

SYDNEY

Suite 6.01, Level 6
243-249 Coward Street
Mascot NSW 2020
Tel: +61 2 8307 7777
Fax: +61 2 8307 7799

MELBOURNE

Suite 9.15, Level 9
401 Docklands Drive
Docklands VIC 3008
Tel: +61 3 8602 8600
Fax: +61 3 8602 8699

25 October 2013

By Electronic Transmission

Mr Mike Juelg
Project Leader
Civil Aviation Safety Authority
GPO Box 2005
CANBERRA ACT 2601

Email: michael.juelg@casa.gov.au

Our Ref: G40-0056-0003
Your Ref: FS 99/02

Dear Mike,

Consultation Draft – Civil Aviation Legislation Amendment (Flight Crew Licensing) Regulation 2013

The Australian and International Pilots' Association (AIPA) is grateful for the opportunity to comment on CASA's Consultation Draft for Civil Aviation Legislation Amendment (Flight Crew Licensing) Regulation 2013.

AIPA takes an active stake in the Australian aviation industry, participating in inquiries in the Australian aviation sector and contributing members to various industry forums. AIPA is also an active member of the global pilot body, the International Federation of Airline Pilots' Association (IFALPA), which represents over 100,000 airline pilots internationally.

AIPA has recently reviewed the draft document and would like to put forward the following comments for CASA's consideration.

The Interrelationship between Part 61, CAO Part 82, CAR 217 and Part 142

It seems reasonably clear that the policy intention for relevant parts of Part 61 was to create for licence holders certain restrictions, limitations or privileges that are predicated on the provision of approved forms of Training and Checking (T&C). The head of power for the provision of T&C is CAR 217, with most of the practical application being described in Part 82 of the CAOs.

While AIPA appreciates that the operational rules (Part 121 etc.) are yet to be formalised and that Part 119 may well be the last part issued, we believe that the mixture of old and new rules may lead to some confusion or even unintended consequences.

For example, neither CAO 82.3 or 82.5 provide for third party T&C provision such as that envisaged under the Part 142 umbrella. AIPA believes that it is impractical to legally consider a Part 142 service provider to be "wholly contained within the operator's

organisational structure” or “wholly responsible to the operator for the standard of flight operations”, even though such an arrangement is provided for the much more problematic case of overseas providers.

On the other hand, CAO 82.1 has always provided for third party T&C provision, but only from other operators, i.e., entities holding AOCs and operating aircraft, that are required and approved under CAR 217 to have a T&C organisation (TCO). Of course, Part 142 is expressly intended to ‘round up’ those T&C service providers who do not hold AOCs and are not otherwise subject to CAR 217. In the absence of any consequential amendments to Part 82 of the CAOs, it appears that those Part 142 organisations that do not hold CAR 217 approvals in their own right may not be able to provide contracted T&C services

AIPA understands that, historically, CAR 217 approvals have not been granted to entities that do not hold AOCs. If so, then it may well be that a consequential amendment to CAR 217 that recognises an appropriate equivalency of Part 142 approvals may avoid potential problems.

Approved Cyclic Training And Proficiency Program

CASR 61.010 defines an ‘approved cyclic training and proficiency program’ as a program for which the operator holds an approval under CAR 217. Is the policy intention that Part 142 service providers that do not hold CAR 217 approvals are prevented from running cyclic programs under contract to operators required to otherwise provide a TCO?

Privileges of MPLs

In the proposed CASR 61.635, was the policy intention that an MPL holder is prohibited from flying for a CAO 82.1 operator who is subject to CAR 217 but elects to have an external TCO?

Limitations Consequential to Participation in Cyclic Programs

The formulation set out in CASR 61.650(4B) limits the validity of instrument proficiency checks conducted under an operator’s approved cyclic training and proficiency program to operations conducted by that operator. In the case of the MPL, that seems to be a reasonable risk mitigators.

However, that same formulation is repeated at CASRs 61.695(4B) for ATPLs, CASR 61.805(4B) for type ratings and CASR 61.880(4B) for instrument ratings.

AIPA strongly objects to this limitation. We do not believe that the safety case for MPLs can be reasonably extended to ATPLs and control via a licence limitation renders limitations on type and instrument ratings nugatory.

We have many members who fly outside their primary employment and this limitation would require them to separately demonstrate proficiency to maintain their qualifications, thereby invoking unnecessary costs. On the other hand, to the best of our knowledge, cyclic programs are generally not mandatory but remain as an elective for operators. It is not logical to penalise one group of pilots versus another, simply because their employer has elected to run a cyclic program – particularly given that the differences in the proficiency checks may well be minimal.

Cruise Relief Co-Pilot Type Rating

Is it CASA's policy intention that an approved cyclic training and proficiency program is mandatory for any operator who wishes to employ Second Officers as Cruise Relief Co-pilots? It appears to us that the effect of CASR 61.840(1) is to require exactly that outcome, yet it is not clear what safety case led to that conclusion over any alternative forms of CAR 217 approved proficiency checking.

Right of Appeal

CASR 141.155(3) and 142.215(3) may well benefit from a note that advises on the appeal process for relief from such a CASA direction, particularly in the case of paragraphs (a) and (c). AIPA recognises the value in providing a head of power to ensure suitability and competence of key personnel, but also recognises the potentially arbitrary and inconsistent nature of such directions and therefore the need for procedural fairness in the application of these powers.

Transitional Arrangements

What is the practical effect of adding CASR 202.272(1A)? It is not clear to us who might be affected by this amendment.

Related Matters

AIPA members continue to express concern about the standard of the Part 61 MOS that was provided for consultation, with particular concern about the Cruise Relief Co-pilot Type Rating and related T&C matters.

As indicated in our submission of 12 August 2013, AIPA is not confident that the Part 61 MOS will lead to any improvement to current training standards, which we still see as a latent risk. We believe that much greater consultation will be required on the contents of the Part 61 MOS and, further, we believe that it is critical that AIPA and other pilot associations must be included to offset the tendency of the operators to place their commercial interests before real safety outcomes, despite their contrary rhetoric. As the representative association of by far the largest group of Second Officers/Cruise Relief Co-pilots, AIPA expects to be an automatic inclusion in resolving standards related to Cruise Relief Co-pilots in particular, but also for consultation on T&C standards in general.

If you would like to discuss this further, please don't hesitate to contact our office on 02 8307 7777 or at safety.technical@aipa.org.au.

Yours sincerely,



Captain Richard Woodward
Vice President

Tel: 61 – 2 – 8307 7777
Fax: 61 – 2 – 8307 7799
Email: safety.technical@aipa.org.au