



Australian Government

Government Response

**Senate Rural Affairs and Transport
References Committee Inquiry**

**Report on Pilot Training and Airline
Safety; and Consideration of the
*Transport Safety Investigation
Amendment (Incident Reports) Bill
2010***

November 2011

Introduction

On 30 September 2010 the Senate referred the following matter to the Senate Rural Affairs and Transport References Committee (the Committee) for inquiry and report by 17 November 2010:

- (a) pilot experience requirements and the consequence of any reduction in flight hour requirements on safety;
- (b) the United States of America's Federal Aviation Administration Extension Act of 2010, which requires a minimum of 1500 hours before a pilot is able to operate on regular public transport services and whether a similar mandatory requirement should be applied in Australia;
- (c) current industry practices to recruit pilots, including pay-for-training schemes and the impact such schemes may have on safety;
- (d) retention of experienced pilots;
- (e) type rating and recurrent training for pilots;
- (f) the capacity of the Civil Aviation Safety Authority to appropriately oversee and update safety regulations given the ongoing and rapid development of new technologies and skills shortages in the aviation sector;
- (g) the need to provide legislative immunity to pilots and other flight crew who report on safety matters and whether the United States and European approaches would be appropriate in the Australian aviation environment;
- (h) reporting of incidents to aviation authorities by pilots, crew and operators and the handling of those reports by the authorities, including the following incidents:
 - (i) the Jetstar incident at Melbourne airport on 21 June 2007, and
 - (ii) the Tiger Airways incident, en route from Mackay to Melbourne, on 18 May 2009;
- (i) how reporting processes can be strengthened to improve safety and related training, including consideration of the Transport Safety Investigation Amendment (Incident Reports) Bill 2010; and
- (j) any other related matters.

The Australian Government thanks the Committee for its examination of these matters and the recommendations it has presented for consideration.

Aviation safety - Our most important priority

In December 2009 the Australian Government released the National Aviation White Paper, *Flight Path to the Future*, Australia's first ever comprehensive national aviation policy.

The White Paper confirmed that aviation safety is the Government's first and foremost priority in aviation.

The Government is committed to enhancing aviation safety and maintaining Australia's internationally regarded high quality aviation safety standards and performance.

This commitment was reiterated in the Ministerial Statement on Air Safety tabled by the Minister for Infrastructure and Transport on 4 July 2011.

Many of the aviation safety initiatives outlined in the Aviation White Paper cover issues examined by the Senate Committee's report.

In particular, the Government has acted on the safety funding and regulatory reform issues outlined in the Committee's recommendations.

In the May 2010 Budget the Government announced an additional \$89.9 million in funding for the Civil Aviation Safety Authority (CASA) over four years.

This additional funding is being used to fund almost 100 new and ongoing staff in key surveillance roles, and to invest in the development and maintenance of safety standards and regulatory development.

The additional funding is also providing for expanded and ongoing training for CASA staff and to make sure there are sufficient resources to properly regulate Australian administered airspace, which covers almost eleven per cent of the earth's surface.

This funding represented an unprecedented 30 per cent increase in CASA funding and provides some long term stability in the Authority's funding base.

The CASA Board has recently confirmed that with the additional funding provided by the Government that CASA is now adequately funded to meet the challenges and performance expected of a world class aviation safety regulator.

In March 2010 the Government established a dedicated regulatory drafting taskforce involving specialists from CASA and the Office of Legislative Drafting and Publishing. The Taskforce was established to target the completion of the long outstanding maintenance, operations and flight crew licensing regulations.

The Taskforce has already made substantial progress in completing the maintenance regulations and is currently drafting several of the air transport operations and licensing regulations specifically referred to in the Committee's recommendations.

Draft regulations will be made available for public comment before they are finalised. The regulations will provide improvements to areas such as regular public transport operations, flying training, flight crew licensing and training and checking operations.

Committee recommendations

The Committee examined a range of issues related to the aviation safety regulatory framework for pilot training, the regulatory reform program and CASA funding, incident reporting and the Australian Transport Safety Bureau's (ATSB's) processes, as well as fatigue management and cabin crew training requirements.

The Government's responses to the Committee's twenty two recommendations are attached. These responses have been developed in close consultation with Australia's two key independent aviation safety agencies, CASA and the ATSB.

The Government's response highlights that most of the recommendations are already being addressed through funding, regulatory reform and reporting initiatives of this Government.

Recommendation 1

The committee is of the view that an Air Transport Pilot Licence (ATPL) should also be required for first officers in high capacity regular public transport (RPT) jet aircraft such as Boeing 737, A320 and other aircraft of similar or greater capacity, and that consideration be given to implementing this as a standard.

Response

The Government notes the Committee's view.

However the Civil Aviation Safety Authority (CASA) has advised that the Committee's view is not consistent with the International Civil Aviation Organization's (ICAO) licence privileges for the Commercial Pilot Licence or Multi-crew Pilot Licence which are replicated in Australia under the *Civil Aviation Regulations 1988*.

These regulations permit the holder to fly an aeroplane as co-pilot while the aeroplane is engaged in regular public transport (RPT) operations.

CASA is not aware of any ICAO Contracting State that requires a co-pilot to hold an ATPL and further notes that, in many countries, employment as a co-pilot is the only available pathway for a pilot to accumulate the aeronautical experience required for the granting of an ATPL.

However under the proposed new Part 61 of the *Civil Aviation Safety Regulations 1988 (CASR)* CASA plans to introduce a requirement for captains and co-pilots to hold the same type of rating qualification and instrument rating and receive the same level of training (for example, stalling and some engine failure manoeuvres during take-off).

These draft regulations are expected to be available for public comment by the end of November 2011.

Recommendation 2

The committee recommends that for non-jet operations which employ low-experience first officers, operators be required to provide enhanced supervision and mentoring schemes to offset such lack of experience.

Response

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

CASA is reviewing existing criteria in relation to induction and line training requirements for flight crew deemed to have low experience levels. This will be done in consultation with industry stakeholders and any changes to these criteria would be applicable for all pilots conducting regular public transport (RPT) operations.

The new draft Operations regulations currently being developed by CASA will also detail the responsibilities of aircraft operators before they assign new or low experienced crew members to a flight.

Recommendation 3

The committee recommends that Air Operators Certificate (AOC) holders be required to develop and implement 'green on green' policy positions relating to the use of low experience pilots in RPT operations, to maximise, wherever possible, the collective experience level of flight crew.

Response

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

The proposed new CASR Part 121 covering 'Air Transport Operations by Large Aeroplanes' includes a provision that would require operators to establish procedures to ensure that inexperienced flight crew members are not crewed together.

CASA has also developed "Acceptable Means of Compliance" guidance material to assist operators address the regulatory requirements in the development of their crewing practices.

These draft regulations are expected to be available for public comment early in 2012.

Recommendation 4

The committee recommends that Civil Aviation Safety Regulation (CASR) Part 61 ensure that all prospective regular public transport (RPT) pilots be required to complete substantial course-based training in multi-crew operations and resource management (non-technical skills) and human factors training prior to, or in reasonable proximity to, initial endorsement training; the committee recommends that the Civil Aviation Safety Authority (CASA) expedite, and assign the highest priority to, the implementation of CASR Part 61.

Response

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

The proposed CASR Part 61 introduces a requirement into the flight crew licensing system for a pilot conducting multi-crew operations to have completed a course of multi-crew co-operation training that includes theoretical and practical application of human factors or non-technical skills competencies (including Crew Resource Management).

These draft regulations are expected to be available for public comment by the end of November 2011.

Recommendation 5

The committee recommends that the Civil Aviation Safety Authority (CASA) ensure that Part 61 of the Civil Aviation Safety Regulations currently being reviewed place sufficient weight on multi-engine aeroplane experience as opposed to the current recognition of glider and ultra-light experience.

Response

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

CASA has confirmed that the proposed CASR Part 61 'Flight Crew Licensing' prescribes minimum aeronautical experience requirements that meet or exceed the experience standards specified in Annex 1 to the Convention on International Civil Aviation (i.e. the Chicago Convention) for each aircraft category rating on a flight crew licence.

Furthermore, the new regulations would require that the total experience requirements specified for an integrated course of training be conducted in a recognised aeroplane, that is, an aeroplane that is registered by CASA, by another ICAO contracting state or is operated by the Defence Force of Australia or of another contracting state.

Aeronautical experience accumulated in gliders or ultra-light aircraft may be used to satisfy part of the requirements specified for a licence, although competency-based training ensures an applicant has been assessed as competent to perform a task to the standards specified for the licence in a recognised aeroplane.

These draft regulations are expected to be available for public comment by the end of November 2011.

Recommendation 6

The committee recommends that the Civil Aviation Safety Authority (CASA) be required to undertake a risk assessment of current simulator training to assess whether the extent, aims and scope of such training is being utilised to achieve optimum safety outcomes rather than minimum compliance objectives.

Response

The Government does not support this recommendation as CASA has confirmed that the existing legislative and oversight regulatory framework already covers this type of training activity. The conduct of aircraft endorsement and recurrent training in an approved simulator is already subject to CASA oversight and CASA currently assesses and approves the relevant training programs used by RPT operators.

CASA is currently considering implementing regulatory changes that will increase the use of simulators for flight training and checking activities, including the conduct of certain emergency procedures, which can be more safely and effectively conducted in a simulator than in the actual aircraft. This work is being undertaken with regard to risk assessment requirements and cost benefit considerations.

It is expected that CASA will be putting out for public comment an updated proposal on simulator training by the end of November 2011.

Recommendation 7

The committee recommends that the Civil Aviation Safety Authority (CASA) expedite, and assign the highest priority to, the implementation of Civil Aviation Safety Regulations (CASR) Part 141 'Flight Training Operators' and Part 142 'Training and Checking Operators'.

Response

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

The Government has already put in place a dedicated regulatory drafting task force involving specialists from CASA and the Office of Legislative Drafting and Publishing.

CASA is expected to release draft regulations for CASR Parts 141 and 142 for public comment by the end of November 2011.

Recommendation 8

The committee recommends that the Government require the Productivity Commission or another suitable body to undertake a review of the current and future supply of pilots in Australia, with particular reference to the general aviation and cadet training pathways, and HECS HELP and VET FEEHELP arrangements.

Response

The Government does not support this recommendation.

Skills Australia, an independent statutory authority, currently provides advice on Australia's current, emerging and future workforce skills and development needs. Skills Australia will be replaced in 2012 by the National Workforce and Productivity Agency, which will continue to have responsibility for providing workforce development and sector and regional skills planning advice to Government and industry.

Assisted by the expanded role of the Transport and Logistics Industry Skills Council, which has developed training packages for the aviation industry to improve planning and skills development for key occupations such as pilots, these agencies are well placed to examine future demand and supply issues in relation to pilots in Australia.

Recommendation 9

The committee recommends that the Civil Aviation Safety Authority (CASA), the Australian Transport Safety Bureau (ATSB) and Australian aviation operators review the final findings of France's Bureau of Investigation and Analysis into Air France 447, including consideration of how it may apply in the Australian context. Subject to those findings, the committee may seek the approval of the Senate to conduct a further hearing in relation to the matter.

Response

The Government supports this recommendation as it confirms current agency practice.

Australia's independent safety regulatory and investigatory agencies, CASA and the ATSB, and industry, routinely examine the outcomes of accident investigations and consider their implications for the safety of Australian aircraft operations.

Both agencies are monitoring the French investigation into the accident of Air France Flight 447 and when the findings of the final report have been issued, which is expected next year, CASA and the ATSB will review any implications for Australian aviation.

Recommendation 10

The committee recommends that the Minister for Infrastructure and Transport provide a report to Parliament every six months outlining the progress of the Civil Aviation Safety Authority's (CASA) regulatory reforms and specifying reform priorities, consultative processes and implementation targets for the following 12-month period.

Response

The Government does not support this recommendation.

The Government notes that progress with the regulatory reform program is already reported to Parliament through various forums including CASA's annual report, briefing and information provided at Senate Estimates hearings and through CASA's regular meetings with industry stakeholders.

Regulatory reform activities, including consultation undertaken, are detailed on the CASA website and in the Explanatory Statements and Instruments registered on the Federal Register of Legislative Instruments.

Recommendation 11

The committee recommends that the Government undertake a review of the funding to the Civil Aviation Safety Authority (CASA) to ensure that there is sufficient specific funding to support an expedited regulatory reform process.

Response

The Government notes this recommendation.

The review of CASA's funding was completed by the Government as part of the Aviation White Paper process and an additional \$89.9 million in funding for CASA over four years was announced in the 2010 Budget. Part of this funding is being used on the regulatory reform program.

Recommendation 12

The committee recommends that, as an ongoing measure, the Government provide the Civil Aviation Safety Authority (CASA) with specific funding to enable it to offer salaries that are competitive with industry; in addition, or as an alternative, the Government should consider implementing formal mechanisms for the sharing of expertise between industry and CASA.

Response

The Government notes this recommendation which has already been implemented.

The Government provided an additional \$89.9 million in funding for CASA over four years announced in the 2010 Budget.

The CASA Board has confirmed that with the additional funding provided by the Government that CASA is now adequately funded to meet the challenges and performance expected of a world-class aviation safety regulator.

Recommendation 13

The committee recommends that the Transport Safety Investigation Amendment (Incident Reports) Bill 2010 not be passed.

Response

The Government supports this recommendation.

The submissions made by the ATSB and CASA in relation to this matter are referred to by the committee in formulating this recommendation. The submissions continue to represent the position of both organisations.

Recommendation 14

The committee recommends that the current prescriptive approach needs to be supplemented with a general obligation to report whenever the 'responsible person' believes that there is an urgent safety risk that must be addressed.

Response

The Government notes this recommendation which is already being progressed.

The Government notes that the consultation package on reforms to the mandatory incident reporting scheme in the *Transport Safety Investigations Regulations 2003*, which the ATSB took to industry last year, included proposed changes to the reporting regime to make reporting responsibilities clearer, including when there is an urgent safety risk.

These revised regulations are currently being drafted.

To the extent the recommendation refers to reporting processes within Safety Management Systems, CASA is taking these considerations into account. CASA will be looking to the outcome of the work ICAO is currently undertaking in this regard, in which Australia is actively engaged.

Recommendation 15

The committee recommends that the Australian Transport and Safety Bureau (ATSB) review its approach to the investigation and publication of human factors with a view to achieving a more robust and useful learning tool for the industry.

Response

The Government supports this recommendation in-principle.

The ATSB already has a robust approach to the investigation and publication of human factor issues which was recognised in 2009 when the ATSB received an award from the International Society of Air Safety Investigators for its world-leading work in human factors.

An example of the ATSB's continuing commitment and approach to investigations into human factors to help explain accidents and incidents is its research report: *Evaluation of the Human Factors Analysis and Classification System as a Predictive Model* released in December 2010.

Recommendation 16

The committee recommends that the Australian Transport and Safety Bureau (ATSB) review existing processes for the categorisation of aviation events to ensure that miscategorisation is minimised and opportunities for system improvement are not lost.

Response

The Government notes this recommendation which is already being progressed.

The consultation package that the ATSB took to industry in 2010 included proposed changes to the reporting regime to make reporting responsibilities clearer, including the categorisation of events.

These revised regulations are currently being drafted.

Recommendation 17

The committee recommends that the Civil Aviation Safety Authority (CASA), in concert with the Australian Transport Safety Bureau (ATSB), consider developing and publishing guidance on model reporting to minimise understatement of the actual or potential significance of aviation events.

Response

The Government notes this recommendation with revised reporting already being progressed.

Annex 13 to the Chicago Convention already provides guidance on, and establishes standards for, the content and style of incident reports. The requirement to report is specified in the *Transport Safety Investigation Act 2003* and Regulations. A notification form is published on the ATSB website.

Through the work the ATSB has been undertaking with the aviation industry since 2010 on revising reporting requirements, the ATSB has been seeking to provide more advice to industry on better reporting practices. The explanatory material that will exist in support of the new regulations will provide further guidance to industry.

Recommendation 18

The committee recommends that Civil Aviation Safety Authority (CASA) require operators to observe the highest standards of incident reporting from their personnel and provide appropriate training as part of the safety promotion function of their Safety Management System (SMS).

Response

The Government notes this recommendation which is already covered in existing safety, regulatory, legislative and oversight provisions.

The Civil Aviation Orders (CAO) 82.3 and 82.5 set out the minimum requirements for a SMS.

These orders both require safety promotion systems and specifically list safety communication as a requirement that is documented in an operator's SMS. CASA has also developed a Civil Aviation Advisory Publication on these matters.

An operator must be able to demonstrate to CASA that they have developed an effective hazard identification and risk management process as part of their SMS, and that this has been communicated to all operational personnel.

These personnel in turn must have received appropriate training in hazard identification so as to more effectively identify potential hazards in their workplace and report them into the SMS.

CASA's regular surveillance of operators also involves the monitoring of SMS performance within the operator's system, which includes consideration of the continuing capability of reporting and associated safety data processes.

Recommendation 19

The committee recommends that, in order to enhance 'just culture' and open reporting of incidents, aviation operators should ensure that their relevant managers are adequately trained in procedural fairness.

Response

The Government notes this recommendation.

The implementation of the recommendation is a matter for aviation operators.

However, it is noted that CASA's Civil Aviation Advisory Publication (CAAP SMS-1(0) - Safety Management Systems for Regular Public Transport Operations) already refers to concepts of 'just culture' in the context of an operator's organisation.

Recommendation 20

The committee recommends that, following the release of the International Civil Aviation Organization (ICAO) fatigue guidelines, the Civil Aviation Safety Authority (CASA) should expedite necessary changes and/or additions to the regulations governing flight and cabin crew fatigue risk management as a priority.

Response

The Government notes this recommendation which is already being progressed.

Since the Senate Committee's report was completed, there has been a major international development in consideration of fatigue matters with the release by ICAO of an amendment to Annex 6 of its Standards and Recommended Practices (SARPs) and the provision of guidance material in relation to managing fatigue for aviation personnel.

CASA is currently conducting a standards development project relating to fatigue management and has invited the participation of key stakeholders in a Working Group to progress the assessment of ICAO's advice with a view to implementing the SARPs, where appropriate, into the Australian regulatory framework.

The Working Group commenced its consideration of these important issues in October 2011. It is further expected that CASA will be providing a regulatory proposal for public comment early in 2012 for flight crew and by mid-2012 for cabin crew.

Recommendation 21

The committee recommends that, in the event that the International Civil Aviation Organization (ICAO) fatigue guidelines do not extend to cabin crew duty limits and fatigue risk management more broadly, the Government should amend the *Civil Aviation Act 1988* to include cabin crew fatigue risk management under the Civil Aviation Safety Authority's (CASA) regulatory oversight.

Response

The Government notes this recommendation.

However the recommendation is no longer required as the amended ICAO SARPs for fatigue risk management cover cabin crew.

Recommendation 22

The committee recommends that the Civil Aviation Safety Authority (CASA) specify the type of training and amount of training required for cabin crew, including mandatory English language standards.

Response

The Government supports the recommendation in-principle.

The proposed new CASR Sub-part 121(O) covering 'Air Transport Operations by Large Aeroplanes' will introduce thorough, comprehensive requirements relating to cabin crew training and checking.

These draft regulations are expected to be available for public comment by the end of the year.

While English is the international language used by domestic and international cabin crews, ICAO does not specify English language proficiency standards for cabin crew as such. However noting the Committee's recommendation, CASA will assess the need for such an inclusion in its assessment of the relevant proposed new Operations regulations.