ANNEX A TO INTERIM SOC 2207AS

Proposed amendments to Part 172 regulations and standards for air traffic service providers – (PP 2207AS)

Published responses

Only answers from respondents who gave permission are published. However, all responses are included in the analysis of this consultation.

3 Published responses:

1. Champion
2. Hewson, AIRSERVICES AUSTRALIA
3. Smith, Qantas Group – which includes Qantas, Jetstar, Express Freight Australia, Qantas Link, Network Aviation

Response ANON-TFTB-NHTW-H

Page 1. Personal information

Last name

(Required)

Champion

Policy topic 1 – Regulation of fatigue management for Air Traffic Service (ATS) personnel

Proposed policy - regulating fatigue management for ATS personnel

1. ATS providers must have a system for managing fatigue, applicable to persons who provide ATS functions.

Note: ATS functions are described in subregulations 65.075 (2) and 65.130 (2) of CASR — for example: functions carried out under an aerodrome control rating or traffic information service rating.

2. CASA is empowered to issue a MOS containing standards for the system for managing fatigue.

3. An ATS provider's system for managing fatigue must be:

a. in accordance with relevant standards specified with the Part 172 MOS; and

b. integrated with the provider's safety management system (SMS).

4. ATS providers may assign people to perform ATS functions only if the assignment is in accordance with the provider's system for managing fatigue.

5. An ATS provider must seek approval from CASA to implement its fatigue management system.

Question 1: Do you think policy proposals 1 to 5 for regulating fatigue management for ATS personnel will work as intended?

Please select one item

☐ Yes

☑ Yes with changes (please be specific and provide suggestions below)

☐ No (please be specific and explain why)

☐ Undecided / Not my area of expertise

Comment

Rather than duplicating parts of Annex 11 simply refer to it.

Proposed policy - Fatigue Risk Management System

6. A Fatigue Risk Management System (FRMS) incorporating the matters described in Section 2.28 and Appendix 6 to ICAO Annex 11 will be the initial (and only) standard for an ATS provider's system for managing fatigue.

7. The requirements for CASA approving and regulating an ATS provider's FRMS would be based on the requirements for a flight crew FRMS as specified in Civil Aviation Order 48.1.

Question 2: Do you think policy proposal 6 to implement FRMS standards based on the standards in Appendix 6 of ICAO Annex 11 will work as intended?

Please select one item

☐ Yes

☑ Yes with changes (please be specific and provide suggestions below)

☐ No (please be specific and explain why)

☐ Undecided / Not my area of expertise

Comment

Don't duplicate in the MoS material already in Annex 11 simply reference it.

Question 3: Do you think policy proposal 7 to base CASA's administration of an ATS provider's FRMS on the administrative requirements for a flight crew FRMS as specified in Civil Aviation Order 48.1 will work as intended?

Please select one item

☑ Yes

☐ Yes with changes (please be specific and provide suggestions below)

☐ No (please be specific and explain why)

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Proposed policy - Prescriptive standards only if FRMS is insufficient for fatigue management

8. Prescriptive standards – the alternative described in Section 2.28 and Appendix 5 of ICAO Annex 11 - would be developed only if the FRMS-only policy is found to be insufficient for managing fatigue among ATS personnel.

Question 4: Do you agree with policy proposal 8, that FRMS would be the initial and only option for an ATS provider's fatigue management system, but there would be provision for prescriptive standards if later found necessary?

Please select one item

☐ Yes

☐ Yes with changes (please be specific and provide suggestions below)

☑ No (please be specific and explain why)

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Comment

No

because the CASA surveillance system and the new 172 MoS requirement for CASA to approve any significant change render the proposal unnecessary.

Response ANON-TFTB-NHT8-J

Page 1. Personal information

Last name

(Required)

Hewson

Do your views officially represent those of an organisation?

If yes, please specify the name of the organisation.

AIRSERVICES AUSTRALIA

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Comment

The Policy proposals appear to provide a reasonable approach to meet the intended policy outcomes, as specified in "Proposed amendments to Part 172 regulations and standards for air traffic service providers – (PP 2207AS)".

Question for implementation

What is the criteria for deciding that an FRMS is sufficiently integrated as part of a provider's SMS?

How would Policy #5 apply to Airservices given an established FRMS is already implemented?

Proposed policy - Fatigue Risk Management System

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Comment

Annex 11 section 2.28.4(b) states "the State shall: approve an FRMS, according to a documented process, that provides a level of safety acceptable to the State". How is an acceptable level of safety (relevant to the functioning of the FRMS) established?

Question for implementation - How would Policy #6 apply to Airservices given an established FRMS is already in place? Especially elements like 2.630 (2) (d) and 14 (b) - Annex 11 FRMS Promotion Process. Required for new operational staff but current staff are subject to ongoing training requirements and already have knowledge of the system. Can understand changes to the system as that integrates with the SMS requirements for change and is potentially one of the ways we could demonstrate compliance as per the previous question.

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Comment

2.625 (4) (c) - The word continuous, though contained in CAO 48.1 is open to interpretation. Most FRMS will be point in time, i.e. an assessment is made that the duty shift to be undertaken by the operational person is within the levels specified by the system when determining a duty cycle. An assessment would also be undertaken if changes were made to the duty cycle, e.g. coming in on a day off, extending a shift, etc... The word continuous needs to be removed and the correct intent placed in the wording. Note: Annex 11 does not indicate “continuous” monitoring.

2.625 (4) (d) - again acknowledging that the wording is aligned with CAO 48.1, it does not take into account that fatigue management is a joint responsibility between the operational person and the controller. Pilots and the operator are captured under 91.520 making it a joint responsibility but no matching legislation exists for individuals who are licensed under CASR Part 65. It is not reasonable to enact legislation which places the management of fatigue solely on the air traffic service provider. Matching legislation, as per a pilot, needs to be put in place to cover the responsibility of the operational staff member. It is noted that 2.630 (3) (b) indicates that effective implementation is a joint responsibility, but this is different from a legislated position.

Testing of different rostering arrangements and work schedules, sometimes outside of established limits, is needed to enable continuous improvement of the FRMS.

If the 48.1 model is adopted, CASA would approve operational/duty limits as part of the Airservices FRMS as well as any changes to them. This model could restrict the level of flexibility currently available that is used test different scheduling approaches (e.g., based on emerging fatigue science) and ensure the FRMS remains fit for purpose.

Proposed policy - Prescriptive standards only if FRMS is insufficient for fatigue management

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Response ANON-TFTB-NHTB-V

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Smith

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Comment

1. Yes appropriate and this brings into line with ICAO Annex 11.

2. Unusual to regulate this via a MOS given Flight Crew is via CAO now and likely CASR directly in the future.

3. Yes integrated with SMS is appropriate if an SMS exists. Clearly alignment to regulatory requirements is needed.

4. Yes appropriate.

5. Yes there needs to be entry control.

Much of the fatigue management terminology is common with ATS as for Flight Crew e.g. “unforeseen operational circumstances”.

Unsure why the proposal is to place fatigue management requirements at the MOS level where for Flight Crew and other proposed SSAA groups it has been regulated via CAO in the past and expectation is for CASR in the future .

Normally an FRMS (such as under CAO 48.1 Appendix 7) is offered because there are multiple AOCs with different needs and requirements outside of a single published rule set. Hence as there is only one Part 172 service provider (and it is highly unlikely to see any other service provider in the foreseeable future) wouldn’t a single rule set (based on FRMS principles) detailed in the MOS for the monopoly ATS provider result in the same outcome?

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Comment

Elements detailed are appropriate.

Again unsure why placed in MOS in lieu of the CASR itself, particularly as policy proposal 7 states that requirements for CASA approving and regulating an ATS FRMS would be based on CAO 48.1.

Curious as to if the sole "ATS provider's FRMS would be based on the requirements for a flight crew FRMS as specified in Civil Aviation Order 48.1" then who would the baseline ATS controller rule set (that which an FRMS considered against – such as CAO 48.1 Appendix 2 for airline pilots) actually apply to?

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Comment

No

Given the basis of assessment in entry controls for mandatory duty maxima/off-duty minima is prescriptive rulesets, it is unclear how FRMS entry control and approval can be effected in their absence.

CASA has indicated that there is one provider (at present) so the process to develop a prescriptive ruleset would not be fraught as it was for Flight Crew and other SSAA groups for which TWGs have been held.

This also provides a baseline for future ATS providers should such developments in industry occur.

There also may be towers/centres where prescriptive limits may be appropriate, rather than a full FRMS – i.e. D Class Mon-Fri daytime hours. This would be similar to CAO 48.1 Appendices 1-6, where operators follow a prescriptive approach while managing fatigue hazards using SMS processes.

How then is the assessment of the FRMS conducted if there is no base line rule set to decide that an FRMS is necessary (noting CASA has over a number of years advised that an FRMS should only be used for pilots when the baseline rule set is not suitable and then a risk based methodology is applied to step outside of those rules.