-off weight for aircraft as shown in the aircraft flight manual referred to in the aircraft’s Certificate of Airworthiness issued by the competent Canadian or foreign authority.

“Passenger seat”, for insurance purposes, means a seat on board an aircraft that may be permanently occupied by a passenger for the period during which the aircraft is being used for a domestic service or an international service.

“Scheduled International Licence” means a licence issued under subsection 69(1) of the Act.

"Scheduled International Service" means an international service that is a scheduled service pursuant to:

- a) an agreement or arrangement for the provision of that service to which Canada is a party; or
- b) a determination made under section 70 of the Act.

"Non-scheduled international service" means an international service other than a scheduled international service.

C. Air Services Excluded From Licensing Requirements

You do not require an Agency licence to operate the following specialty services to which Part II of the Act does not apply, however, you will continue to be required to obtain a Canadian Foreign Air Operator Certificate and to satisfy Transport Canada concerning insurance coverage:

- aerial advertising services
- aerial fire-fighting services
- aerial survey services
- aerial reconnaissance services
- aerial sightseeing services
- aerial spreading services
- aerial weather altering services
- air cushion vehicle services
- transportation services for the retrieval of human organs for human transplants
- aircraft demonstration services
- external helitransport services
- glider towing services
- hot air balloon services
- parachute jumping services
- rocket launching
- air flight training services
- aerial inspection services
- aerial construction services
- aerial photography services
- aerial spraying services
- aerial forest fire management services

In addition, a licence is not required by a person that uses aircraft on behalf of the Canadian Armed Forces or any other armed forces cooperating with the Canadian Armed Forces.

D. Requirements for Licence Issuance

A licence to operate a scheduled international service may be issued by the Agency if it is satisfied that the applicant:

- (i) holds a Canadian aviation document issued by Transport Canada in respect of the service to be provided under the licence;
- (ii) has filed the prescribed liability insurance coverage in respect of the service to be provided under the licence;
- (iii) within the preceding twelve months, has not contravened section 59 of the Act in respect of the service to be provided under the licence. (This section is explained under point G. of this guide);
- (iv) holds, in respect of the air service, a document issued by the Government of the United States that, in respect of the service to be provided under the document, is equivalent to a scheduled international licence; and
- (v) has been designated by the Government of the United States to operate an air service under the terms of an agreement or arrangement between that government and the Government of Canada.*

*By Diplomatic Note No. 566 dated June 5, 2007, the Government of the United States has designated all U.S. airlines to operate scheduled air transportation in accordance with the Canada-U.S. Air Transport Agreement. Therefore, there is no need to provide the Diplomatic Note to demonstrate that the applicant has complied with this requirement.

E. Evidence of holding a Canadian Aviation Document

For information regarding Transport Canada's requirements and for procedures to be followed when applying for a Canadian aviation document, contact:

Foreign Inspection Division
Transport Canada (AARJF)
330 Sparks Street, 5th Floor
Ottawa, Ontario
Canada K1A 0N8
Telephone: **613-990-1100**
Fax: **613-991-5188**
E-Mail: services@tc.gc.ca

A CANADIAN AVIATION DOCUMENT ISSUED BY TRANSPORT CANADA IS A PREREQUISITE FOR LICENCE ISSUANCE. A COPY OF THE CANADIAN AVIATION DOCUMENT, VALID FOR THE PROPOSED SERVICE, MUST BE SUBMITTED TO THE AGENCY BEFORE AN AGENCY LICENCE CAN BE ISSUED.

F. Insurance Requirements

The insurance requirements are set out in sections 7 and 8 of the ATR. For reference purposes, sections 7 and 8 are set out below:

SECTION 7

- 7.(1) No air carrier shall operate a domestic service or an international service unless, for every accident or incident related to the operation of that service, it has:
- (a) liability insurance covering risks of injury to or death of passengers in an amount that is not less than the amount determined by multiplying \$300,000 by the number of passenger seats on board the aircraft engaged in the service; and
 - (b) insurance covering risks of public liability in an amount that is not less than
 - (i) \$1,000,000, where the MCTOW of the aircraft engaged in the service is not greater than 7,500 pounds (3, 402 kg),
 - (ii) \$2,000,000, where the MCTOW of the aircraft engaged in the service is greater than 7,500 (3, 402 kg) pounds but not greater than 18,000 pounds (8, 165 kg), and
 - (iii) where the MCTOW of the aircraft engaged in the service is greater than 18,000 pounds (8, 165 kg), \$2,000,000 plus an amount determined by multiplying \$150 by the number of pounds by which the MCTOW of the aircraft exceeds 18,000 pounds (8, 165 kg).
- 7.(2) The insurance coverage required by paragraph (1)(a) need not extend to any passenger who is an employee of an air carrier if workers' compensation legislation governing a claim for damages against that air carrier by the employee is applicable.
- 7.(3) No air carrier shall take out liability insurance to comply with subsection (1) that contains an exclusion or waiver provision reducing insurance coverage for any accident or incident below the applicable minima determined pursuant to that subsection, unless that provision

- (a) consists of standard exclusion clauses adopted by the international aviation insurance industry dealing with
 - (i) war, hijacking and other perils,
 - (ii) noise and pollution and other perils, or
 - (iii) aviation radioactive contamination;
 - (b) is in respect of chemical drift;
 - (c) is to the effect that the insurance does not apply to liability assumed by the air carrier under any contract or agreement unless such liability would have attached to the air carrier even in the absence of such contract or agreement; or
 - (d) is to the effect that the entire policy shall be void if the air carrier has concealed or misrepresented any material fact or circumstance concerning the insurance or the subject thereof or if there has been any fraud, attempted fraud or false statement by the air carrier touching any matter relating to the insurance or the subject thereof, whether before or after a loss.
- 7.(4) An air carrier may have a comprehensive single limit liability coverage where liability risks are covered by a single policy or a combination of primary and excess policies, but no single limit liability coverage of that air carrier shall be for an amount that is less than the applicable combined insurance minima determined pursuant to paragraphs (1)(a) and (b).

SECTION 8

- 8.(1) Every applicant for a licence or for an amendment to or renewal of a licence, and every licensee, shall file with the Agency, in respect of the service to be provided or being provided, as the case may be, a valid Certificate of Insurance in the form set out in Schedule I as well as a Certificate of Endorsement - copies of which can be found at: <http://www.otc-cta.gc.ca/doc.php?sid=1056&lang=eng>.

G. Prohibition regarding Sale of an Air Service

Section 59 of the Act provides that no person shall sell, cause to be sold or publicly offer for sale in Canada an air service unless, if required under Part II of the Act, a person holds a licence issued under Part II in respect of that service and that licence is not suspended.

NOTE

Where an individual has contravened section 59 of the Act, the Agency may, for a period not exceeding twelve months after the date of the contravention, refuse to issue a licence in respect of an air service to the individual or to any corporation of which the individual is a principal.

Where a corporation has contravened section 59, the Agency may, for a period not exceeding twelve months after the date of the contravention, refuse to issue a licence in respect of an air service to

- (a) the corporation;
- (b) any person who, as a principal of the corporation, directed, authorized, assented to, acquiesced in or participated in a contravention that gave rise to the suspension or cancellation; and (section 79 of the Act refers)
- (c) any body corporate of which the corporation or the person referred to in paragraph (b) above is a principal. (section 79 of the Act refers)

H. Licence Not Transferable

Section 58 of the Act provides that a licence issued under Part II of the Act for the operation of an air service is not transferable.

I. Appointment & Notification of Agent Requirement

Subsections 84(1) and (2) of the Act provide that:

84(1) "A licensee who has an agent in Canada shall, in writing, provide the Agency with the agent's name and address."

84(2) "A licensee who does not have a place of business or an agent in Canada shall appoint an agent who has a place of business in Canada and, in writing, provide the Agency with the agent's name and address."

J. Canada Border Services Agency Reporting Requirements

Applicants must report electronically to Canada Border Services Agency (formerly referred to as Customs or Revenue Canada)

- all goods (whether or not company owned) and
- all passengers and personnel (including personnel of another air carrier)

Such reporting is required:

- prior to arrival (per Advance Commercial Information (ACI) and Advance Passenger Information/Passenger Name Record (API/PNR) regulations, and
- upon arrival at the point of entry in Canada (per the *Customs Act*)

For more details, contact Canada Border Services Agency at the following numbers:

Inside Canada: 1-800-461-9999 (English);
 1-800-959-2036 (French)

Outside Canada: 204-983-3500 or 506-636-5064 (English);
 204-983-3700 or 506-636-5067 (French)

K. Tariff Filing Requirements

Notwithstanding licence issuance, applicants are reminded that appropriate tariffs containing general terms and conditions of carriage which are broadly applicable to all air transportation and are not directly related to the fare, rate or charge are required to be on file and in effect with the Agency prior to commencing respective air services.

Carriers offering international scheduled services are required to file with the Agency, prior to the commencement of service, their service schedule which includes routes operated, the type of equipment used with seating capacity, frequency, departure/arrival times, etc. all pursuant to Part VI of the ATR. Carriers have the option of electronic filing.

For your information, some samples of tariffs can be found on our internet site at the following link: www.cta.gc.ca/eng/sample-tariff. If you are unable to download a copy or should you require further assistance with respect to tariffs, contact the Tariffs Division by telephone at 819-953-2124 or by facsimile at 819-953-5686.

L. Statistical Reporting Requirements

New applicants for licences to operate air services should be aware of the type and volume of statistics that will be required and the frequency of reporting.

All carriers providing air services to or from Canada are required, under regulations pursuant to Section 50 of the Act, to report some operational data to the Government of Canada. This is accomplished through Transport Canada's Electronic Collection of Air Transportation Statistics (ECATS) program. In order to join ECATS, air carriers are required to contact the ECATS program office via e-mail, phone or regular mail 30 days prior to beginning their operations to or from Canada:

Transport Canada - ECATS
Attn: Chief, Aviation Statistics
Economic Analysis (ACACE)
Place de Ville Tower C 25th floor
Ottawa, Ontario
Canada K1A 0N5

Telephone: **613-990-3825**
or **613-993-4541**

E-Mail: ecats@tc.gc.ca

PART II

APPLICATION INSTRUCTIONS

1. Format

Applications should be typewritten in the format as set out in the Appendices 1 and 2.

2. Language

Applications and supporting documents are to be submitted in either English or French. All documents filed in another language must be accompanied by a translation in English or French and an affidavit attesting to the accuracy of the translation. (Section 12 of the General Rules refers)

3. Filing Instructions

The application, including all supporting documentation, is to be submitted to the Agency and should be addressed as follows:

By mail to:

OR

By courier to:

Secretary
Canadian Transportation Agency
Ottawa, Ontario
Canada,
K1A 0N9

Secretary
Canadian Transportation Agency
15 Eddy Street
Gatineau, Quebec
Canada J8X 4B5

The application can also be submitted to the Agency by facsimile at 819-953-5562 or 819-953-8798.

THE ONUS IS ON THE APPLICANT TO COMPLETE THE APPLICATION IN FULL AND TO INCLUDE ALL SUPPORTING DOCUMENTATION REQUESTED.

Timeline to receive a licence:

Applicants can usually expect to receive a licence within two weeks (14 calendar days) after having satisfied all licence issuance requirements. When an application is not complete, it cannot be processed until the necessary information or documentation is filed. In cases where requirements are not met within a year, applicants will be informed that since their application is incomplete, their file may be closed.

4. Signature

The application should be identified as such and be signed by:

- a) the proprietor, if a proprietorship (i.e. an individual);
- b) each partner, if a partnership;
- c) by an officer or officers of the corporation duly authorized to execute such documents under seal, if any, on behalf of the corporation, if a corporation;
- d) a member, if a limited liability company.

A PERSON SUCH AS A LAWYER OR CONSULTANT, WHO PREPARES AN APPLICATION ON BEHALF OF AN APPLICANT, CANNOT SIGN THE APPLICATION UNLESS THE PERSON IS A DULY AUTHORIZED AGENT OR SOLICITOR ACTING FOR THE APPLICANT.

5. Undertaking

All applicants must undertake to not contravene section 59 of the Act prior to the issuance of the applied for licence. This undertaking must be witnessed.

A PERSON SUCH AS A LAWYER OR CONSULTANT, WHO PREPARES AN APPLICATION ON BEHALF OF AN APPLICANT, CANNOT SIGN THE UNDERTAKING. ONLY THOSE INDIVIDUALS LISTED IN ITEM 4 ABOVE CAN SIGN.

6. Verification

All of the information contained in the application, including the supporting documentation and changes subsequently made thereto, must be verified by an affidavit of the applicant, attesting to its truth, accuracy and completeness. (A sample affidavit form which may be used by applicants is attached as Appendix 2)

A PERSON SUCH AS A LAWYER OR CONSULTANT, WHO PREPARES AN APPLICATION ON BEHALF OF AN APPLICANT, CANNOT SIGN THE AFFIDAVIT. ONLY THOSE INDIVIDUALS LISTED IN ITEM 4 ABOVE CAN SIGN.

7. Amendments

Any changes made to the application are considered to be amendments to the original application and are to be titled and numbered in the same fashion as the corresponding items in the original application.

8. Additional Information

The Agency may request additional information and documentation if it is required or if ambiguities need to be clarified.

IT IS THE RESPONSIBILITY OF THE LICENSEE TO ENSURE THAT ITS CANADIAN AUTHORIZATIONS ARE KEPT CURRENT AND REFLECT AT ALL TIMES THE OPERATIONS OF THE LICENSEE INTO CANADA. IN PARTICULAR, BUT NOT LIMITED TO THE FOREGOING, THE LICENSEE SHOULD NOTIFY THE AGENCY OF ANY CHANGES IN RESPECT OF ITS LIABILITY INSURANCE COVERAGE, THE AIRCRAFT IT INTENDS TO OPERATE INTO CANADA, ANY U.S. OPERATING AUTHORIZATIONS WHICH MAY AFFECT OPERATIONS INTO CANADA, AND ANY CHANGES TO THE NAME OF THE LICENSEE WHICH WOULD RESULT IN A DIFFERENCE FROM THE NAME SPECIFIED ON ITS CANADIAN LICENCE(S) OR ANY RELATED CANADIAN AUTHORIZATIONS.

SENSITIVE OR CONFIDENTIAL INFORMATION SHOULD BE CLEARLY MARKED AS SUCH AND SHOULD BE SUBMITTED AS SEPARATE DOCUMENTS.

LICENCE APPLICATION
SCHEDULED INTERNATIONAL LICENCE
- U.S. APPLICANTS -

1.a) NAME AND ADDRESS OF APPLICANT: (PROPRIETORSHIP, PARTNERSHIP, CORPORATION OR LIMITED LIABILITY COMPANY)

Name
Street Address
City State
ZIP Code Attention

Phone Fax

E-Mail:

1.b) IF APPLICABLE, TRADE NAME(S) UNDER WHICH THE PROPOSED AIR SERVICE IS TO BE OPERATED:

.....
.....
.....

THE NAME STATED IN 1(a) ABOVE MUST BE THE FULL LEGAL NAME OF THE APPLICANT (PROPRIETORSHIP, PARTNERSHIP, CORPORATION OR LIMITED LIABILITY COMPANY) AND MUST BE CONSISTENT WITH THE LEGAL NAME STATED IN THE REQUIRED SUPPORTING DOCUMENTS. THE NAME(S) STATED IN 1(b) ABOVE MUST BE ANY TRADE NAME(S) THE APPLICANT PROPOSES TO USE WHEN OPERATING INTO AND OUT OF CANADA.

1.c) NAME AND ADDRESS TO WHICH CORRESPONDENCE RELATING TO THIS APPLICATION SHOULD BE DIRECTED:

Same as 1.a) above [], or

Name

Street Address

City State

ZIP code Attention

Phone Fax

E-Mail:

2. NATURE OF SERVICE PROPOSED

Passengers [] All-cargo [] Passengers and All-cargo []

3. AGENT IN CANADA (Part I item I refers)

a) If the applicant has a place of business in Canada, provide the address and telephone and facsimile numbers of the place of business.

b) If the applicant does not have a place of business in Canada, provide the name, address and telephone and facsimile numbers of its appointed agent in Canada.

4. SCOPE AND FREQUENCY OF THE PROPOSED SERVICE

a) Name the specific points between which service is proposed

b) Indicate the frequency proposed to be operated

c) Indicate the proposed start up date.

5. PROPOSED AIRCRAFT

Provide the following details with respect to each model of aircraft to be used in respect of the service to be provided under the licence.

Type	Model	Maximum Certificated Take-Off Weight (MCTOW)	Maximum Number of Passengers specified in the Type Approval or Type Certificate Data Sheet**

**If aircraft has been modified to allow a different number of passengers, disclose the maximum number of passengers specified in the Supplemental Type Approval or Supplemental Type Certificate.

For information respecting the maximum number of passengers disclosed on a Type Approval Data Sheet, Type Certificate Data Sheet or on any Supplemental Type Approval or Supplemental Type Certificate, you may contact:

Transport Canada (AARDHA)
Aircraft Certification Technical Reference Centre
Place de Ville
330 Sparks Street
Ottawa, Ontario
Canada K1A 0N8
<http://www.tc.gc.ca/aviation/applications/nico-celn>

Telephone: **613-952-4401**
or **613-952-4455**
Fax : **613-990-5738**

6. SUPPORTING DOCUMENTATION

- a) A copy of the document issued by the U.S. Department of Transportation that, in respect of the service to be provided under the document, is equivalent to the scheduled international licence.
- b) A copy of Canadian aviation document issued by Transport Canada and valid for the service applied for
is attached [] **OR** will be forwarded upon receipt []
- c) Certificates of Insurance and Endorsement valid for the service applied in the form set out in <http://www.otc-cta.gc.ca/doc.php?sid=1056&lang=eng>. Refer to Appendix 3 for notes on how to complete these documents
are attached [] **OR** will be forwarded upon receipt []
- d) A sworn affidavit is attached in order to satisfy the Agency that, within the precedent twelve months, the applicant has not contravened section 59 of the Act by selling, causing to be sold or publicly offering for sale in Canada the applied for air service. (A sample affidavit in this regard, and which also includes the verification, is attached as Appendix 2)

CONFIDENTIAL APPENDIX
(paragraphs 7 and 8)

7. INDICATE WHETHER THE APPLICANT IS A:

- proprietorship []
- partnership []
- corporation []
- limited liability company []

8. PROOF OF U.S. CITIZENSHIP

- a) Proprietorship
- Give full name of proprietor(s).
 - If applicable, state firm name of proprietorship.
- b) Partnership
- Give full name each partner.
 - If applicable, state firm name of partnership.
 - Furnish a copy of partnership agreement which includes a statement of extent of participation by each partner.
- c) Corporations
- Give full name of each officer and director.
 - State corporate name and address of head office.
 - Furnish a copy of the company's Certificate of incorporation issued by the jurisdiction where it was incorporated.
- d) Limited Liability Company
- Give full name of each member.
 - If applicable, state firm name of the limited liability company.
 - Furnish a copy of the company's articles of organization/formation.

9. VERIFICATION

All of the information contained in the application, including the supporting documentation and changes subsequently made thereto, must be verified by an affidavit of the applicant, attesting to its truth, accuracy and completeness. (An affidavit which may be used is attached as Appendix 2)

10. UNDERTAKING

On behalf of the applicant, I/we undertake to the Agency that, in respect of the applied for air service, the applicant will not contravene section 59 of the *Canada Transportation Act* prior to the issuance of the applied for licence.

Signed at _____, the _____ day of _____, _____
(place) (month) (year)

(Name and Title) (Signature)

(Name and Title) (Signature)

(Witness) (Signature)

11. SIGNATURES

Provide the name and the title of the individual or individuals signing this application as is instructed in item 4 of Part II of this guide.

Signed at _____, the _____ day of _____, _____
(place) (month) (year)

(Name and Title) (Signature)

(Name and Title) (Signature)

AFFIDAVIT

Re: Application by _____
(name of applicant)

For _____
(state licence(s) applied for or describe the amendment(s) to existing licence(s) applied for)

I, _____, of _____, make oath and say as follows:
(name of person signing affidavit) (name of City, Town, etc. and State)

· I am _____ of _____
(proprietor, partner, authorized officer or director, as applicable) (full name of applicant)
and, as such, have knowledge of the matters deposed.

· I have read the information and documentation submitted for the licence application(s) referenced above and state that the information and documentation are, to the best of my knowledge, true, accurate and complete.

· Within the preceding twelve months, the applicant has not contravened section 59 of the Canada Transportation Act to the effect that no person has sold, caused to be sold or publicly offered for sale in Canada transportation in respect of the applied for air service without holding the required licence.

(date signed)

(signature of person signing affidavit)

Sworn before me at

(name of City, Town, etc. and State)

on the _____ day of _____ .

(signature and official seal of commissioner witnessing the affidavit)

NOTES ON PREPARING CERTIFICATES OF INSURANCE AND ENDORSEMENT

PRIOR TO SUBMITTING CERTIFICATES OF INSURANCE AND ENDORSEMENT, ENSURE THAT THE CERTIFICATES ARE COMPLETE AND ACCURATE.

NOTE THAT:

- the name of the insured party must correspond **exactly** with the name that is to appear on the insured party's licence. (*Trade names under which the applicant operates or proposes to operate do not need to appear on the Certificates of Insurance and Endorsement.*)
- the effective dates are current and indicated in day, month, year order
- section 3 of the Certificate of Insurance should be completed by inserting the words “an international” (when completing section 3, the minimum amount of insurance coverage required should be calculated as per section 7 of the ATR which has been reproduced in item F of Part I of this guide)
- section 4(a) **or** (b) should be completed by inserting the word “international”

Note: “domestic” refers to a domestic service operated within Canada and not a service that is being operated in your own country.
- either section 6(a) **or** (b) should be selected (checked)
- the certificate must be dated and signed by an authorized person or agent of the insurer
- when insurance is provided through more than one insurer, a listing of insurers must be provided with the percentage of interest of each clearly indicated
- combined single limit (CSL) coverage, which is the sum of passenger and public liability, may be shown instead of passenger liability and public liability being shown separately

Copies of the Certificates of Insurance and Endorsement can be found at: <http://www.otc-cta.gc.ca/doc.php?sid=1056&lang=eng>.