



Australian Government
Civil Aviation Safety Authority

OFFICE OF THE DIRECTOR OF AVIATION SAFETY

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Committee Secretary
Senate Rural Affairs and Transport Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Radcliffe

Draft amendments to the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011 and the Qantas Sale Amendment (Still Call Australia Home) Bill 2011

Thank you for the opportunity to comment on the draft amendments to the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011 and the Qantas Sale Amendment (Still Call Australia Home) Bill 2011 put forward by Senator Xenophon.

CASA believes that the intent of the proposed amendments to the *Civil Aviation Act 1988* (the Act) regarding fatigue are already being addressed through CASA's regulatory reform program.

CASA's Fatigue Working Group

In July 2011, CASA received advice from the International Civil Aviation Organization (ICAO) of the adoption of amendments to Annex 6 of the Convention on International Civil Aviation in respect to fatigue management for flight crew. In August 2011, CASA re-initiated a standards development project dealing with fatigue management in aviation personnel. At the same time, CASA called for industry nominations to form a project team to work with CASA subject matter experts in the development of standards and guidelines for Fatigue Risk Management Systems (FRMS), as well as the revision of the current prescriptive flight time limitations.

Both of these fatigue management options will be made available to operators.

The CASA/industry project team as it is now established, includes subject matter experts drawn from industry, aircraft operators and employee associations.

The project team has met twice since August 2011 and has reviewed the various methods by which fatigue is currently managed for flight crew. The project team next meets in Sydney on 15-16 February 2012 to complete the work and develop the drafting instructions for amendments to the section 48 series of the Civil Aviation Orders (CAOs).

It is anticipated that a Notice of Proposed Rule Making (NPRM) containing draft amendments to CAO 48.0 relating to fatigue for *flight crew* will be published in approximately April 2012. The proposed amendments will also be accompanied by draft guidance material for operators and individuals.

The entire project includes amendments to the CAO to include fatigue requirements for *cabin crew*.

This development stage of the project will commence following the publication of the NPRM for flight crew fatigue.

In light of this work, CASA's view is that any amendments to the Act in relation to fatigue are unnecessary, as work is well underway between CASA, the aviation industry and employee associations based on the ICAO Standards and Recommended Practices.

Comments on the text of the proposed amendment

There appears to be an error in the drafting of the proposed amendment. It does not contain a reference to the Civil Aviation Act (the Act), although that appears to be the intent of Schedule Two.

Assuming Schedule Two relates to the Act, CASA's specific comments on the proposed section 28BJ are:

28BJ (1)

The use of a number of subjective terms including *scientific principles*, *relevant personnel* and *operational support staff* would be difficult to enforce unless defined in the Act.

Use of the term *operational experience* may have the consequence of restricting the entry of new operators.

28BJ (2) and (3)

CASA believes that the timeframes for implementation of the proposed changes are ambitious and would present significant implementation challenges for the aviation industry.

28BJ (4)

The term *operational support staff* would need to be defined as the current provision is too vague.

General comments

The proposed insertion of a new section 28BJ would require consequential amendments to existing section 28BA of the Act concerning the effect of a breach of the proposed new AOC condition in the form of section 28BJ. Reference to proposed section 28BJ would need to be included in one of the paragraphs of subsection 28BA (1), and again in either subsection 28BA (2) or (2A) on the effects of a breach of an AOC condition.

ICAO has not produced any fatigue material relating to air traffic controllers, maintainers or other persons performing safety sensitive roles. CASA currently has a project to deliver flight crew and cabin crew CAO amendments. Further phases to the abovementioned regulatory reform project will involve consideration of fatigue requirements in relation to air traffic controllers, maintainers and other safety sensitive personnel, following release of the relevant ICAO material. The project will ensure that Australia will be in step with international standards or recommended practices and allow industry time to transition to any new requirements.

CASA is also of the view that the intent and the objects of the proposed amendments to the Act, at least in relation to flight crew, are already being addressed effectively in CAO 48 such that the proposed amendments to the Act are unnecessary.

Yours sincerely

John F. McCormick
Director of Aviation Safety