

Ministry of Transport
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SUBMISSION ON THE CIVIL AVIATION BILL – EXPOSURE DRAFT

Airwork (NZ) Limited (“**Airwork**”) welcomes the opportunity to comment on the Civil Aviation Bill – Exposure Draft and the policy proposals it presents.

Drug and Alcohol Management Plans

Airwork supports the new requirements on operators to have Drug and Alcohol Management Plans. Staff impaired by drugs and alcohol have the potential to create significant risk to aircraft operations.

Clause 106 of the Bill provides the following definition of ‘safety-sensitive activity’ on which the identification of ‘safety-sensitive workers’ relies:

safety-sensitive activity—

(a) means an activity that—

- (i) could significantly affect the health or safety of any person on board an aircraft, including the person performing the activity; or
- (ii) if not performed safely could cause or contribute to an accident or incident involving an aircraft

(b) includes an activity prescribed by the rules

As an organisation certified under Parts 141, 145, 146 and 148 of the Civil Aviation Rules, it is unclear how widely a ‘safety-sensitive activity’ might apply or otherwise be prescribed under the Rules. It would be useful for the Ministry of Transport to provide further commentary or guidance on the type of activities and roles this definition is intended to capture to enable Airwork to fully assess the implications of this definition.

I refer to the Law Society submission on the Bill dated 4 July 2019 and its comment that the Bill does not cover the issues of non-random drug testing including testing that occurs pre-employment, post incident or on the grounds of reasonable cause. Airwork supports the Law Society’s recommendation that the scope of these amendments be reconsidered in light of the broader contexts within which operators may require drug testing to ensure aviation safety. Leaving these other scenarios out of the framework may lead to an unduly narrow scheme that does not deal with the risks highlighted by the 2012 Carterton ballooning accident.

Just Culture

Airwork supports the inclusion of Just Culture principles into the Bill. Just Culture has been embedded into our business since September 2017 and in Airwork's view it is operating well to ensure that safety is our number one priority. Airwork believes it is important that the legislative framework under which the Civil Aviation Authority operates reflects the modern safety practices it has promoted to the industry.

Fairness and equity

Finally, Airwork believes that the drafting of clause 28 of the Bill which specifies actions that the Director must take in the course of exercising his or her statutory duties, should explicitly reflect the principles of fairness and equity among operators as a mandatory consideration for the Director. Consistent regulation across the industry is a critical to enhancing safety outcomes in aviation.

In light of this, Airwork believes the policy changes proposed in the Bill and the broader policy goal of enhancing aviation safety should be considered in relation all who may "cause or contribute to an accident or incident involving an aircraft". For this reason, we would like to see the obligations that apply to Part 145 organisations also apply to those who operate independently under Part 43 of the Rules (for context, see rule 43.51(b)). It is clear that in the interests of aviation safety, those who operate under Part 43 should be required to maintain adequate safety management systems.

If you have any questions in relation to this submission, please do not hesitate to contact me.

Regards



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