



## Modern Awards Review 2023-24 – (AM2023/21)

### Submission cover sheet

#### Name

(Please provide the name of the person lodging the submission)

Teri O'Toole – Federal Secretary

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#### Organisation

(If this submission is completed on behalf of an organisation or group of individuals, please provide details)

Flight Attendants' Association of Australia

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#### Modern Award Review Stream:

Work and Care



# **Flight Attendants' Association of Australia's Submission**

## Introduction

1. This submission outlines the Flight Attendants' Association of Australia's ("**FAAA**") response to the questions outlined in the Fair Work Commission's ("**FWC**" or the "**Commission**") Discussion Paper on Work and Care dated 29 January 2024 ("**Discussion Paper**").
2. The submission sets out background information about Cabin Crew characteristics and statistics in the introduction before specifically responding to the Discussion Paper questions. The FAAA's specific proposals in the order of the clauses in the *Aircraft Cabin Crew Award 2020* ("**ACCA**") is annexed to this submission at **Annexure 1**.
3. The FAAA submits the proposals are necessary to ensure the ACCA achieves the objects, modern awards objectives and gender equality provisions of the *Fair Work Act 2009* (Cth) ("**FW Act**"). The submission will address the significance of the objects of the FW Act, the modern awards objective and specifically, the gender equality objectives, against the backdrop of the Final Report from the Senate Select Committee on Work and Care (the "**Senate Report**").
4. The Commission has confirmed that the FAAA will be included in participation in the consultation hearings,<sup>1</sup> currently scheduled to be held on 3-4 and 9-10 April 2024.<sup>2</sup>
5. Understanding the characteristics of Cabin Crew, the work they perform and the environment in which work is performed is essential to a review of work and care and gender equality in the context of the ACCA. The occupation is unique in that permanent employees face a level of instability that many full-time casual employees have in other industries, which affects their ability to effectively undertake their caring responsibilities.
6. Because of the nature of the airline industry, if there is an unexpected disruption to planned flights, a Cabin Crew member can unexpectedly have their choice to return home removed. Similarly, if their flight is cancelled, they may be unexpectedly put on an alternative duty which is completely different and results in them being away from home for a longer or shorter period than on the original roster, regardless of the arrangements the crew had made when leaving home for the rostered duty. For Cabin Crew who are carers, such as parents who need to pick their children up from school at certain times, this can cause significant challenges. Indeed, the Work and Care stream Literature Review by Western Sydney University academics Professor Meg Smith and Emeritus Professor Sara Charlesworth ("**Literature Review**"),<sup>3</sup> highlights this issue, also noting that caregivers often encounter limited career advancement opportunities due to their caregiving duties, particularly when employed in casual or precarious positions.<sup>4</sup>

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<sup>1</sup> Email correspondence between Michael Nguyen, representative for the FAAA and FWC

<https://www.fwc.gov.au/documents/sites/award-review-2023-24/am202321-corr-reply-faaa-fwc-150224.pdf>

<sup>2</sup> FWC statement released 21/2/24 <https://www.fwc.gov.au/documents/decisionssigned/pdf/2024fwc476.pdf> .

<sup>3</sup> Smith, M and Charlesworth, S (2024) *Literature Review for the Modern Awards Review 2023-24 Relating to the Workplace Relations Settings Within Modern Awards That Impact People When Balancing Work and Care*, Western Sydney University.

<sup>4</sup> 7 Inga Laß and Mark Wooden, 'Temporary Employment and Work-Life Balance in Australia' (2020) 32(2) *Journal of Family Research* 214, 231, as cited in Literature Review, 14.

7. By way of example, the rostering provision for short haul at Schedule A.3.3 of the ACCA provides the entitlement for an employer to reassign employees an alternative duty for any **operational reason at any time** during the roster. Schedule B.4.5 (regional flying) and Schedule C.3.3 (International flying) contain similar terms. Unplanned duty hours are a feature of the aviation industry. Delays are common. Cabin crew cannot exit their 'workplace' thousands of feet above the ground at the end of their rostered hours if there has been an unplanned extension, nor can they easily contact people on the ground to make alternate care arrangements. As noted in the Literature Review, the growing reliance on technology for scheduling staff, leads to fragmented working time arrangements, significantly hampering the ability of caregivers to juggle work and caregiving duties.<sup>5</sup> The Literature Review goes as far as to label rostering arrangements that cause problems such as these a form of "care-theft".<sup>6</sup>
8. The FAAA understands the nature of the industry. Running an airline, like many other industries, is complex. While flight delays are unavoidable (weather, insufficient crewing, maintenance-and mechanical issues, medical, and other emergencies), award provisions consistent with the FW Act, and its objectives, are not.

### The Legislative Framework

9. The Commission is given a "duty"<sup>7</sup> by section 134 of the FW Act, which is referred to by the Discussion Paper as the "modern awards objective." The modern awards objective does not simply set out the range of factors and circumstances which the Commission must take into account, when exercising its powers related to awards. The modern awards objective makes it a duty of the Commission to "*ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions.*"
10. The Federal Court's construction of the modern awards objective as a duty is not only supported by the plain reading of the text, but is also contextually supported by the existence of a power for the Commission to make a determination to vary a modern award or make a modern award "on its own initiative."<sup>8</sup>
11. The FAAA respectfully submits that where it has been drawn to the Commission's attention that modern awards together with the National Employment Standards are not providing a fair and relevant safety net, the Commission in fulfilling this duty has the option to address that deficiency on its own initiative.

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<sup>5</sup> Alex Wood *Algorithmic management consequences for work organisation and working conditions* (2021), Working Papers Series on Labour, Education and Technology Joint Research Centre, European Commission, 4, as cited in Literature Review, 14.

<sup>6</sup> Natasha Cortis, Megan Blaxland and Sara Charlesworth, 'Care Theft: Family Impacts of Employer Control in Australia's Retail Industry' (2023) 44(1) *Critical Social Policy* 106, as cited in Literature Review, 43.

<sup>7</sup> *Shop, Distributive and Allied Employees Association v The Australian Industry Group* [2017] FCAFC 161 at [48] the Full Court characterised the modern awards objective as a "duty".

<sup>8</sup> FW Act s157(3)(a).

12. The FAAA acknowledges that many of the FAAA's proposals presented in this submission are the same as those which have been proposed by the FAAA to the Commission in the Job Security stream. As such, there may be efficiencies in the Commission dealing with the concerns raised by the FAAA about the inability of the terms of the ACCA to achieve the modern awards objective in one matter, rather than split across two matters.
13. The factors in the modern awards objective which are relevant to the review of "work and care" arrangements are:
  - a. *the need to **improve access to secure work** across the economy;*
  - b. *the need to **achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women's full economic participation;***
  - c. *the need to **promote social inclusion through increased workforce participation;***  
*and*
  - d. *the need to **promote flexible modern work practices and the efficient and productive performance of work. (emphasis added)***
14. Improved access to secure work is necessary for carers to be able to financially support their caring responsibilities and would go towards achieving this factor and the modern awards objective (the "**Secure Work MAO Factor**").
15. While the FAAA acknowledges that the Commission has indicated that gender equality is being progressed through the Annual Wage Review in the first instances, in the context of work and care, the part of the gender equality factor of the modern awards objective which is concerned with "*providing workplace conditions that facilitate women's full economic participation*" is particularly relevant where the percentage of primary carers who are women is 71.8%.<sup>9</sup> Including terms and conditions in modern awards which support work and care, support the achievement of this factor and the modern awards objective (the "**Women's Economic Participation MAO Factor**").
16. The need to "*promote social inclusion through increased workforce participation*" is also relevant when considering the impact of the ACCA on work and care (the "**Social Inclusion MAO Factor**"). Workforce participation is similar in nature to "*access to secure work*" and "*workplace conditions that facilitate women's full economic participation*" is important for resourcing carers and their full participation in society beyond their work and care.<sup>10</sup> Terms and conditions in modern awards which support an employee's management of their work and care

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<sup>9</sup> Discussion Paper at [49].

<sup>10</sup> Literature review on social inclusion and its relationship to minimum wages and workforce participation (fwc.gov.au) [https://www.fwc.gov.au/documents/sites/wagereview2010/research/2\\_2010.htm](https://www.fwc.gov.au/documents/sites/wagereview2010/research/2_2010.htm).

responsibilities would go towards achieving this factor and towards achieving the modern awards objective of a “fair and relevant safety net.”

17. The need to “*promote flexible modern work practices and the efficient and productive performance of work*” is a relevant consideration for the Commission when considering practices which support work and care that do not hinder or diminish productivity (the “**Flexible Modern Work Practices MAO factor**”).
18. Each of the Secure Work MAO Factor, Women’s Economic Participation MAO Factor, Social Inclusion MAO Factor and the Flexible Modern Work Practices MAO Factor (collectively the “**Work and Care MAO Factors**”) have the potential to be achieved through the modification of ACCA terms to support work and care. The FAAA’s focus on the Work and Care MAO Factors does not mean that other factors are not able to be achieved by variations which improve the capacity for employees to manage and balance their work and care responsibilities. There may be other factors and considerations which are relevant to achieving the modern awards objective (the “**Further Relevant MAO Factors**”).

### **Who are Cabin Crew? – The unique characteristics of the occupation**

19. 77% of Cabin Crew are women. This is significantly higher than the economy-wide average of 49%.<sup>11</sup> The 77% estimate is higher than the 76.1% identified in the report commissioned by the Commission; however, it relies on additional and more recent data than the 2021 census material on which the FWC’s gender-based occupational segregation report is based.<sup>12</sup> While this percentage does not meet the requirement set by the Annual Wage Review Expert Panel to be considered explicitly as part of its gender equality review of minimum wages, it still indicates that a significant proportion of the occupation is female. With the Discussion Paper identifying that 71.8% of those who identify as primary caregivers are women,<sup>13</sup> it is especially imperative that greater work and care-related protections are entrenched in the ACCA. The proportion of women in the occupation is a relevant characteristic that magnifies the impact of the terms in the ACCA on the Work and Care MAO Factors.
20. The average age of Cabin Crew is 39 years, which is slightly lower than the economy-wide average age of 40, further highlighting the need for greater work and care protections, especially with respect to care arrangements for young families.
21. It is also relevant to note that a high proportion of Cabin Crew identify as LGBTQI+. While the FAAA has not been able to locate ABS statistics on the exact number, the FAAA is aware from its membership that there are many LGBTQI+ Cabin Crew. The FAAA has received feedback

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<sup>11</sup> Jobs and Skills Australia website which summarises ABS Census data by ANZSIC code

<https://www.jobsandskills.gov.au/data/labour-market-insights/occupations/451711-flight-attendants>.

<sup>12</sup> Cortis, N., Naidoo, Y., Wong, M. and Bradbury, B. (2023). *Gender-based Occupational Segregation: A National Data Profile*. Sydney: UNSW Social Policy Research Centre. Table A.4.

<sup>13</sup> Discussion Paper [49].

from some of its LGBTIQ+ members that various airline policies, including but not limited to uniform policies, continue to discriminate against LGBTIQ+ Cabin Crew, both overtly and subtly.

22. The Jobs and Skills Australia (JSA) report (the “**JSA Report**”) states that 42% of Cabin Crew employees work part-time.<sup>14</sup> This proportion may be overstated as the definition used by JSA for identifying part and full-time work is structured around 35 hours per week, whereas the ACCA defines full-time work as between 33-36 hours per week.
23. The percentage of casual employment in the occupation is approximately 8%<sup>15</sup>, below the economy-wide average of around 20%. This is not an indicator that most of the occupation is in secure work. Many permanent employees in the occupation have considerably more insecure work and conditions than permanent employees in other industries. As noted in the Discussion Paper, many working carers are driven into more insecure forms of work.<sup>16</sup> The FAAA submits that such insecure working arrangements, including those seen in the airline industry, compound work and care challenges. For instance, the lack of control Cabin Crew have over their rosters, makes planning care arrangements extremely difficult. Cabin Crew engaged as casuals are not distributed evenly throughout the occupation, with all of the occupation’s casuals flying under QANTAS Group livery, supplied through labour hire agencies. The FAAA’s research identified casual workers comprise 22.8%<sup>17</sup> of employees cabin crewing QANTAS short haul flights, and 24.92%<sup>18</sup> of cabin crew working on Jetstar Group aircraft, excluding Jetstar International (known as “**JQI**”)<sup>19</sup>.
24. Putting aside the proportion of casual employment, because of the nature of the occupation, permanent full-time and part-time employees in the occupation experience a level of instability and disruption to their work hours which is more unpredictable than regular casual employment in other industries.
25. Despite being an historically highly unionised workforce, Cabin Crew have not been able to retain the standard of wages and conditions commensurate with other highly unionised occupations such as nursing, teaching and public service. Prior to award modernisation, there was no occupational award covering international flying; Qantas had a series of enterprise awards.
26. Due to company failures and amalgamations, the primary domestic occupational award the Flight Attendants (Domestic Airlines) Award 1999<sup>20</sup> (the “**Domestic Award**”) had only one named remaining respondent, which was Qantas Airways Limited. At the time of the Award Modernisation process under Part 10A of the *Workplace Relations Act 1996* (Cth) (the “**Award**

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<sup>14</sup> <https://www.jobsandskills.gov.au/data/labour-market-insights/occupations/451711-flight-attendants>. Further census data is required to determine the proportion having leave entitlements.

<sup>15</sup> FAAA data based on membership figures, Form F17 data, enterprise and industry knowledge

<sup>16</sup> Discussion Paper [112].

<sup>17</sup> FAAA estimate using data from F17 Forms lodged vis current EBAs by the QANTAS and JETSTAR group, the FAAA’s membership and on the ground data.

<sup>18</sup> Ibid.

<sup>19</sup> JQI has approximately 41 permanent employees and no casual employees flying on Jetstar widebody aircraft.

<sup>20</sup> AP781128 - Flight Attendants (Domestic Airlines) Award 1999.

**Modernisation**”), the other respondent to the Domestic Award, ANSETT, had gone into receivership. The FWC declined at that time to make a modern Qantas Airways Limited enterprise award and eschewed conditions in the Domestic Award as being ‘enterprise’ based. The characterisation of the Domestic Award as an enterprise award meant that the Commission at the time did not consider the terms of the Domestic Award when developing the terms and conditions in the Domestic Flying Schedule of the ACCA.

27. This resulted in decades of negotiated and arbitral conditions not being included in the ACCA. **The ACCA does not include standard safety net conditions such as daily overtime and a daily travelling allowance** to cover over night costs when away on employer-directed duty from home port.
28. Most Cabin Crew entering the occupation today are on salaries or remuneration only marginally higher than the minimum wages in the ACCA. By way of example, as of 1 August 2023, the table below sets out the base rates of pay for some major employers in the industry:

Employer and instrument in footnote	Base rate of pay	Amount more or less than the ACCA base rate of \$975.60
Qantas Domestic Pty Limited (which supplies labour to Qantas Airways Limited) <sup>21</sup>	\$1,024.92	\$49 per week more
Qantas Airways Limited (short haul new entrants to third year) <sup>22</sup>	\$950.28	\$25.32 per week less
Jetstar Group Pty Ltd T/A Team Jetstar (Jetstar) <sup>23</sup>	\$1,004.72	\$29.00 per week more
Maurice Alexander Management Pty Ltd (which supplied labour to Qantas Airways Limited domestic operations) <sup>24</sup>	\$942.12	\$33.48 per week less

<sup>21</sup> Based on an annual salary of \$53,296.01 per annum in clause 21.1 of the *Qantas Domestic Pty Limited Cabin Crew Workplace Agreement 2023* [2023] FWCA 1375, which does not provide for annual increments.

<sup>22</sup> *Flight Attendants' Association of Australia – Short haul Division (Qantas Airways Limited) Enterprise Agreement 10* [2023] FWCF 1360.

<sup>23</sup> *Team Jetstar Cabin Crew Agreement 2023* [2023] FWCA 208.

<sup>24</sup> *MAM Casual Flight Attendants Enterprise Agreement 2022* [2023] FWCA 655 – rate for Flight Attendant Category E calculated based on 36-hour week (based on clause 47.1, 1872 hours divided by 52) and hourly rate of ACCA hourly rate plus 50cents per hour as defined in clause 45.2 of the agreement.



29. The 750 (approx.) casual Cabin Crew supplied through two labour hire agencies to the QANTAS and JETSTAR groups are paid the ACCA weekly rate of \$975.60.
30. Notably, all Cabin Crew directly employed by Qantas Airways Limited (“QAL”) have over ten years of service and earn the highest increment wage rate of \$1278.87 per week. This is because QAL has not directly employed Cabin Crew since it created the labour hire entity Qantas Domestic Pty Limited, in or around 2008-2009,<sup>25</sup> making the wage increment below ten years of service purely academic. Notwithstanding, the published rate of pay for QAL being lower than the ACCA is indicative of the low wages in the industry generally for new entrants to the occupation at Qantas, which have now become the norm regardless of tenure.
31. Cabin crews are increasingly being engaged on the ACCA. QAL domestic operations and Jetstar each source cabin crew through Altara Resources. Altara engages cabin crew on a casual basis on the ACCA rate. New entrants such as Bonza also pay crew on the ACCA.
32. The FAAA submits that these trends towards greater reliance on comparatively more insecure and lower-paid labour-hire arrangements, compound existing work and care challenges, especially during the current cost of living crisis and require variation to the terms to achieve the modern awards objectives.
33. The FAAA acknowledges the complexities of the aviation industry in providing roster stability. However, the impact on crew and the flexibility provided by crew should be recognised in the ACCA through the application of common industrial standards supporting roster stability that are generally available in modern awards made by the FWC, such as additional payment for overtime, working through the night and early starts, work on public holidays and weekends and work on rostered days off.
34. The JSA Report lists the flight attendant/cabin crew occupation as a skill shortage area in all states except Western Australia.<sup>26</sup>
35. Cabin Crew have increased exposure to cosmic radiation and UV rays from flying, which places them at increased risk of cancers and other health problems, such as fertility issues.<sup>27</sup> Cabin Crew who fly international or east-to-west tours of duty also suffer disruptions to their sleep patterns similar to non-continuous rotating shift workers, which has similar impacts on their health and capacity for caring arrangements. Fatigue issues are further compounded by a working environment with less than opportune oxygen available. Most of the research on fatigue and flying has been directed toward pilots. Female flight attendants are overwhelmingly disadvantaged in choosing to have children.

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<sup>25</sup> While the Qantas Airways Limited enterprise agreement contains salaries from entry level through to tenth year, the rates are not utilised because there are no Cabin Crew employed with less than 10 years’ service.

<sup>26</sup> <https://www.jobsandskills.gov.au/data/labour-market-insights/occupations/451711-flight-attendants>.

<sup>27</sup> Airlines have in place radiation estimates to ensure that pregnant Cabin Crew cease flying and are put on ground duties when they reach a certain level of radiation following conception to avoid health impacts on the unborn child. A Sydney to Melbourne flight is roughly equivalent in radiation one x-ray.

36. In a qualitative study by Van Den Berg, Signal and Gander on fatigue management work-life balance, when Cabin Crew were asked about fatigue, they reported two common themes. Firstly, cabin crew health and wellbeing and secondly, safety (cabin, passenger and personal) and cabin service. While the primary causes of fatigue were reported as sleep loss and circadian disruption, participants also identified other key factors, including insufficient rest, high workload, the work environment, a lack of company support, and inadequate fatigue risk management training.<sup>28</sup> In addition to the obvious safety risks and strain this places on Cabin Crew, it is also important to note that fatigue and lack of appropriate rest, limits the capacity of carers to carry out their caring responsibilities. The occupation is unique in that its workplace is a combination of home base airports and rotating aircraft.
37. The stability and predictability of Cabin Crew hours of work which are necessary for managing work and care arrangements are usually subjugated to the priority of airlines to maximise the utilisation of their aircraft. The maximal use of aircraft over their life cycle is critical to airlines because of the significant cost of capital investment in aircraft. The utilisation rate has a substantial impact on the return on investment. The FAAA acknowledges that the ideal rate of capital investment by airlines in new aircraft is an area of ongoing debate.<sup>29</sup> However, it is not debated that the higher the utilisation of an aircraft over its life, and the longer the life, the higher the return on investment. Maximising capital utilisation is one of the many competing priorities in the industry shaping Cabin Crew conditions, along with fatigue management and safety, quality of service, reliability, and on-time performance.
38. Despite the high cost of operating an airline, Qantas Airways Limited returned a profit of \$2.47bn underlying profit before tax and \$1.74bn statutory profit after tax to the end of June 2023.<sup>30</sup> The most recent half-year ending 31 December 2023 profit announcement from Qantas was for an amount of \$1.25 billion profit before tax.<sup>31</sup> Virgin also posted a statutory Net Profit After Tax of \$129 million. The corridor between Sydney Airport and Melbourne Airport generates the most revenue in the world, despite being fifth in terms of seat capacity. The route generated \$1.9 billion in the first six months of 2023, surpassing revenue from flights between New York's JFK Airport and London's Heathrow airport (which was the most revenue rich in 2019).<sup>32</sup>
39. The base rate under the ACCA is 98% of the trade rate, despite the VET qualification for Cabin Crew being delivered at the AQF III level.<sup>33</sup> QANTAS formerly operated a registered training

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<sup>28</sup> Van Den Berg MJ, Signal TL, Gander PH. Fatigue risk management for cabin crew: the importance of company support and sufficient rest for work-life balance-a qualitative study. *Ind Health*. 2020 Feb 4;58(1):2-14. doi: 10.2486/indhealth.2018-0233. Epub 2019 Apr 17. PMID: 30996214; PMCID: PMC6997722.

<sup>29</sup> <https://www.theguardian.com/news/datablog/2022/oct/04/qantas-planes-are-relatively-old-it-doesnt-mean-theyre-unsafe-just-less-efficient> and S&P report reported in various news outlets <https://www.news.com.au/finance/business/travel/report-finds-qantas-profits-result-of-failure-to-update-ageing-aircraft-fleet/news-story/ce8ceea98725ab6577d2f9204ba653d0>.

<sup>30</sup> Qantas 2023 annual report.

<sup>31</sup> <https://investor.qantas.com/investors/?page=result-centre>.

<sup>32</sup> <https://www.afr.com/companies/transport/revenues-between-sydney-and-melbourne-surge-now-highest-in-the-world-20231109-p5eipk> and <https://www.afr.com/companies/transport/melbourne-sydney-among-world-s-busiest-flight-paths-in-2023-20231229-p5eu4q>

<sup>33</sup> Industry Skills Australia Limited, . Aviation Industry 2023 Initial Workforce Plan, 2023, Appendix.

organisation delivering nationally recognised formal qualifications. The occupational skill level is equivalent to a tradesperson. The trade equivalent classification rate under modern awards, for example the 7 Awards reviewed in the Discussion Paper, is \$995.00<sup>34</sup> or \$19.40 per week more than Cabin Crew on the ACCA rate.

40. The ACCA base rate, required skill, training and the conditions under which work is performed within the context of 77% of cabin crew being female raise serious questions for further investigation regarding systemic undervaluation of cabin crew work and gender equality. The demographics of the occupation also raise issues for investigation under the work and care review with the material presented in this current submission of relevance to both the gender equity and work and care investigations being conducted by the FWC. The FAAA acknowledges that the general issue of gender undervaluation relating to the award of minimum wages is dealt with in the annual wage review process or other Commission-initiated proceedings between reviews<sup>35</sup>. However, the current review allows the Commission to consider and determine appropriate action regarding whether the ACCA is consistent with the modern award objective including gender equality and providing workplace conditions that facilitate women's full economic participation, additional remuneration for employees working overtime, unsocial, irregular or unpredictable hours or on weekends and public holidays<sup>36</sup> and other provisions impacting on work and care and access to conditions supporting care responsibilities.

#### **Cabin Crew are highly skilled first responders to emergencies.**

41. Cabin Crew are highly skilled first responders to emergencies, trained first aiders, customer service agents, toilet cleaners, hygiene attendants, sommeliers, sous chefs, bartenders and IT support. Cabin Crew are trained to review and detect threats from the moment they commence duty. Cabin Crew are required to protect the flight deck by any means. They are trained to protect themselves and disarm passengers posing a threat. They are trained to remain calm under pressure and disembark passengers in an emergency within 90 seconds. They are trained in the responsible service of alcohol and to manage passenger volatility. An understanding of the range of skills utilised by Cabin Crew is necessary to place achievement of the Work and Care MAO Factors in a context against which the modern awards objective can be assessed. This context is important in the Commission's consideration of what are a "fair and relevant," set of terms and conditions. Specifically, it is critical to understand because the first responder skills and fatigue management are the underlying reasons for many of the unique surrounding conditions for Cabin Crew rostering, duty limitations and directed work. In addition, it is also necessary to give a complete picture of Cabin Crews' duties, which extend beyond serving food, checking boarding tickets, and handing out amenity kits.
42. Cabin Crew are required to develop and maintain a tested level of skill across a wide range of first responder capabilities in order to respond in the event of emergency incidents. While on

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<sup>34</sup> Fast Food Industry Award 2020 [MA000003], clauses 12.4 and 15.1.

<sup>35</sup> President's Statement, Gender Pay Equity Research - Stage One Report, published 15 November, 2023, para 2.

<sup>36</sup> FW Act s 134(1)(da)(i)-(iii).

board under the chain of command of the pilot, a Cabin Crew member can be required to exercise their trained knowledge and expertise to:

- respond to and manage a medical emergency on board (including the use of a defibrillator and securely manage physicians' kits with schedule 2 drugs);
- control and extinguish a fire on board;
- restrain and detain disorderly or physically aggressive passengers;
- protect the safety of passengers and integrity of the aircraft;
- protect and defend the cockpit from unauthorised entry;
- direct and control the efficient and safe evacuation of passengers from the aircraft in an emergency landing (including by assessing the type of emergency landing, whether it is on water or land, the surrounding environment and then deciding which doors are safe to exit from); and
- be aware and alert to any suspicious activity that may result in incidents on board and/or needs to be reported to local law enforcement authorities before take-off or upon landing.
- Respond to a terrorist or security threat onboard.

43. All this first responder knowledge and experience must be trained and tested annually, both academically and practically (through physical exercises) at training centres. Regular training is necessary because of the limited real-life incidents where a Cabin Crew member can exercise these learned and developed capabilities. A failure to demonstrate proficiency to be a first responder to this broad range of incidents results in the grounding of the Cabin Crew member with the potential for dismissal where a Cabin Crew member is not able to develop their first responder capability to the necessary standard which ensures the safety of passengers in the cabin. Training and testing are obligations under the CASA regulations.<sup>37</sup> An extract of the required units for Cabin Crew and the 'real life' framework for that training is included in **Annexure 2**.

44. There are many activities not immediately visible to the travelling public that cabin crew are required to perform to meet safety and security procedures. Some examples include:

- pre-flight emergency equipment and security checks;
- during the boarding process, starting from the gate, cabin crew assess passengers and profile them to identify if they are physically capable of assisting in an emergency or if there are any unruly and/or intoxicated passengers;

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<sup>37</sup> CASA regulation 121, Chapter 13 <https://www.legislation.gov.au/F2020L01561/latest/text>.

- during take-off and landing , cabin crew are required to conduct a *Silent Review*. During this period cabin crew review emergency procedures and security using training and information collected from the assessment of passengers to prepare for emergency situations (this is mandated by CASA regulation)).
45. This is why, during take-off and landing, passengers sitting across from Cabin Crew are not able to talk to crew because they are rehearsing and going through in their mind emergency procedures that they may be required to exercise in the unlikely event of an emergency (the “Silent Review”). Based on historical data, take-off and landing are also the periods during a flight when the aircraft is statistically most likely to encounter an accident or emergency. In many publicly documented aircraft accidents and emergency landings, the speed at which Cabin Crew can manage and direct the efficient evacuation of the aircraft has been critical to the survival of the passengers, including the recent accident at Haneda airport.<sup>38</sup>
46. These essential first responder functions mean that Cabin Crew must be able to respond immediately to situations and not be affected by fatigue. This also means they cannot be under any influence of alcohol or any drug which affects their responsiveness in an emergency (whether prescription or otherwise) when they report “fit for duty.” Many of the duty hour limitations for cabin crew, rostering rules around breaks and rest days have evolved because of crew fatigue management.
47. In addition, Cabin Crew are also required to retain a high level of knowledge and skill to perform their public-facing duties, which are regularly observed by members of the public, such as serving food and beverages and cleaning facilities. During their daily functions, which are public-facing, Cabin Crew may be expected to:
- a. serve food and beverages, including the responsible service of alcohol;
  - b. assist passengers requiring wheelchair mobility to access toilet facilities;
  - c. assist passengers requiring medical assistance; eg medication or oxygen
  - d. manage passenger behaviour, including alcohol or drug affected passengers and angry and belligerent passengers
  - e. provide information about the ingredients and contents of food for allergies;
  - f. provide information about the taste, origin and style of wines at a level generally expected of a sommelier or highly skilled hospitality worker (although this is limited to the Cabin Manager and Cabin Crew operating Business and First cabins);

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<sup>38</sup> Justin McCurry (2024), Guardian Australia, <https://www.theguardian.com/world/2024/jan/03/japan-plane-crash-haneda-airport-japan-airlines-what-happened-cabin-crew-safety-survivors>.

- g. prepare and plate meals to be served, including to a hygienic standard (this is limited to Cabin Crew operating in Business and First Cabins);
- h. clean restroom facilities and maintain a level of hygienic standards on board;
- i. control and address any unhygienic incidents on board handling body fluids;
- j. safely remove any mobile phones that have fallen between seats; and
- k. address any inquiries regarding the use of Wi-Fi or on-board entertainment.

### What is “work and care”?

48. The Minister’s 12 September 2023 Letter to the President of the FWC requested that the FWC engage in a “consultation and research process considering the impact of workplace relations settings (such as rostering arrangements) on work and care, including early childhood education and care.”<sup>39</sup>
49. The FAAA submits that any terms and conditions present within modern awards which have an impact upon a workers’ participation in work and care would fall within what the Minister described as “workplace relations settings.” As such the scope of the what may be considered in work and care could extend to any modern award term.
50. The Senate Report describes “care” as a “social and community responsibility and serves as a key component of our social contract”,<sup>40</sup> and includes the responsibilities and impacts on young carers and workers, First Nations Communities and workforces, migrant workers and disabled workers. Currently the definitions of ‘carer’ under the *Fair Work Act 2009* (Cth) are limited to the application of personal and carers leave under the National Employment Standards (“NES”). The *Carer Recognition Act 2010* (Cth) describes a carer as “an individual who provides care, support and assistance to another individual”, before identifying a limited list of recipients.<sup>41</sup>
51. Carers and the services they provide are diverse. The Discussion Paper notes data from the Australian Bureau Statistics that 10.8% of the population are carers for people with disability or older Australians (that is excluding carers who provide care to their children).<sup>42</sup> The Intergenerational Report produced by the Commonwealth Treasury notes that “Australia’s population will continue to age over the next 40 years. The number of Australians aged 65 and over will more than double and the number aged 85 and over will more than triple. The number of centenarians is expected to increase six-fold.”<sup>43</sup>

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<sup>39</sup> Minister for Employment and Workplace Relations letter to the President of the Fair Work Commission 12 September 2023.

<sup>40</sup> Senate Select Committee on Work and Care Final Report March 2023, [2.7].

<sup>41</sup> *Carer Recognition Act 2010* (Cth) s 5(1).

<sup>42</sup> Discussion Paper page 27.

<sup>43</sup> Intergenerational Report 2023 at a glance – Treasury [Intergenerational Report Factsheet \(treasury.gov.au\)](https://www.treasury.gov.au).

52. The Senate Report notes the disparities between women and men in the ability to combine work with caring responsibilities and that a new 21<sup>st</sup> century social contract is needed in a workforce where almost half of participants are women.<sup>44</sup> The majority of the carers are women (71.8%) and are more likely to engage in unpaid work in care.<sup>45</sup> While the caring provided by parents is not captured by formal metrics, it is self evident that the 4.8 million children aged 0 to 14 years require some form of care for their parents or guardians.

The Commission's focus in the Modern Awards Review into Work and Care

53. The FAAA acknowledges that whether or not the Commission exercises its powers under Part 2-3 of the FW Act, will depend upon whether the exercise of its powers results in the achievement of the modern awards objective.
54. The Discussion Paper refers to the Job Security Discussion paper which sets out the various Full Court of the Federal Court of Australia decisions which have interpreted the effect of the Modern Awards Objective and how they impact the Commission's approach to the Modern Awards Review.<sup>46</sup> These decisions guide the overarching framework within which the Commission is to conduct the Modern Award Review 2023-2024.
55. The FAAA has set out earlier in this submission the Work and Care MAO Factors which are most likely to be achieved through variations which support an employee's balancing of their work and care responsibilities and notes the existence of Other Relevant MAO Factors which may arise in the FWC's consideration of whether the ACCA's terms and conditions along with the NES provides fair and relevant safety net. The FAAA's proposals will highlight where they positively achieve any of these factors.

### **The significance of the Aircraft Cabin Crew Award 2020 on occupational conditions**

56. A shallow analysis of industrial instruments regulating the industry might leave an impression that the ACCA has little direct work to do in an occupation where most have their terms and conditions regulated by enterprise agreements. The following passenger aircraft operators employ Cabin Crew and have their minimum terms and conditions directly set by the ACCA:
- a. Airnorth
  - b. Bonza
  - c. Link Airways
  - d. Nexus Airlines
  - e. Skippers Aviation

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<sup>44</sup> Senate Select Committee on Work and Care Final Report, March 2023, Executive Summary.

<sup>45</sup> Senate Select Committee on Work and Care, Final Report (March 2023) page 11.

<sup>46</sup> Discussion Paper at [25]

- f. Sky Trans
- g. Skytraders
- h. Altara Resources CZ Pty Ltd
- i. Maroomba Airlines

57. Despite the increased conditions and benefits of enterprise agreements entered into with the FAAA, most enterprise agreements regulating the majority of the occupation provide for wages and salaries that are very close to the minimum rates provided for by the ACCA. This makes the ACCA highly influential in the setting of occupational standards.
58. Because of the influence of the ACCA on the occupation, and the relevance of several clauses to work and care, the FAAA urges the Commission, to consider on its own initiative,<sup>47</sup> to vary the ACCA according to FAAA proposals in this submission. We set out below a range of proposed variations to improve the capacity for cabin crew to manage their work and care responsibilities.
59. The FAAA had previously identified issues of concern regarding the ACCA to the Commission, including the appropriate divider for hourly rates, ordinary hours and overtime including for casuals. The matters had been listed<sup>48</sup> for hearing as part of the four-year review of modern awards proceedings. However, due to the impact of Covid 19 on our members, the FAAA requested the hearing dates be vacated, with the opportunity left open for the FAAA to advance concerns at an appropriate time. Now is the time.

### **Work and Care in the context of cabin crew arrangements**

60. There are a range of working conditions for Cabin Crew and operational aspects of the airline industry that impact the ability of Cabin Crew to balance their caring and work responsibilities., which will be addressed in this submission. Some of these conditions under the ACCA include, but are not limited to:
- a. permanent employment for Cabin Crew does not equate to the regularity and predictability of hours standard in other industries;
  - b. the absence of an ordinary span of hours or definition of shift work. Cabin Crew receive no additional remuneration for working daily overtime, shift work, on weekends or public holidays which reduces their capacity to properly arrange care for dependents during unsocial hours;

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<sup>47</sup> President's Statement, Modern Awards review 2023-2024, 15 September, 2023, 10.(4).

<sup>48</sup> AM2020/03 and AM2014/253 FAAA Correspondence to Gostincnik, DP, 20 June 2023.



- c. the 24/7, 365-day operating schedule for airlines means that Cabin Crew are required to work through weekends and public holidays and are provided with only six weeks of annual leave, reducing further their capacity when compared to shift workers in other industries to provide care throughout the year;
- d. rostering arrangements and how work is allocated and changed by the employer are unique to the industry because of the need to manage fatigue and the dynamic nature of operating flights, which can be impacted by weather, mechanical failure and other unexpected disruptions, creating further unpredictability of hours;
- e. the regularity of extended periods away from home where Cabin Crew cannot buy groceries and meal plan their weekly purchases in the way that most workers can, make support for meals and accommodation critical for Cabin Crew earning on minimum award wages impacting their financial capacity when compared to the fair and relevant safety net provided through modern awards to other industries and occupations;
- f. the requirement for a regulated minimum number of Cabin Crew to operate on a particular aircraft for it to take off (to ensure emergency procedures can be properly executed) can also impact the operation of aircraft due to Cabin Crew fatigue or illness which are part of the regulatory framework which operates alongside the modern award safety net;
- g. fatigue management limitations on Cabin Crew duty assignments and rostering to ensure that they are appropriately alert and aware to respond in an emergency also have an impact upon Cabin Crew hours of work and are another regulatory framework which is in addition to, but also similar to work health and safety regulations; and
- h. the absence of remuneration and recognition of hours worked for being on reserve/on-call, places significant burdens on caring responsibilities by restricting the ability to make care arrangements at short notice if recalled, and by restricting their movements to ensure proximity to an airport is maintained.

## Question 1: Part-time

**Are there any specific variations to part-time provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

### Part-time employment conditions

#### Protecting part-time crew from losing the entitlements attached to working on a day off

61. The FAAA proposes that the Commission varies clause 10.2 to specify that the number of rostered days off in a roster is pro-rated in reverse. The variation proposed ensures that the part-time employee drafted to work on a blank day, that is a non-duty day or non-rostered day off, receives the entitlements attached to working on a day off. Full time crew are entitled to 8 rostered days off in a 28-day roster (which is the equivalent to a weekend for day workers in other industries). The pro rata for that entitlement provides a part-time employee working half time an entitlement to 4 rostered days off in the 28-day roster. The other days would be duty days or blank days. Blank days are not the same as rostered days off.
62. Part time employees are regularly drafted to work on blank days, enabled by the provision at A.3.3 and C.3.3 for employers to reassign employees an alternative duty for operational reasons at any time during the roster period. Working on a blank day does not provide the entitlements attached to working on a designated day off such as a rostered day off or buffers between duties or replacement days.
63. Many other modern awards contain the requirement for employers and employees to agree in writing on a regular pattern of work, *'specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.'*<sup>49</sup> However, these are not requirements under the ACCA. The requirement in the ACCA is limited to *'agree in writing on a regular pattern of work'*.<sup>50</sup> The FAAA's proposal is responsive to the Airlines' needs to maximise utility whilst ensuring employees have predictable hours and entitlements.

'10.2 (a) Part-time employees are entitled on a pro rata basis to equivalent pay and conditions to those of full-time cabin crew members who do the same work in the classification concerned.

(b) The pro rata provisions for part time employees regarding rostered days off are prorated in reverse.

**Example of how the pro rata provisions in 10.2(b) works: a part-time employee working half the hours of a fulltime employee is entitled to 16 rostered days off in a 28 day roster'**

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<sup>49</sup> FWC Discussion Paper; Table 7

<sup>50</sup> ACCA, clause 10.3.

64. Protecting part-time crew from losing entitlements attached to working on a day off, through the above mechanism, improves the roster stability for part-time Cabin Crew and provides them with the stability with their notional weekends, which permanent part-time workers in other industries have as a standard condition. Access to improved stability around days off achieves the Work and Care MAO Factors by providing the access to secure work with stability that makes managing work and care responsibilities easier.

#### Limiting the changes to the agreed pattern of hours

65. The FAAA proposes that the Commission varies clause 10.3 to include the standard modern award provision, which require that any changes to the agreed regular pattern of work are to be in writing and require employee agreement, be attached to the employee record and with a copy to be provided to the employee as follows;

“10. 3 At the time of engagement the employer and the part-time cabin crew member will agree in writing on a regular pattern of work. Such pattern of work will only be varied by agreement in writing, with a copy to be given to the employee and a copy to be kept as an employee record.”

66. This proposal aligns the requirement for variations to part-time provisions with the part-time provisions in other modern awards and protects the employee from an employer unilaterally changing the terms of the agreement. Any choice to enter into secure part-time work should be protected from unilateral change by the employer. These protections for permanent part-time workers achieves the Work and Care MAO Factors by improving the predictability of their hours and income.

#### **Question 2: Individual flexibility agreement**

**Are there any specific variations to the individual flexibility agreement provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

67. The FAAA supports the ACTU submissions regarding the work and care stream on the individual flexibility agreement provisions in modern awards.

#### **Question 3: Facilitative provisions**

**Are there any specific variations to the facilitative provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

68. The FAAA has no proposed variations to the facilitative provisions.

#### **Question 4: Working from home**

**Are there any specific variations needed in modern awards regarding working from home arrangements that are necessary to ensure they continue to meet the modern awards objective?**

69. The FAAA does not have any proposals to vary the ACCA to provide for working from home arrangements.

#### **Question 5: A right to disconnect**

**Are there any specific variations needed in modern awards regarding a right to disconnect that are necessary to ensure they continue to meet the modern awards objective?**

70. The FAAA acknowledges that the FWC has indicated that this will be dealt with through a separate process.

#### **Question 6: Minimum payment periods**

**Are there any specific variations to the minimum payment periods for part-time employees in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

##### Aligning minimum engagement with the operations of the industry

71. The FAAA does not propose varying the minimum engagement or minimum payment periods for part-time employees.
72. However, the FAAA notes that the discussion paper explores minimum payment (engagement) provisions across full-time, part-time and casual employment types. As such, the FAAA proposes that the Commission varies clauses 11.2 and 11.3 to include that the minimum engagement for casual cabin crew applies once a duty has been assigned whether the duty is subsequently cancelled and also to ensure rates are paid for all duty hours (reserve) as follows:

“11.2 Casual cabin crew members are entitled to a minimum payment of 4 hours work at the appropriate rate, including where the duty is cancelled within twenty-four hours of scheduled sign-on and substitute duty is not assigned.

11.3 In accordance with the definition of “duty” and “duty hours”, all-time on-home reserve counts as duty hours required to be paid at the hourly rate of pay, except for the particular circumstances outlined for when a crew member is called out for duty while on reserve at home.”

73. The purpose of a minimum engagement provision was summarised by a Full Bench in the four-yearly review of modern awards as follows:

“However, their fundamental rationale has essentially been to ensure that the employee receives a sufficient amount of work, and income, for each attendance at the workplace to justify the expense and inconvenience associated with that attendance by way of transport time and cost, work clothing expenses, childcare expenses and the like. An employment arrangement may become exploitative if the income provided for the

employee's labour is, because of very short engagement periods, rendered negligible by the time and cost required to attend the employment."<sup>51</sup>

74. Improving the minimum engagement for casual employees improves the predictability of hours and earnings, which supports casual Cabin Crew with respect to their caring responsibilities. For casuals who may work for more than one employer, their attendance to report for duty at one employer also means that they lose the possibility to work for another employer.
75. This proposal ensures that a casual who has been called in for work and is preparing for the duty is paid the minimum engagement when the duty is cancelled. Unlike many other industries, engaging a casual employee, rostered duties are regularly cancelled.
76. Clause 11.3 ensures that casuals who are on reserve duty at home receive the minimum engagement. The provision is necessary as Jetstar and the Altara group interpret the ACCA's home reserve provisions as only requiring a 3-hour minimum payment for casuals where a duty has not been assigned from the home reserve.
77. More generally, these changes ensure the efficacy of the provision, income and roster stability in the context of the airline industry, and support Cabin Crew meet their caring responsibilities and / or pay for alternative arrangements when they are unable to meet these responsibilities themselves due to work commitments.

#### **Question 7: Span of hours**

**Are there any specific variations to span of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

78. The ACCA does not prescribe a span of hours to Cabin Crew. In total, Cabin Crew under the ACCA are expected to fly a maximum number of hours per year, averaged out. This presents challenges for Cabin Crew with caring responsibilities. However, the FAAA acknowledges that the international airline industry requires Cabin Crew to work around the clock on International Flights. Regional and Domestic Flying do not require a 24/7 operation, but may involve lengthy flight patterns and extraordinary hours when compared to other industries.
79. As such, as part of a fair and relevant safety net of terms and conditions for Cabin Crew which accommodates the airlines' operations, the FAAA proposes a Right to return home on duty or deadhead.

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<sup>51</sup> *4 year review of modern awards – common issue – casual and part-time employment* [2017] FWCFB 3541 at paragraph [399].

## Right to return home on duty or deadhead

80. The FAAA proposes that a new clause B.2.4(e) be added to facilitate the return to home base for crew who would be forced to overnight away from home due to delays exceeding daily hours' limitations.

### B.2.4 Daily Duty Hours

...

(e) Notwithstanding the daily hour limitations in this clause B.2.4, to expedite a return to home base for crew required to overnight away from home due to daily duty or flying hours being exceeded by delay, cabin crew may elect to:

(i) operate beyond the daily hour limitations at B.2.4 (b) and (d) and be paid 150% additional to the employee's minimum hourly rate; or

(ii) deadhead to home base and be paid at the employee's minimum hourly rate (where a flight is available).

(f) Where duty extends beyond 12 hours crew will receive the following calendar day free from duty in addition to any overtime provisions.

81. The clause does not require an airline to provide transport where there is no flight available or seats available on one of their operated flights.
82. An ability for a Cabin Crew member to elect to go home where a flight is available following an extended duty rather than be required to stay overnight away from home would support achieving the Work and Care MAO Factors.
83. The additional remuneration for unexpected additional hours not only appropriately remunerates the employee for working additional hours but also supports the Cabin Crew member with the additional short-term care expenses that may be incurred from unexpected extended hours. As such the additional remuneration for work which is outside of the ordinary "span" of a Cabin Crew member's daily hours achieves the Work and Care MAO Factors as well as the Further Relevant MAO Factor of additional remuneration for working unpredictable hours.

## **Question 8: Notice of rosters**

**Noting the Work and Care Senate Committee Recommendation 21 that all employees should have at least 2 weeks' notice of their roster except in exceptional circumstances, are there any specific variations to rostering provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

## Rostering

84. Unfair rostering practices can disproportionately affect workers with caring responsibilities, including Cabin Crew. The FAAA agrees with the issues raised in the Discussion Paper. The Discussion Paper raised '[v]ariable hours, unexpected schedule changes, disruptive rostering and lack of genuine consultation with staff' as issues which negatively affect employees' ability to undertake their caring responsibilities.<sup>52</sup> These are common characteristics of the airline industry and of Cabin Crew patterns of work.
85. The Discussion Paper further noted that in many instances, individuals lack the capacity to refuse changes to their working hours, raise disputes regarding such changes, or access existing workplace entitlements related to rostering, ultimately placing stress on workers and their families.<sup>53</sup> This is certainly the case for Cabin Crew who are notionally attached to the location and flight paths of their employer's aircraft wherever they might be.
86. Cabin Crew who face existing industrial power imbalances, whose work is inherently more insecure, and whose rostering arrangements are particularly uncertain, are especially vulnerable in this regard. Each of these factors have caused Cabin Crew to face rostering arrangements which make managing a work-life balance difficult and make managing work and care responsibilities particularly challenging.
87. For example, a recent permanent full-time member of FAAA had a roster that consisted of one week with 41 duty hours including three overnight layovers, and another week with only 25 duty hours. Due to the inability to negotiate more consistent routes or achieve a greater balance of hours week-to-week, FAAA members facing such circumstances often have to resort to expensive care arrangements in busy weeks, especially when last-minute roster changes occur.
88. As such the FAAA proposes variations to the requirements for rosters to ensure that complete rosters are provided to Cabin Crew, variations to the criteria for when an employer can alter the roster to clearly define "operational reasons", to limit changes outside of operational reasons to 48 hours after a roster is published, limiting what duties Cabin Crew can be reassigned to and setting a floor for single days off. All of these contribute to the achievement of the Work and Care MAO Factors.

### Display roster in cabin crew room or electronically

89. The FAAA proposes that there be one standard roster notification and display clause across ACCA for all Cabin Crew.

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<sup>52</sup> Discussion Paper [151].

<sup>53</sup> Discussion Paper [150]-[151].

B.4.2 A copy of the complete roster must be displayed on the cabin crew notice board (which may include an online notice board or facility) at least 7 days prior to the commencement of the roster. All cabin crew who receives a roster are to be included in the complete roster and be given access to where the complete roster is displayed (unless the crew member has requested not to be included).”

90. The inclusion of this provision ensures that Cabin Crew have access to the rosters of other Cabin Crew. The reason why access to rosters is important is because it facilitates the ability for crew to swap flying duties with fellow Cabin Crew. This ability to manage their own changes to their roster significantly improves the stability and predictability of hours for Cabin Crew. With the occupation’s work attached to the productive use of the aircraft, hours stability and predictability (an important feature of secure work) is significantly less than that of other industries.
91. While some airlines allow for preferences to be provided by Cabin Crew which are then input into the rostering software. The published roster they receive will not always align with their preferences in terms of availabilities or proposed days off they require because of the unavailability of alternative carers. Efficient swapping of duties allows Cabin Crew to be able to achieve their desired availabilities.
92. During the period between when rosters are published and the start of the roster, the ability for crew to utilise swapping provides some control back to Cabin Crew to align their work hours with the availability of childcare and other support necessary for Cabin Crew when they are away from home for extended period. The ACCA provides for crew to swap duties (A.3.4, B.4.6, C.3.4). Access to the roster facilitates the acknowledged practice of duty swapping. This is a matter that will also relate to the work and care review.
93. Having access to the published rosters would significantly reduce the time Cabin Crew need to spend planning for their roster swaps and for the accommodations they need to make for their work and care responsibilities based on their roster.
94. The proposal would include a variation to roster notification and display provisions in clause B.4.2 and the new clause would also be inserted into Schedules A and C. replacing A.3.2 and C.3.2
95. The FAAA’s proposed clause also ensures that casuals who receive a roster are also provided with their roster ahead of the roster period start date.
96. This proposal supports the achievement of the Work and Care MAO Factors as well as the Further Relevant MAO Factor of “promoting flexible modern work practices and the efficient and productive performance of work” and does not negatively airline because they would have already produced the rosters.



Changes to rosters by the airline to be limited to certain circumstances unless made within 48 hours of roster publication

97. The FAAA proposes the Commission provide clarity and promote roster stability by defining 'operational reasons'. Cabin Crew regularly contact the FAAA's help line regarding their employer unilaterally changing a rostered duty due to undefined 'operational reasons'. At Schedules A.3.3 and C.3.3 the ACCA provides that:

*'the employer may reassign employees an alternative duty for an operational reason at any time during the roster period'*

'Operational reasons' is not defined within the award. Cabin Crew are unsure of the scope of an employer's ability to unilaterally alter their planned roster without notice.

98. The FAAA proposes an amendment to Clause 2 to define 'operational reasons' and to amend Clause B.4.5 to add "operational reasons" as an important guideline to when an airline can change a Cabin Crew member's roster as follows:

*"B.4.5 Changes to duties*

- (a) *All alterations to rostered duty must be made within 48 hours after provision of the roster must be advised as soon as possible and will be confirmed in writing.*
- (b) *A regional cabin crew member will only be displaced from rostered duty from 48 hours after the publication of the roster for operational reasons.*

99. The first requirement, a current provision at Schedule B, is that any change may occur if it is done within 48 hours of the roster being published or provided. Including this provision at Schedules A and C will increase roster stability for cabin crew under Schedules A and C. On receipt of their roster Cabin Crew will immediately commence looking for duty swaps if they have been assigned a duty which they did not bid for and are unavailable. The expeditious notice of post roster release alterations will either remove the necessity for crew to look for a swap or facilitate a swap made necessary by the alteration.
100. The second requirement is that if the change occurs after 48 hours, then it can only occur because of a number of circumstances, being: operational reasons as proposed to be defined in Clause 2. The circumstances where an airline can change a Cabin Crew member's rostered duty are critical to the airline being able to both maximise utilisation of the aircraft and utilisation of Cabin Crew.
101. Defining the circumstances of 'operational reasons' improves the stability and predictability of hours aspects of secure work for Cabin Crew, while maintaining the level of flexibility needed by the unique way in which airlines operate.

102. While regional flying does not currently include “operational reasons” if the term becomes properly defined (as proposed below), then those reasons as they apply to Domestic or International flying should also apply to regional flying.
103. This proposal supports the achievement of the Work and Care MAO Factors and should have no negative impact upon the operations of the airline where “operational reasons” is properly defined.

Ensuring that the meaning of “operational reasons” and “displacements” is clear

104. To support the framework around the airline’s ability to cancel a Cabin Crew member’s assigned duty, the FAAA proposes the Commission varies the definitions in clause 2 to insert a definition for “operational reasons” to define the scope of what might fall within those words as follows:

“operational reason” means any of the following:

- (i) Overlap Flying;
- (ii) Roster Period-end changeover;
- (iii) Checking and/or training;
- (iv) Courses;
- (v) Publicity;
- (vi) Duty hour limitations;
- (vii) Cancellation of flights;
- (viii) Rest Period Requirements;
- (ix) Transfer and Base Swap (travelling);
- (x) Any leave specified in this Agreement;
- (xi) Misconnections;
- (xii) Aircraft type changes (to a smaller crew complement aircraft); and
- (xiii) Uniform fittings.

105. The term “operational reasons” is important to define the scope of when an employer may “re-assign” Cabin Crew from their rostered duties. The above definition is consistent with the definition in the pre-modern Domestic Award<sup>54</sup> and the Qantas Short Haul EBA<sup>55</sup>.
106. As referred above currently, in clause A.3.3 an employer may reassign employees an alternative duty for an operational reason at any time during the roster period. The international flying schedule contains the same provision at C.3.3. Without a definition of “operational reasons” an airline may potentially cite any reason as an operational reason. By way of example, Cabin Crew duties that are rostered can often be displaced because of disruptions. Following a cancelled duty, Airlines may re-assign Cabin Crew onto another duty that becomes available during the period when the cancelled duty would have been performed. The new duty will often be longer than the cancelled duty, which may result in a subsequent planned duty becoming displaced by the new duty.
107. The Pilots Award contains a displacement provision as follows:
- Where an employer proposes to change the regular roster or ordinary hours of work of an employee, the employer must consult with, and consider the views of the employee, in relation to any change.<sup>56</sup>
108. The same provision is found in the Airline Operations – Ground Staff<sup>57</sup> Award and the Nurses Award.<sup>58</sup> The FAAA’s provision provides agency and roster protection to employees whereas the current ACCA provides no award entitlement to resist *being reassigned at any time*. The proposal retains significant flexibility for an employer to manage their airline for *genuine* operational reasons that airlines can be expected to experience.
109. This proposal supports the achievement of the Work and Care MAO Factors and should have no negative impact upon the operations of the airline where “operational reasons” is properly defined.

Limit the types of duties that Cabin Crew can be reassigned to

110. The FAAA proposes the Commission varies clause A.3.3 and C.3.3 to reduce roster instability arising on “displacements” resulting from re-assignments due to “operational reasons” as follows:

“A.3.3 The employer may reassign employees an alternative duty for an operational reason at any time during the roster period. For any replacement duty that a Cabin Crew member is reassigned to under this clause the employer must:

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<sup>54</sup> AP781128, clause 23.4.

<sup>55</sup> Op Cit. clause 34.

<sup>56</sup> Air Pilots Award 2020 [MA000046], clause 31.

<sup>57</sup> Airline Operations – Ground Staff Award 2020 [MA000048], clause 33.

<sup>58</sup> Nurses Award 2020 [MA000034], clause 30.

- (i) ensure the new duty is consistent with the employee performing their next planned duty on their roster (that is it must not for example, disrupt any subsequent planned duty on their published roster by either running over into the next planned duty or not leaving sufficient rest time for the Cabin Crew member to perform the next planned duty);
- (ii) give written notice of the reassigned duty as soon as possible along with the reason why; and
- (iii) have a buffer of two additional hours on the new duty.

111. By way of practical example, if there are two casual Cabin Crew and one full time Cabin Crew, if a flight gets cancelled, the airline is disincentivised to reassign the casuals to other work because they are only paying the minimum engagement for the casuals, but they will reassign the salaried workers who will be paid their permanent full-time hours even if the duty is cancelled. As such, there need to be buffers around permanent employees to ensure that their entire roster is not displaced by new duties which would reduce the hours stability characteristics of the permanent employment to that of a casual employee at the time that one of their flights is cancelled.
112. The impact of having no buffers around displacement is demonstrated by a member's recent enquiry to the FAAA's Help Line regarding their displacement. The member's home base was Melbourne. She was on a tour of duty rostered to overnight on Friday in Newcastle and then continue Saturday morning signing off in Melbourne at 8.30am, in time for plans she had for that afternoon. The member didn't make it to Newcastle due to 'operational reasons' and had to overnight on Friday in Brisbane. The member reached the hotel in Brisbane at approximately 1a.m and checked her roster to find that she had been allocated a Saturday 10am flight from Brisbane to Melbourne. Just prior to boarding the 10am flight to Melbourne our member checked her roster to find she had been given a new duty, a Melbourne to Canberra return for the purpose of training another crew member.
113. Instead of finishing her original duty at approximately 8.30am am on Saturday morning our member was now finishing at 7.00pm Saturday evening fatigued and unable to attend her personal commitment.
114. This proposal supports the achievement of the Work and Care MAO Factors and should have minimal impact upon the airline where it has appropriately assigned Cabin Crew to Home Reserve and/or Airport Reserve duties.

#### Setting floor for single days off (DDO)

115. Becoming fatigued is a common condition experienced by cabin crew. The ability to obtain solid periods of non-work time is essential to recover from flying through the night, duties rostered to commence early mornings and end late at night, award provision for 12 up to 16 (Schedule A)

or 26-hour (Schedule C) duty days, disturbed sleep-in unfamiliar hotel rooms and regularly being away from home on duty.

116. The ACCA does not adequately take into account the fatigue. The hours of work provisions of Schedule A state:

‘**A.2.2** Ordinary hours of work for employees include weekends and public holidays. If required by the employer, employees may be required to perform work in any pattern of hours, including work on weekends and public holidays.’

and

‘**A.3.5** An employee will not be rostered beyond a maximum of 6 sectors in any duty period and will not be rostered to work on more than 6 consecutive days.’

117. The Award’s combined hours and roster provisions do not provide the opportunity for crew to have sufficient blocks of time off to recover. The FAAA proposes that a new requirement be added to all 3 schedules limiting the number of single days off that can be rostered as follows:

‘A.3.5 An employee will not be rostered beyond a maximum of 6 sectors in any duty period and will not be rostered to work on more than 6 consecutive days. An employee cannot be rostered more than 2 single days off in a 28 day roster or 3 single days off in a calendar month.’

118. This proposal attempts to ensure that there is some time for Cabin Crew outside of recovering from the fatiguing effects of work and goes towards achieving the Work and Care MAO Factors.

### **Question 9: Availability and guaranteed regular hours**

**Are there any specific variations to guaranteed hours or availability of hours provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

Change from 90 ordinary hours of duties per fortnight to 72 hours plus reasonable overtime.

119. The FAAA proposes that the Commission vary clause B.2.3(a) to reduce the maximum fortnightly hours of duty from 90 hours to 72 hours plus reasonable additional overtime as follows:

#### **“B.2.3 Fortnightly hours**

(a) An employer must not roster a regional cabin crew member to fly when completion of the flight will result in the regional cabin crew member exceeding 72 hours of duty of any nature associated with the regional cabin crew member’s employment standing alone”

120. Secure work for cabin crew that requires the working of 45 ordinary hours paid at minimum award wages is not consistent with a fair and relevant minimum safety net. Ninety hours averaged fortnightly are inconsistent with National Employment Standards, which provide for the average hours over the period not exceeding 38 per week for a full-time employee and the lesser of 38 for a part-time employee. The proposed variation aligns the full-time arrangements for regional Cabin Crew with the full-time hours for Cabin Crew who fly domestically and internationally and with the National Employment Standards and supports Cabin Crew to meet their caring obligations.
121. Improving the access to the standard hours of work for Cabin Crew who fly regionally should include access to full-time employment consistent with the National Employment Standards (the “NES”) for hours of work if the ACCA and the NES are is to be a fair and relevant safety net of terms and conditions.

**Question 10: Overtime, TOIL, and make-up time**

**Are there any specific variations to overtime, TOIL or make-up time provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

122. The FAAA proposes a range of variations below to overtime to ensure the ACCA meets the modern awards objective.

**Overtime Provisions**

Include daily overtime for duty hours above planned duty up to maximum unplanned duty

123. The FAAA proposes the Commission varies clause A.6.1 and C.6.1 to include overtime penalties for daily duty hours above the planned duty for that day up to the unplanned maximum as follows:

“X.6.1

- (d) For each hour worked above the planned duty hours for that day the cabin crew member will be paid 150% of their minimum hourly rate for the first 2 hours and 200% for each hour above that (up to the maximum number of unplanned duty hours).”

124. The FAAA also proposes the Commission varies clause A.6.1(c) and C.6.1(c) to include a minimum floor overtime payment for daily duty hours above the unplanned duty for that day

as follows:

- (c) Where unplanned extensions exceed the daily limit, the affected cabin crew member may agree to a further extension. Agreement will also include agreement on an appropriate payment subject to a minimum of an additional 200% of the minimum hourly

rate for all hours exceeding the unplanned limit. Such agreement will be made in accordance with clause 7 — Facilitative provisions of the award.

125. This clause ensures that there is an appropriate penalty for overtime worked for each day, which is consistent with the characteristics of secure work having appropriate remuneration for time worked beyond the rostered hours or spread of ordinary hours. The proposal is consistent with the modern award objective to provide a fair and relevant minimum safety net of terms and conditions, taking into s.134(1)(da)(i) the need to provide additional remuneration for employees working overtime;
126. Daily Overtime payments are paid in occupational EBAs for example the Qantas Short Haul and recently negotiated (awaiting crew endorsement) Virgin EBA. Daily overtime was included in premodern occupational and enterprise awards. The premodern *Flight Attendants (Domestic Airlines) Award 1999*<sup>59</sup> provided for the base weekly rate plus an additional rate of 150% for daily hours in excess of 8 and up to 10 and 200% for all time worked in excess of 10.<sup>60</sup> The domestic award daily overtime provisions are replicated (save for overtime commencing after 8.5 hours) in the Qantas Short Haul EBA. The Qantas QD EBA<sup>61</sup> provides for additional per hour base rate payments for daily overtime of between \$14.65 (up to 10 hours) and \$85.41 (between 12-14 hours).
127. The current clause enabling extensions beyond the unplanned limit is inconsistent with facilitative provisions which should contain a safety net floor. This clause operates in an environment where cabin crew may have been working 15 or 16 hours (Schedule A) or up to 26 (Schedule C) when they commence negotiating with management regarding working additional unplanned hours. In these circumstances an appropriate floor is necessary, including to protect Cabin Crew with caring responsibilities where overtime, TOIL or make-up time provisions are triggered.

#### **Adding overtime penalty to Regional Flying Schedule 'B'**

128. The FAAA proposes the Commission varies the ACCA to insert overtime provisions into Schedule B (which applies to regional flying crew). Presently there are no overtime provisions. The current provisions enable planned daily limits to be exceeded where the duty has commenced. Schedule B crew are limited to a maximum tour of duty of 11 hours however it can be extended to 12 hours where the duty has commenced. Planned Flight time is restricted to 8 hours flying, extending to 9 hours where the duty has already commenced. Daily tours of duty can and do extend beyond the planned upper limits due to operational reasons. Extensions may be unavoidable, crew cannot exit an aircraft circling above port for example, however an overtime payment for extensions beyond daily duty hours is appropriate.
129. The FAAA proposes that a new clause (e) be added at B.2.4:

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<sup>59</sup> AP781128.

<sup>60</sup> Ibid Clause 25.2.

<sup>61</sup> [2023] FWCA 1375, Clause 25.1 Daily Overtime.

“(e) Where a tour of duty extends beyond the limits described in B.2.4(a) or(c) a cabin crew member will be paid an additional 150% for the additional hours provided at B.2.4(b) and (d)’

**Missed meal allowance and missed rest break penalty for Cabin Crew working through meal breaks to apply to all crew**

130. The FAAA proposes the Commission varies clause A.3.6 and C.3.5 to provide for a missed meal allowance as follows:

“(b)Where a meal break cannot be taken the cabin crew member must be paid an allowance equivalent to the employee’s minimum hourly rate prorated for the period of the break’

The current clauses demonstrate meal breaks take second order priority to service and operations. While meal breaks may not seem relevant to the characteristics of secure work, having a lunch break is a feature of permanent secure work that many workers take for granted. This modest allowance will provide a financial penalty for programming tours of duty which do not provide adequate time for crew to take a meal break. The proposal will assist roster stability regarding rest breaks.

131. While the FAAA’s primary concern is that there is a higher risk of fatigue for crew who are not able to take appropriate breaks, it recognises that where meal breaks are missed or not completely taken, crew should be compensated for that working condition. As service (the service of meals, snacks and beverages to passengers) and safety tasks are required to be prioritised by Cabin Crew, they are often having their meals standing up in the galley, without a proper rest break of 20 minutes.

132. Crew are working during turn arounds cleaning the plane and preparing for the next flight. Members advise there is often no time for a rest break. Helicopter Pilots under the Pilots Award<sup>62</sup> receive \$24.49 for each meal missed. Pilots receive a paid 30-minute break or reimbursement for a meal or a meal,<sup>63</sup> employees working under the Airline Ground Staff Award<sup>64</sup> receive overtime rates until a meal can be taken. The payment of overtime until a break is provided is a common modern award standard. The premodern domestic cabin crew award provided for a penalty at the rate of an additional 50% of the base rate of pay, with a minimum payment for one hour, for all time worked beyond 5 hours and 10 minutes until commencement of the 20-minute meal break; or relief from duty.<sup>65</sup> This provision from the Domestic award is reflected in the QANTAS short haul EBA. Virgin crew <sup>66</sup>receive a flat dollar amount of between \$11.44 and

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<sup>62</sup> Air Pilots Award 2020 [MA000046], clause D.5.6(c).

<sup>63</sup> Ibid, clause 17.2.

<sup>64</sup> Airline Operations – Ground Staff Award 2020 [MA000048], clause 16.

<sup>65</sup> Op Cit, clause 24.8.

<sup>66</sup> Virgin Australia Cabin Crew Agreement 2021 (AG2021/5155), clause 3.5.



\$16.83 depending on the cabin crew member's employment classification. Schedule B crew receive \$10.80 per missed break.

## **Work on an RDO**

### Accruing substitute day off

133. The FAAA proposes that the Commission varies B.2.9 to delete paragraph (b) and include a new (b) which provides an entitlement to accrue up to 6 substitute days off ("SDO"), with an option for the employee to convert accrued days to annual leave or be paid out after 6 months of the SDO's not being used as follows:

"(b) Where there is no agreement reached under B.2.9(a) substitute days may accrue up to a maximum of 6. If not taken with 6 months of accruing the day an employee can choose to be paid out or have each day substitute for allocated leave.

This variation ensures that the overtime value of working on a rostered day off, which accrues as a substitute roster day off, does not have its value diluted by the current clause which stipulates that the substitute day off does not accrue beyond the next roster period. The proposal leaves the current default arrangement for taking the substitute day in the current or next roster to not diminish the need for rest. The Commission's standard "time off instead of payment for overtime" provides for a similar cashing out of the overtime. The proposal ensures the value of the substitute day is not lost as there is no incentive not to schedule a cabin crew member so that the substitute day expires.

134. The FAAA also proposes that this entitlement to accrue untaken SDOs is also provided to Domestic and International Crew.
135. Members regularly contact the FAAA's Help Line regarding the inability to obtain agreement for taking their day in lieu. The proposed clause supports the secure work objective and provide greater certainty to Cabin Crew with caring responsibilities.

### Paid allowance for working on RDO

136. The FAAA proposes that the Commission varies A.4 and C.4 to include an entitlement to be paid an allowance when an employee works on a rostered day off which is equivalent to the allowance currently provided to Regional Cabin Crew of \$136.10 for each day.
137. The allowance is effectively a financial penalty which is a disincentive for calling a Cabin Crew member out to work on what is effectively their weekend where they are resting and recovering for tours of duty. The allowance also compensates Cabin Crew for the additional cost of attending for work on a day they would otherwise not be in attendance or have any work-related expenses.

138. Additional payment and a substitute day off is a community standard within the occupation. The premodern Domestic Award<sup>67</sup> provided a Cabin Crew drafted to duty on a designated/substitute day off to be paid at double time for 8 hours or, if more than 8 hours is worked, double time for the working period in addition to a substitute day off. The QANTAS short Haul, QANTAS Domestic and Virgin EBAs provide for additional payment for working on a day off. Pilots who agree to work on a day off receive a substitute day and an additional payment of **\$123.44** per day worked.<sup>68</sup>
139. Rostered Days Off are an important feature of secure work, particularly for an occupation which does not operate under traditional weekend arrangements observed by most of society. Rostered days off are an essential component of fatigue management and critical to protecting Cabin Crew with caring responsibilities.

### **Question 11: On-call and recall to duty**

#### **Are there any specific variations to on-call or recall to duty provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

140. The FAAA proposes a range of variations below to reserve duties to ensure that the ACCA meets the modern awards objective. Home and Airport reserve in the ACCA are treated differently. The aim of the proposed variations is to provide a fair amount of additional remuneration from the time that Cabin Crew are assigned to Home or Airport Reserve, taking into account that being on reserve requires them to be ready to report "fit for duty," taking into account the requirements for them not to be fatigued and be ready to respond effectively in an emergency as a first responder.

### **Reserve Conditions**

141. Reserve duties, and in particular home reserve duties, in flight attendant schedules, introduce uncertainty and can restrict the availability of Cabin Crew with respect to their personal commitments, including those with caring responsibilities. The following proposals seek to address this uncertainty and / or provide for fairer compensation, in-line with the Modern Award objective.

#### Change the value of reserve at home when called out on tour of duty from 1:4 to 1:3

142. The FAAA proposes the Commission varies clauses A.9.5, Schedule B and C.7.5 so that permanent employees on reserve duty at home before a call out are credited on a 1:3 basis instead of the current 1:4. The proposal also ensures that casual cabin crew receive the minimum period of engagement.

"A.9.5 (a) If an employee commences a planned stand-by period without having been assigned a duty and is subsequently called in, the hours elapsed between the

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<sup>67</sup> Op Cit, 25.1.6(a) and (b).

<sup>68</sup> Op Cit, clause 15.8(f).

commencement of the stand-by duty and the sign-on for the duty must be credited on a 1:3 basis. Such credited hours will count toward the roster period hourly total but will not be included in any duty period limitation for the purposes of Clause A.5.1.

(b) for casual employees this provision operates subject to clause 11.2

*Example of how the reserve period ratio in clause C.7.5 works:*

If an employee is rostered to commence reserve duty at home at 0900 hours, and they are called in to work to sign-on at 12.00 hours, with respect to the 3 hours elapsed on stand-by the employee will be credited with 60 minutes towards the roster period hourly total (and zero minutes for the purposes of duty period limitation calculations)."

143. This change more appropriately reflects the value of the reserve at home duty. Because of the nature of the first responder and safety responsibilities, an employee on reserve is not able to drink alcohol or partake in any strenuous activities which might result in them being fatigued or otherwise not being "fit for duty" if they are called out from reserve. This impacts both their ability to engage in intensive caring responsibilities and social recreational activities. The only difference between reserve duty at home and reserve duty at the airport (which is paid hour for hour) is the commute to sign on and the requirement to be dressed in uniform. Crew with caring responsibilities must have care arrangements in place while on reserve duty, cannot commit to medical appointments, education, or leisure. Crew on reserve are on company time, the time is not their own.
144. Crew on home reserve are on a duty as defined in Clause 2. Crew may be required to complete online training modules, cannot go anywhere that would prevent them from signing on in 90 minutes (FAAA is seeking 120) after being called in. Casual employees on reserve lose hour for hour pay if they were working somewhere else. The proposed variation is a modest contribution to hours and income predictability. The reference to the casual minimum engagement period also ensures that Airlines do not utilise casuals to cover at home reserves, which impacts upon the casual's days off, but does not result in remuneration consistent with the minimum payment for engagement at Clause 11.2

#### Clarify the value of reserve at home when not called out on tour of duty

145. The operation of the current reserve clause has resulted in an interpretation where hours on home reserve are not counted toward **any** roster hours where crew are not called in. This interpretation has been made possible as there is no specific provision prescribing how the hours spent on reserve, when not called in to work, will count toward roster hours.<sup>69</sup>
146. Crew can be rostered a home reserve duty at roster build or at any time during the roster period. (Schedule A.9.1 and C.7.1). The maximum hours for an at home reserve is 12. The ACCA requires amendment to ensure that this time spent on home reserve duty is counted toward

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<sup>69</sup> See for example the recent approval of *Team Jetstar cabin Crew Agreement 2023* [2023] FWCA 208.

roster duty hours where crew are not assigned a duty and count as duty hours for casual employees.

147. The current interpretation leads to outcomes where crew could work over their roster hourly maximums without any overtime payments, by ignoring the at home reserve duty hours. The impact on casual employees results in significant unfairness. Altara, the major labour hire supplier of casual cabin crew refuses to pay the minimum 4 hourly engagement required at Clause 11.2, stating in response to the FAAA's correspondence regarding the issue:

*"...In response to this item, our position is that the Aircraft Cabin Crew Award 2020 (Award) does not provide an entitlement to payment for domestic flying casual employees who are on home reserve and not called in to work at the completion of their 12 hour home reserve span. If Employees were to be paid for the full 12 hour period when at home on reserve and not subsequently called in, but Employees that are called in are only paid at a 1:4 ratio for the hours elapsed between commencement of the stand-by period and the sign on for the duty, an absurd result would be created where Employees could earn more in circumstances where they are not called in to work. Our view is that Altara is currently being more generous to Employees by applying the 1:4 ratio in circumstances where an employee is not required to sign in for duty<sup>70</sup>.*

148. The absurd position is to argue that either a casual or permanent cabin crew could be rostered a 12 hour duty as defined in the ACCA and for that duty not be considered as a duty or paid. When on reserve duty at home crew are required to answer their phone and accept an assigned duty, be at the airport to perform that duty within a specified time thus limiting the activities, appointments etc. crew are able to engage in on duty. They must be fit to accept a duty, accept restrictions regarding consumption of alcohol, plan for the care of children or elders and complete online training as directed. Crew not being available or not responding to texts or telephone calls from crewing are considered by employers to be in dereliction of duty. It is completely unfair that casual employees would be paid nothing to be on a rostered 12-hour duty for Altara and be paid nothing when they could be on duty somewhere else and receive pay for the hours worked.
149. The FAAA's proposed clause to remedy this across the three schedules is to insert a new provision as follows:

*'A.9.8 Where an employee completes a period of reserve at home without being assigned a duty all hours on home reserve will count towards the roster period. Casual employees will be paid for all hours spent on home reserve where they are not assigned a duty.*

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<sup>70</sup> Email General Manager Altara to FAAA, April 20 2023,

### Limitation on total length of time between reserve sign on and allocated duty sign off

150. An employee should not be on a reserve duty and for those hours on duty to be disregarded in respect to daily duty limits. For example, cabin crew could be 6 hours into a 12 hour reserve duty and then called out to a duty for the maximum planned duty of 18 hours, which would mean they were awake for a minimum of 24 hours. It is widely accepted that anyone being awake for 18 hours is equivalent to having a 0.05 blood alcohol concentration, which is the legal limit for driving a car. The response times for Cabin Crew in an emergency mean that they should not be fatigued if they are reporting for duty. Secure work should include work which is safe for the worker and also ensures the safety of the public reliant upon the worker. The proposal to amend the way in which the reserve duty at home hours count towards duty period limitations recognises that an employee will be fatigued as if they had been working, being awake during the reserve duty.
151. The FAAA proposes that the Commission varies A.9, Schedule B and C.7 to include that the maximum hours between reserve sign on and sign off for an allocated duty is 18 hours. The 18-hour maximum also ensures roster stability and predictability as crew, for example on home reserve from 4am, know that whatever duty they are assigned it will need to be completed at or prior to 10.00pm. The clause proposed follows:

“(xxx) the maximum number of hours between reserve duty sign on and sign off for an allocated tour of duty is 18 hours.”

### Clarify ambiguity in definition of “duty”

152. The FAAA proposes that the Commission varies the definition in clause 2 for “duty” at (e) and (j) to clarify that the circumstance of reserve duty at home applies to all three schedules as follows:
- “(e) time spent on reserve duty at home as specified in Schedules A, B and C; and
- (j) time spent as assignable in accordance with being on reserve as specified in Schedules A, B and C”
153. This change is administrative and supports the proposed amendments to the Reserve provisions. The amendment clarifies that Regional and International Cabin crew have their reserve at home duty also count towards their duty hours, which was unclear from the previous clause, which only referenced the domestic clause as a definition, and which might be read to mean it only applies to domestic cabin crew. There is no current reference to reserve Duty in Schedule B and Schedule C replicates the provisions of Schedule A.

### **Question 12: Travel time**

**Are there any specific variations to travel time provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

### Time taken to sign-on

154. The FAAA proposes that the Commission varies A.9 and C.7 to change the 90 minutes from contact to sign-on to 120 minutes and to include a transport entitlement from A.1.6(c) and C.1.6 for call outs within 120 minutes of sign on time as follows:

“C.7.3 If employees are on reserve duty (other than an airport stand-by) employees must be contactable and ready to perform duties within 120 minutes of contact. This time limit may be extended in particular circumstances and employees will be advised of any such extensions. Where an employee is provided with less than 120 minutes notice of the sign-on time of a duty, the employee on request will be provided with the cost of direct transport.

155. The requirement for an employee to be at sign-on within 90 minutes does not consider that employees live varying distances from their airport home base and does not take into account the time periods for crew to get to sign-on airside (which is beyond security). The 120 minutes to sign on from call out is an occupational and industry standard. Pilots under the Pilots Award are provided with 120 minutes<sup>71</sup>. The QANTAS Short Haul, Virgin and Rex Cabin Crew EBAs provide for 120 minutes. The Award does not provide any airport parking provisions and crew will have to spend time parking and progressing to the airport. The traffic congestion in capital cities has increased since the 90 minutes was established as the standard. The QANTAS short haul agreement provides appropriate car parking facilities for cabin crew<sup>72</sup> and provides the 120 minutes call out to sign on. The premodern Domestic Award provided for 120 minutes.<sup>73</sup> The certainty and predictability of the kinds of duties which an employee can be called out for is a characteristic of secure work, and the parameters within which the duty can be assigned also affects the predictability of the work and hours, which is critical for Cabin Crew who have caring responsibilities.

### **Question 13: Annual leave**

**Are there specific variations to annual leave provisions in modern awards, for example annual leave at half pay, that are necessary to ensure they continue to meet the modern awards objective?**

156. The FAAA proposes that the amount of annual leave which is provided to Cabin Crew who regularly fly on Sundays and Public Holidays is increased to align with the annual leave and public holidays provided to shift workers.

157. The FAAA proposes a variation as follows:

19.2 Entitlement to annual leave

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<sup>71</sup> Op Cit, clause 15.6(a).

<sup>72</sup> Op Cit clause 63.

<sup>73</sup> Op Cit clause 19.17.1(c)

(a) An employee is entitled to annual leave such that the employee's total entitlement to annual leave pursuant to the NES and this award for each year of employment is a total of 42 days' annual leave, inclusive of Saturdays, Sundays and public holidays on full salary for each completed year of service.

(b) An employee who has worked 32 Sundays in the previous 12 months will receive an additional week of annual leave.

158. Cabin Crew are required to be available for work on public holiday and are required particularly to work through the holidays most important to families being Easter and Christmas. As such, it is reasonable for the additional two weeks annual leave to be provided in lieu of public holidays.
159. However, the work through weekends are not properly accounted for. As such, the additional week of leave for seven day shift workers should be provided to Cabin Crew as well, which would support Cabin Crew to meet their caring responsibilities. The 32 Sundays is based on the formulation of 34 Sundays being worked for seven day shift workers who receive an additional week of annual leave from the Australian Industrial Relations Commission's decision in *Media, Entertainment and Arts Alliance [MEAA] and Theatrical Employees (Sydney Convention and Exhibition Centre) Award 1989* and adjusted for the 36 hours a week that Cabin Crew work.<sup>74</sup>

#### **Question 14: Personal/carer's leave**

**Are there any specific variations to personal/carer's leave provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

160. The FAAA supports the ACTU's submissions on personal/carer's leave generally.
161. The FAAA proposes the Commission varies clauses 21.2 and 21.5 to include regular casual access to Upper Respiratory Tract Infection Leave (known as URTI), which is an industry specific entitlement to additional sick leave as follows:

**"21.5 URTI leave**

*A cabin crew member will be granted up to 6 working days' leave per annum, not cumulative, for sickness associated with upper respiratory tract infection (URTI). If required by the employer, a medical certificate must be produced."*

*"21.2 Clause 21 applies to full-time and part-time employees. Clause 21.5 applies to regular casuals."*

162. Cabin Crews are provided with URTI leave on top of personal leave because flying with an upper respiratory tract infection ("URTI") can lead to serious injuries, such as eardrums being damaged due to changes in cabin pressure.

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<sup>74</sup> Print M7325, 1 December 1995, 2617/1995, Marsh SDP, Duncan DP, Wilks C.

163. The casual loading does not take into account that permanent cabin crew members are provided with URTI leave.
164. Given the ease with which URTIs can be contracted, regular casuals who work regular and systematic rosters should be provided with URTI leave to improve their financial stability. Financial stability is a characteristic of secure work, which is important to improve for regular casuals. The proposal responds to the interaction of the permanent, part-time and casual classifications within the ACCA and promotes the capacity for Cabin Crew to be in good health.
165. If a regular casual Cabin Crew member experiences symptoms of a URTI, they are not able to report fit for duty and are not paid for the illness while also not receiving any compensation for that leave in the casual loading.
166. The ability for Cabin Crew to be fit and healthy is critical to their management of their work and care responsibilities. The ability to manage their illness so that it does not become aggravated through work is important for the ACCA to achieve the modern awards objective.
167. From the FAAA's experience in advising members, Cabin Crew have a high incident of experiencing work related hearing injuries due to the constant aircraft engine noise. Further data may be available on this point.

#### **Question 15: Definition of immediate family**

**Noting the Work and Care Final Report Recommendation 17, that the definition of immediate family should be expanded, are there any specific variations in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

168. The FAAA supports the ACTU submissions on the definition of "immediate family".

#### **Question 16: Unpaid carer's leave**

**Having regard to the Productivity Commission's suggestion for more flexible working arrangements as an alternative to extended unpaid carer's leave, are there any specific variations in the modern awards that are necessary to ensure they continue to meet the modern awards objective?**

169. The FAAA supports the ACTU submissions on unpaid carer's leave.

#### **Question 17: Personal/carer's leave**

**Noting Senate Committee Recommendation 18, to consider separating personal/carer's leave entitlement, are there any specific variations in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

170. The FAAA supports the ACTU submissions in the work and care stream on additional carer's leave.



### Question 18: Ceremonial leave

**Are there any specific variations to ceremonial leave provisions in modern awards that are necessary to ensure they continue to meet the modern awards objective?**

171. The FAAA supports the ACTU submissions in the work and care stream on ceremonial leave provisions.

### Question 19: Other variations to modern awards

**Are there any other specific variations to modern award provisions that would assist employees meet their caring responsibilities and are necessary to meet the modern awards objective?**

172. In addition to the below, the FAAA generally supports the ACTU submissions in the work and care stream on other variations to be made to the modern awards.

### Skill-Based Classification Structure and properly set minimum rate of pay

173. A fair and relevant safety net can only exist when that work is properly classified. Properly classified work is the baseline for employees being able to manage work and care responsibilities. The ACCA currently has only one classification for Cabin Crew. **The rate for the classification is 98% of the trade rate.** This low rate for trade level work in combination with the different divisor for the hourly rate for casual and part-time employees when compared to full-time employees leads to unfair outcomes which mean that the ACCA presently cannot meet the modern awards objective. The Commission must address the rate of pay in order for the ACCA to meet the modern awards objective.

174. The example of the MAM enterprise agreement notional minimum *weekly rate* being below the ACCA minimum *weekly rate* where the formula for the rate of pay is defined as 50 cents above *the hourly rate* of the ACCA demonstrates how the ACCA is failing to provide a fair and relevant safety net for Cabin Crew at that labour hire employer. The illogical basis for the hourly rate has created a loop hole through which an enterprise agreement can appear to be pegged to the ACCA but still fall short of the ACCA's weekly minimum rates for an employee working full-time hours.

175. The FAAA proposes to vary the current classification structure to properly reflect the skill levels required in the occupation based on the 36-hour week as follows:

“14.2 An employer must pay employees the following minimum rates for ordinary hours worked by the employee.

<b>Employee classification</b>	<b>Minimum weekly rate (full-time employee)</b>	<b>Minimum hourly rate</b>	<b>Percentage</b>
	<b>\$</b>	<b>\$</b>	<b>%</b>
Cabin crew Yr 1	995.00	<u>27.64</u>	100
Cabin Crew Yr2	1044.75	29.02	105
Cabin Crew Yr 3	1094.50	30.40	110
Cabin Crew Yr 4	1,144.25	<u>31.78</u>	<u>115</u>
Cabin Crew Supervisor (narrow-bodied aircraft, four or more crew)	1,194.00	<u>33.17</u>	<u>120</u>
Cabin crew manager (wide-bodied aircraft)	1357.30	<u>37.70</u>	<u>136</u>

176. The proposed structure is based on the recognition that the entry-level for cabin crew is skill level Certificate III or equivalent. Additional classification levels respond to the additional emergency training flight attendants are required to undertake each year. Increased skill and capability are created through the reinforcement of emergency procedures training and on-the-job experience. Cabin crew advise that emergency evacuations, fires or life-threatening medical situations arise infrequently; however, repeated training in simulated emergency settings enables performance when an emergency is required.
177. Reviewing the recent Japan Airlines Flight 156 disaster against the proposal makes it clear that crew who have more experience in directing passengers, maintaining calm and order and who have repeated training in identifying which exits are safe to use and repeated experience in the deployment of slides will operate at a higher skill level than a cabin crew member who has had initial training.
178. Cabin Crew who have undertaken repeated training and who have more flying experience have an increased capability in performing their duties, which include literally putting out fires,

assisting passengers with disability, managing alcohol affected and/or abusive passengers, disarming passengers, assessing threats, assisting fainting passengers, passengers experiencing air sickness, asthma or other medical incidents.

179. A skill-based classification structure is required to acknowledge the work of this highly feminised industry. A skill-based structure will also modify the negative impact on casuals, who are often classified at the lowest classification level despite their skills and experience. The Qantas Short Haul agreement provides evidence of the automatic devaluation of casual workers. Casual workers are paid at the first-year Cabin Crew rate within a ten-year progressive structure, regardless of their experience<sup>75</sup>. The Jetstar EBA also provides that the hourly rate for cabin crew will be based on the Cabin Crew Year 1 rate.<sup>76</sup>
180. The proposal is based on an entry level of 100% of the trade rate and maintaining the current relativity between a Cabin Crew member and Cabin Manager. The proposal is a draft based on the principles to be deployed. Classification definitions will be developed to support the wage structure.

#### **Minimum hourly rate of pay and skilled-based classification structure**

181. The FAAA proposes the Commission varies clause 14.2 so that the minimum hourly rate of pay is in alignment with the full-time hours of work and contains progression based on additional skill and competence.
182. The ACCA 2020 currently calculates the hourly minimum rate by dividing the weekly wage by 38 hours, even though the full-time hours are between 33 and 36 hours a week. The FAAA proposal amends this approach by dividing the weekly wage by 36 hours.
183. The FAAA has conducted an analysis of the modern awards which have less than 38 ordinary hours for full-time workers. That analysis showed that the following awards provide less than 38 hours per week for a full-time employee:
- a. Black Coal Mining Industry Award 2020 [MA000001];
  - b. Coal Export Terminals Award 2020 [MA000045];
  - c. Electrical Power Industry Award 2020 [MA000088];
  - d. Marine Towage Award 2020 [MA000050];
  - e. Oil Refining and Manufacturing Award 2020 [MA000072]; and
  - f. Stevedoring Industry Award 2020 [MA000053].

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<sup>75</sup> Op Cit, clause 18.2.

<sup>76</sup> *Jetstar Airways Cabin Crew Agreement 2022* [2023 FWCA 1892, clause 20.7(b)].

184. Each of the above awards has 35 hours per week for a full-time employee, other than the Electrical Power Industry Award 2020, which prescribes 37.5 hours a week. The minimum hourly rate in all the above modern awards is calculated by dividing the weekly rate by the full-time ordinary hours specified in the Award to arrive at the hourly rate (except the Marine Towage Award 2020, which has a daily rate). The ACCA is the only modern award with less than 38 ordinary hours that does not divide the weekly rate by the number of ordinary hours to arrive at the hourly rate.
185. The hourly rate also impacts the penalty rates, which are set by reference to the minimum hourly rate. As such, setting the appropriate hourly rate is necessary to ensure that permanent employees are appropriately compensated for working unsocial or extended hours. Improving the ability for employees to choose secure work is achieved through ensuring that penalty rates are appropriately set.
186. The casual loading is also calculated by reference to the hourly rate. As such, the hourly rate is also relevant to establishing and maintaining the appropriate financial relativity between permanent work and casual work.
187. The appropriate rate of pay is a foundational issue for achieving the modern awards objective of a fair and relevant safety net and for achieving the Work and Care MAO Factors.

#### **Supporting secure work conditions in the context of airline operations**

188. The FAAA proposes that the Commission varies Schedule A.1.3 to include a layover allowance where cabin crew go on a tour of duty involving staying overnight away from home. Schedule A.1.3 currently provides for accommodation to be provided however there is no provision for meals and incidentals on the layover. The provision of meals and incidentals payment is consistent with the approach in Schedules B and C of the ACCA. The proposal follows:

##### **'A.1.3 Accommodation and meals on a layover**

###### **“(a)General entitlement**

(i)The employer must reimburse the cabin crew member for the cost of appropriate accommodation and meals when the cabin crew member is on a layover.

(ii)The provisions of clause A.1.3 do not apply when the employer elects to provide the appropriate accommodation and meals free of charge. If the employer and cabin crew member agree, the employer may only provide the appropriate accommodation as per A.1.3(a)(i) and pay the cabin crew member the applicable allowances in clause A.1.3(b) instead of providing meals.

(iii)Where appropriate accommodation was not available or provided on the layover in accordance with clause A.1.3(a) a cabin crew member will be paid a disability allowance of \$105.49 per night.

(iv) If the employer and the cabin crew member agree, a cabin crew member may arrange and pay for their own accommodation and meals, and the employer will pay an allowance of \$152.38 per 24-hour period or pro-rated and be deemed to have discharged the obligations in clause A.1.3

(v) Layover allowance

A cabin crew member on a layover must be paid a layover allowance of \$25.00 per layover.

#### A.1.3(b) Meal periods and Allowances

Where a cabin crew member commences a tour of duty from a layover port, which involves duty in excess of 30 minutes within the meal periods, as specified below, they must be provided with a meal or paid the appropriate meal allowance.

		\$
Breakfast	0630 to 0800	25.13
Lunch	1200 to 1330	28.97
Dinner	1800 to 2000	65.42'

189. From the FAAA's analysis and comparison of Schedules A, B and C of the ACCA, the allowances paid for an overnight stay for cabin crew under Schedule A is inappropriate compared to the other schedules.
190. The current entitlement for Schedule B crew is:
- all accommodation paid for by the employer;
  - all meals provided or reimbursed or an allowance for breakfast, lunch and dinner of \$25.13, \$28.97, \$65.42 respectively for a daily total of \$152.38;
  - a layover allowance of \$25 per layover;
  - an allowance of \$105.49 where appropriate accommodation is not provided;
  - a meal or allowance where duty commences from a layover port;
  - transport between airport and hotel and return.
191. These entitlements are similar to those available to Pilots under the *Air Pilots Award 2020* on a layover.

192. The current entitlement for Schedule C Cabin Crew is:
- appropriate accommodation and transport to be provided;
  - an incidentals allowance of \$2.16 per block hour;
  - transport between airport and hotel and return;
  - all meals or an allowance to cover all meals;
193. QANTAS Airways Limited currently meets its obligations by applying the ATO schedule under EBA 11. Applying current ATO determination TD2023/3 for crew laying over in Auckland with base salary of \$138,790 or less results in a payment per layover of \$205.
194. The current entitlement for Schedule A crew is:
- appropriate accommodation and transport between airport and hotel and return;
  - a flying allowance which includes a Daily Travel Allowance of \$5.92 per flying hour (engine start up to shut down).
195. The current Schedule A formulation for rates is not fit for purpose. Domestic crew are significantly disadvantaged with conditions below the industry standard established by Schedules B and C and other airline industry awards and operating in a manner which does not adequately recognise that a formulation based on flying hours underestimates the actual meals required. The example below sets out how unpredictable the income is for Schedule A cabin crew vis meal periods on a layover.

### **Example**

- a. Schedule B crew overnight away from home in Melbourne after working 4 flying duty hours. They will have their accommodation and meals provided or have accommodation provided and receive up to \$152.38 depending on required meals prior to flight time of next duty. They will also receive a \$25.00 layover allowance, a total of \$177.38.
  - b. Schedule A crew overnight away from home in Melbourne after working 4 flying duty hours. They will have their accommodation provided and, possibly breakfast, and receive  $4 \times \$5.92 = \$23.68$  to cover all remaining meals and incidentals.
  - c. Assuming breakfast is provided for both Schedule A and B crew, but lunch and dinner are not, Schedule A will be \$95.71 worse off having received only \$23.68 to cover lunch, dinner and incidentals. This is because Schedule B will receive \$119.39 ( $\$28.97 + \$65.42 + \$25$ ) while a Schedule A crew will receive \$23.68, the difference being \$95.71.
- d. Multi-day trips magnify the unfairness and impact which disproportionately falls on casuals who constitute most of the award reliant cohort. Award based Schedule A cabin crew have reported

to the FAAA that they cannot afford to fly on multi day trips away due to having to pay for their own meals and incidentals. The Schedule A meals and incidentals allowance is based only on flying hours. Flying hours bear no correlation in many instances to tour of duty hours and the actual meals required to be taken by the Cabin Crew member while on the duty.

#### International flying allowances minimum rates

196. The FAAA proposes that the Commission varies C.1.8 to stipulate that the amount meeting the standard described in the clause is to be agreed at each airline and will be at least equal to the ATO daily travelling allowance minimum rate as follows:

##### C.1.8 International meal allowance

When on international flying duty, employees must be provided with all meals. Meals must be of an appropriate standard. The employer may pay an allowance instead of arranging the provision of meals. Such allowance must be of an adequate standard and reflect community norms in the expected quality and adequacy of the meals intended to be covered by the allowance. The amount of the allowances provided in lieu of the employer providing the meals will be no less than the equivalent to the Australian Taxation Office ruling for travel allowance breakfast, lunch and dinner meals for the location.

197. Setting a minimum for the allowance ensures the efficacy of the clause which would otherwise not have sufficient detail for clause to operate effectively. The accommodation in which Cabin Crew are accommodated is predominantly hotel rooms, which may have a bar fridge, but without cooking facilities. As such Cabin Crew are not able to cook their own food. In addition, the carrying of organic food and materials through customs is prohibited, restricted and/or regulated in many countries. In many instances the layover time overseas may not provide sufficient time for crew to purchase groceries.
198. For an occupation which spends significant amounts of time away from home and outside of Australia, cabin crew flying internationally need to be supported to be able to purchase pre-cooked meals at restaurants which provide a suitable standard of quality. Secure work in the context of cabin crew should include the predictability of their diet and ability to plan and prepare their meals to support a healthy lifestyle. These meals taken during the course of their tours of duty make up a significant proportion of a Cabin Crew members overall diet.

#### **Casual Employment provisions**

199. Casuals are some of the most vulnerable workers in Australia, and in the airline industry, this is no different.
200. Amendments to casual employment provisions are critical to protecting the rights of casual Cabin Crew with caring responsibilities.

201. The FAAA proposes that the Commission varies clause 11 to include an entitlement for casual employees not be rostered on days they have identified they are not available as follows:

‘11.5 A casual cabin crew member will not be rostered on a day they have identified as not available.’

202. This amendment is required to ensure that a casual is not rostered on days they have identified they are not available. Casual employees at one of the major labour hire suppliers of employees to the Qantas Group, including Jetstar, report that despite their contract requirement to provide a list of their available days and non-available days to the employer, their rosters are released with work rostered on unavailable days. The employee handbook stipulates that Cabin Crew can be rostered on up to 5 unavailable days a roster. Casuals are then required to spend their own unpaid time arranging swaps within a short period or report as not available, creating additional roster instability and possible flow on of duty disruption.

203. The Altara handbook also states:<sup>77</sup>

*If cabin crew are unavailable to perform a rostered duty for reasons other than sick leave and wish to declare themselves unavailable / decline (UVL) the duty, the expectation is that cabin crew attempt to either swap out or give away the rostered duty to another Altara cabin crew member following the trip swap guidelines. Cabin crew are able to decline a rostered duty after all other attempts have been made to provide an alternate crew member, by making themselves unavailable. Please contact Jetstar Crewing and give at least 72 hours notice prior to the commencement of the rostered duty that you are declaring unavailable (UVL), however if it is a public holiday, 5 days prior notice must be provided.*

204. Casual crew are concerned about access to ongoing work if they call unavailable. The Altara handbook also states that crew with patterns of **UVL** relating to where specific days off have been requested and not granted, will be ‘performance managed’<sup>78</sup>

205. The claim that casuals can reject work ignores that perceived and actual job insecurity have been found to have negative impacts on health and well-being.<sup>79</sup> Casual labour hire cabin crew working for Altara resources and placed within the QANTAS group report that having identified, they are unavailable on, for example, the 12th of a month, have subsequently received a 3-day trip including the 12,13 and 14<sup>th</sup> of the month. If the crew pursue their unavailability to do the duty, they will not be assigned any other work for the 13<sup>th</sup> or 14<sup>th</sup> of the month.

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<sup>77</sup> Altara Cabin Crew Jetstar Handbook, July 2023, para 1.9.

<sup>78</sup> Ibid para 1.9.3

<sup>79</sup> Discussion paper at paragraph [100].



206. The proposal supports the positive achievement of the Work and Care MAO Factors and also ensures that the rights of a casual employee to indicate their availability are appropriately recognized by the safety net – which also provides protection under the General Protections provision of the FW Act. General rights under common law employment contracts of casuals are not protected as workplace rights by the General Protections provisions, leading to casuals feeling compelled to be available at all time to their employer.

Signature:

A handwritten signature in black ink, appearing to read "Teri O'Toole". The signature is written in a cursive style with a period at the end.

Name: Teri O'Toole – Federal Secretary

Date: 12 March 2024

**Amendments Sought to the Aircraft Cabin Crew Award 2020 (Work and Care)**

207. The FAAA submits that a number of insertions and variations to clauses of the ACCA are needed to ensure it adequately promotes work and care.
208. The FAAA proposes that the ACCA be amended to insert:
- a. roster notification and display provisions from clause B.4.2 into Schedules A and C and include online access as an alternative;
  - b. overtime provisions into Schedule B (which applies to regional flying crew);
  - c. a new clause B.2.4(e) to facilitate the return to home base for crew who would be forced to stay overnight away from home due to delays exceed daily hours' limitations.
  - d. daily overtime provisions for Schedules A and C where planned hours are exceeded;
  - e. penalty allowance to be paid to employees who work through meal breaks to be included in Schedule A (which applies to Domestic Cabin Crew) and Schedule C;
  - f. inclusion in Schedule A of a layover allowance where cabin crew overnight away from home on direction from the employer;
  - g. reserve duty provisions from A.9 into Schedule B and including transport entitlement from C.7 for call outs within 120 minutes of sign-on time.
  - h. Right to return home provisions into Schedule B to prevent crew being forced to stay away overnight due to daily hour limits
209. In addition, and in the order that the clauses appear in the Aircraft Cabin Crew Award 2020, the FAAA proposes the following variations:
- a. varying the definition in clause 2 for "duty" at (e) to clarify that the circumstance of reserve duty at home applies to all three schedules;
  - b. varying the definition in clause 2 to insert a definition for "displacements" and "operational reasons" in order to provide clarity and roster stability and describe the scope of what might fall within those words;
  - c. varying clause 10.1 in the part-time employment provisions so that they refer to hours less than the range of full-time hours being 33 hours per week;
  - d. varying clause 10.2 to include a specific provision regarding the pro rata entitlement for rostered days off;

- e. vary 10.3 to include the standard modern award provisions, which require that any changes to the agreed regular pattern of work be in writing and require employee consent, be attached to the employee record with a copy to be provided to the employee;
- f. varying clause 11 to include an entitlement for casuals not to be rostered on days which they have given notice they are unavailable;
- g. varying clauses 11.2 and 11.3 to include that the minimum engagement applies once a duty has been assigned and where the duty is cancelled within 24 hours and also to ensure rates are paid for all duty hours (reserve);
- h. varying clause 14.2 so that the minimum hourly rate of pay is in alignment with the full-time hours of work;
- i. varying clause 14.2 to include a skill-based classification structure;
- j. varying clause 19.2 to increase annual leave provided to Cabin Crew who regularly fly on Sundays and Public Holidays to align with that paid to shift workers;
- k. varying clauses 21.2 and 21.5 to provide that casual employees who are rostered regularly have access to Upper Respiratory Tract Infection Leave (known as URTI);
- l. varying A.1.3 to include a layover allowance that appropriately provides support for meals for Domestic Cabin Crew;
- m. varying A.3.2 and C.3.2 to include that rosters are to be available to all cabin crew ;
- n. varying clause A.3.3, B.4.5 and C.3.3 to include stability on “displacements” resulting from re-assignments due to “operational reasons”;
- o. varying clause A.3.5, Schedule B .4 and C.3 to place floor on rostering of single days off
- p. varying A.4 and C.4 to include an entitlement to be paid an allowance when an employee works on a rostered day off and also provided with a substitute day off, which may accrue up to 6 substitute days off (“**SDO**”), with an option for the employee to convert accrued days to annual leave or be paid out after six months of the SDOs not being used;
- q. varying A.3.6 and C.3.5 to provide for a missed meal break allowance at the cabin crew hourly rate pro-rated for the length of each meal break missed;
- r. varying clause A.6.1 and C.6.1 to include overtime penalties for duty hours above the planned duty for that day up to the unplanned maximum and to include an overtime rate where hours are extended beyond unplanned hours;
- s. varying clause A.6.1(c) and C.6.1(c) to include a minimum floor overtime payment for daily duty hours above the unplanned duty for that day.

- t. varying A.9, Schedule B and C.7 to include that the maximum hours between reserve sign-on and sign-off for an allocated duty is 18 hours;
- u. varying A.9 and C.7 to change the 90 minutes from contact to sign-on to 120 minutes;
- v. varying clause A.9.5, Schedule B and C.7.5 so that:
  - i. permanent employees on at-home-reserve duty before a call out is credited on a 1:3 instead of the current 1:4;
  - ii. casual employees on at-home-reserve duty before a call-out are credited on the basis of 1:3 instead of 1:4 hours and contribute to the 4-hour minimum engagement;
  - iii. clarifying that at-home-reserve duty all hours when not assigned a duty are credited to roster hours for permanent employees and duty hours for casual employees;
- w. varying clause B.2.3(a) to reduce the maximum fortnightly hours of duty from 90 hours to 72 hours;
- x. varying B.2.9 by deleting and replacing paragraph (b) with an entitlement to accrue up to 6 substitute days off ("**SDO**"), with an option for the employee to convert accrued days to annual leave or be paid out after six months of the SDOs not being used;
- y. varying C.1.8 to stipulate that the amount meeting the standard described in the clause is to be agreed at each airline and will be at least equal to the Australian Taxation Office daily travelling allowance minimum rate.

**Extract CASR 121 re: Cabin Crew Training**

**Chapter 13—Cabin crew training and checking**

**Division 1—English Language proficiency**

**13.01 Prescribed requirements for English language proficiency**

*Requirements*

- (1) For the purposes of paragraph 121.655(1)(b) of CASR, the requirements for English language proficiency that must be met by a person assigned to duty as a cabin crew member are that:
- (a) either subsection 13.02(1) (English as a foreign language tests) or subsection 13.02(2) (education or English language work experience) applies to the person; and
  - (b) the person:
    - (i) has been assessed as meeting the English language performance standard mentioned in subsection (2) by a member of the operator's personnel (the *assessor*) who is authorised by the operator to carry out the assessment; and
    - (ii) holds an assessment report issued by the assessor that states the person has met the standard.

*English language performance standard*

- (2) The English language performance standard is the ability of a person to demonstrate the person can:
- (a) pronounce words clearly, using an accent that does not cause difficulties in understanding; and
  - (b) convey information in clearly structured sentences without confusion or ambiguity; and
  - (c) use an extensive vocabulary to accurately communicate on general and technical topics, without excessive use of jargon, slang or colloquial language; and
  - (d) speak fluently without long pauses, repetition or false starts; and
  - (e) respond to communications with actions that demonstrate that the information has been received and understood; and
  - (f) exchange information clearly in a variety of situations with both expert and non-expert English speakers while giving and receiving timely and appropriate responses; and
  - (g) use appropriate techniques such as questioning, non-verbal communication and paraphrasing to validate communications.
- (3) The performance standard applies to oral and written communications and in face-to-face situations relevant to the duties and obligations of a cabin crew member in an aviation technical learning environment.

### **13.02 English language tests, education or work experience**

#### *English as a foreign language tests*

- (1) For the purposes of paragraph 13.01(1)(a), this section applies to a person who has documentary evidence that the person has completed:
- (a) the International English Language Testing System (IELTS) general or academic training module, with an overall grade of 5.5, and no individual grade in a paper lower than 5; or
  - (b) the Test of English for International Communication (TOEIC-Secure Program Public Testing Centre), with grades not less than:
    - (i) 350 for listening; and
    - (ii) 300 for reading; and
    - (iii) 160 for speaking; and
    - (iv) 140 for writing; or
  - (c) the Test of English as a Foreign Language internet-based test (TOEFL IBT) with a grade not less than 71; or
  - (d) the Test of English as a Foreign Language computer-based test (TOEFL CBT) with a grade not less than 197; or
  - (e) the Test of English as a Foreign Language paper-based test (TOEFL PB) with a grade not less than 530.

#### *Education or English language work experience*

- (2) For the purposes of paragraph 13.01(1)(a), this section applies to a person who:
- (a) has completed a minimum of 3 years of secondary education in an Australian or New Zealand education institution in which the principle language of instruction is English; or
  - (b) has completed a minimum of 3 years in a course that is at least the equivalent of an Australian secondary education in an educational institution in a country where one of the principal languages of instruction was English; or
  - (c) has worked in Australia or New Zealand for at least 3 of the 5 years immediately before commencing employment as a cabin crew member with the operator; or
  - (d) has worked in one of the following countries for at least 3 of the 5 years immediately before commencing employment as a cabin crew member with the operator:
    - (i) United Kingdom;
    - (ii) Republic of Ireland;
    - (iii) United States of America; or

- (e) has worked in Canada for at least 3 of the 5 years immediately before commencing employment with the operator as a cabin crew member and has documentary evidence showing the use of English in the workplace.

## **Division 2—Senior cabin crew members: training and checking**

### **13.03 Scope of Division 2, Chapter 13**

This Division:

- (a) is made for the purposes of paragraph 121.665(1)(b) of CASR; and
- (b) prescribes training and checking that must be successfully completed by a senior cabin crew member in relation to an aeroplane and a flight.

### **13.04 Senior cabin crew training**

Training for a senior cabin crew member must cover the duties and responsibilities of the senior cabin crew member, and include at least the following:

- (a) how to deliver briefings regarding normal, abnormal and emergency situations;
- (b) communication, cooperation and coordination with the crew and other personnel;
- (c) the operator's procedures and the requirements of the civil aviation legislation;
- (d) the administrative tasks required by the operator;
- (e) reporting systems and requirements;
- (f) fatigue management.

Note: Provisions in Part 119 relating to human factors and non-technical skills also affect the training that an operator is required to provide to senior cabin crew members:

- (a) regulation 119.180 of CASR makes it a requirement that a cabin crew member must not carry out a duty of the person's position unless the person meets the requirements in the operator's exposition about training in human factors principles and non-technical skills; and
- (b) regulation 119.175 of CASR requires the operator to have a program for training and assessing its operational safety-critical personnel in human factors principles and non-technical skills.

### **13.05 Senior cabin crew competency checks**

- (1) A competency check for a senior cabin crew member must check the competency of the person in carrying out the duties and responsibilities of the senior cabin crew member.

- (2) The senior cabin crew member must meet the competency level specified in the operator's exposition for a competency check of a senior cabin crew member.

Note: A senior cabin crew member must also meet the training and checking requirements applicable to a cabin crew member under Division 121.P.2 of Part 121 of CASR (including Divisions 4 to 7 in this Chapter).

### **Division 3—Training facilities and devices**

#### **13.06 Scope of Division 3, Chapter 13**

- (1) For the purposes of subregulation 121.680(2) of CASR, this Division prescribes requirements for a training facility or device that is used to carry out training and checking of crew members.
- (2) This Division has requirements for training facilities and the following training devices:
- (a) cabin training devices;
  - (b) emergency exit trainers;
  - (c) emergency or safety equipment;
  - (d) any other device used for:
    - (i) training or checking on emergency or safety equipment; or
    - (ii) training or checking on emergency or safety or procedures; or
    - (iii) any other training or checking.

Note 1: Under regulation 121.680 of CASR, training and checking of a cabin crew member that is carried out using a training facility or device must be carried out using a facility or device that is specified in the operator's exposition and meets the requirements prescribed by this instrument.

Note 2: A training facility or device that is used (instead of an aeroplane) to conduct an annual or 3-yearly emergency and safety equipment check of flight crew must meet the requirements prescribed under this Division for the purposes of regulation 121.680 of CASR: see paragraphs 121.610(2)(c) and 121.620(2)(b) of CASR.

Note 3: Some elements of flight crew training prescribed under Chapter 12 also require compliance with the training facility or device standards in this Division: see sections 12.03, 12.14, 12.26 and 12.31.

#### **13.07 Training facilities—general requirements**

A training facility that is used for training or checking must be equipped with the emergency and safety equipment and other devices that would enable that training or checking to be conducted in



accordance with the training and checking requirements in Part 121 of CASR, this Manual of Standards, and the operator's training and checking system.

### **13.08 Training devices—general requirements**

- (1) A device used, instead of an aeroplane, for training or checking a crew member must be capable of re-creating realistic situations for providing effective training or checking to a crew member.
- (2) A device used for training a crew member must be adequate and appropriate to ensure that the objectives of the training can be achieved.
- (3) A device used to conduct a check of a crew member must be capable of being used by the crew member to demonstrate the competencies being checked.
- (4) A device used to carry out training or checking must include the components necessary for the training or checking, including all the equipment required for the completion of practical exercises relevant to the training.

Example: A cabin training device used for firefighting training must be equipped to enable the crew member to complete practical exercises in firefighting.

#### *Multiple cabin crew environment*

- (5) If a cabin training device, or other device, is used to train crew members in operations conducted using multiple cabin crew, the device must be capable of assessing the competency of a member of the crew in a multiple cabin crew environment.

#### *Simulated scenarios generally*

- (6) A cabin training device or other device that will use a particular scenario to carry out training of a crew member in relation to an aeroplane must include any equipment, exits, aircraft systems, and other feature or component that is relevant for the scenario.

#### *Simulations for emergency procedures*

- (7) If the device is used to carry out training of a crew member in emergency procedures, it must be capable of simulating a realistic environment applicable to the relevant emergency scenario (for example, a smoke-filled cabin).

### **13.09 Firefighting training facilities and devices**

- (1) Practical training using a firefighting simulated exercise must be conducted in an area that adequately simulates the confined space and obstacles of an aircraft cabin.
- (2) Fire extinguishers used for live firefighting exercises must be charged with an agent that adequately simulates the flow rate and dispersal pattern of the agent used in fire extinguishers fitted to, or carried on, aeroplanes operated by the operator.
- (3) If a training facility or device is used to simulate a fire for live firefighting exercises, it must adequately simulate the characteristics of a fire relevant to the training (for example, flame, heat, smoke or a fire's reaction to the application of an extinguishing agent).

### **13.10 Water-survival training facilities**

If wet drills are to be, or are required by this Manual of Standards to be, conducted in a practical exercise at a training facility, the facility must have a body of water or pool of sufficient depth to enable the exercise to be realistically performed.

### **13.11 Devices used for training on emergency or safety equipment**

- (1) If training and checking for a crew member involves training or checking a crew member on emergency and safety equipment (the *relevant equipment*) fitted to, or carried on, an aeroplane, the equipment or other device used for the training or checking must be representative of the relevant equipment in accordance with this section.
- (2) Emergency or safety equipment used for the training or checking must:
  - (a) be the same, or substantially the same, equipment fitted to, or carried on, the aeroplane; and
  - (b) be capable of being used by the crew member to demonstrate a competency:
    - (i) relating to the functionality, purpose or use of the equipment that is fitted to, or carried on, the aeroplane; and
    - (ii) that is the subject of the training.
- (3) A device used for the training or checking, that incorporates emergency or safety equipment, must:
  - (a) have incorporated into the device equipment that is the same, or substantially the same, emergency or safety equipment fitted to, or carried on, the aeroplane; and
  - (b) be capable of being used by the crew member to demonstrate a competency:
    - (i) relating to the functionality, purpose or use of the emergency or safety equipment that is fitted to, or carried on, the aeroplane; and
    - (ii) that is the subject of the training.

### **13.12 Cabin training devices etc. must be representative**

- (1) This section applies to a cabin training device, exit trainer and any other device that is used for training or checking a crew member in relation to an aeroplane type.
- (2) Any dials, handles, switches, restraint brackets and mounting devices that are included in the device must be representative of those fitted to, or carried on, an aeroplane of that type, in respect of:
  - (a) their operation; and
  - (b) any force required for their operation.
- (3) The direction of movement, associated forces and travel of all controls on equipment in the device must be representative of the equipment fitted to, or carried on, an aeroplane of that type, including the weight of an emergency exit operated without power assist.

- (4) The weight of any emergency exit hatch included in the device, must be representative of the emergency hatch fitted to the aeroplane.
- (5) Emergency and safety equipment included in the device must be:
  - (a) secured in brackets or mounting devices that are representative of those found on an aeroplane of that type;  
and
  - (b) located and stowed in a way representative of the location and stowage of the equipment on an aeroplane of that type.

### **13.13 Devices for emergency evacuation and emergency exit training**

- (1) A cabin training device used to carry out training of a crew member in emergency evacuations of an aeroplane using a particular scenario, must also include the features that are relevant in the scenario, including:
  - (a) the capability to operate exits in both normal and emergency modes, particularly in relation to the method of operation and the ways of operating the exits;
  - (b) the width, height and angle of inflated evacuation slides that are representative of those used for an aeroplane of that type;
  - (c) operational exits sufficient to carry out practical training of a crew member in relation to the aeroplane;
  - (d) a simulation of an unserviceable exit or exits;
  - (e) a simulation of hazards at emergency exits, for example, an obstacle, or fire or water.
- (2) An emergency exit trainer, cabin training device or other device used for training or checking of a crew member in the operation of an emergency exit for an aeroplane type, must also meet the following requirements:
  - (a) it must replicate the size and weight of an emergency exit of an aeroplane of that type;
  - (b) it must replicate the operating characteristics of the exit;
  - (c) it must permit the exit to be operated in both normal and emergency modes, particularly in relation to the method of operation and the forces required to operate them.

#### **Division 4—Initial training for cabin crew**

Note 1: Provisions in Part 119 of CASR relating to human factors and non-technical skills also affect the training that an operator is required to provide to cabin crew members. A cabin crew member must meet the requirements in the operator's exposition about training in human factors principles and non-technical skills before carrying out a duty of the person's position: see regulation 119.180 of CASR. Regulation 119.175 of CASR requires the operator to have a program for training and assessing its operational safety-critical personnel in human factors principles and non-technical skills.

Note 2: Other CASR provisions may affect the training that an operator is required to provide to cabin crew members. For example, Australian aircraft operators must ensure that certain of its employees undertake

dangerous goods training in accordance with regulation 92.110 of CASR before the employee first performs certain duties for the operator.

Note 3: Other Commonwealth legislation such as the *Navigation Act 2012*, the *Aviation Transport Security Act 2004*, and the *Transport Safety Investigation Act 2003* may also affect the training that an operator is required to provide to cabin crew members.

#### **13.14 Scope of Division 4, Chapter 13**

This Division is:

- (a) made for paragraph 121.710(b) of CASR; and
- (b) prescribes requirements for initial training for a cabin crew member in relation to an operator and an aeroplane.

#### **13.15 Cabin crew—knowledge of aviation, regulations, duties and responsibilities**

- (1) Initial training for a cabin crew member must include the training necessary to familiarise the cabin crew member with:
  - (a) the aviation environment, including aviation terminology, the theory of flight and aircraft operations; and
  - (b) the civil aviation legislation applicable to the cabin crew member's duties and responsibilities; and
  - (c) the authority and responsibilities, under the civil aviation legislation, of the pilot in command; and
  - (d) the knowledge, skills and competencies required to perform the duties and responsibilities of the position occupied by the cabin crew member, including on the matters set out in subsection (2).
- (2) For paragraph (1)(d), initial training must include training on the following matters:
  - (a) the cabin crew member's duties and responsibilities during operations, including the need to respond promptly and effectively to emergency situations;
  - (b) the requirements for continuing competence and fitness to operate as a cabin crew member, including the management of fatigue;
  - (c) responsibilities in ensuring that relevant documents and manuals are kept up-to-date;
  - (d) responsibilities in ensuring that the cabin crew member performs his or her duties in accordance with the operator's exposition;
  - (e) identifying when cabin crew members have the authority and responsibility to initiate an evacuation and any other emergency procedure.

#### **13.16 Cabin crew—effective communication and coordination**

- (1) Initial training for a cabin crew member must include training on the importance of effective communication and coordination:

- (a) between crew members; and
  - (b) between cabin crew members and other parties (such as passengers, dispatchers and other external agencies) in normal, abnormal and emergency situations.
- (2) The training must cover:
- (a) communication techniques and the use of common language and terminology; and
  - (b) the importance of pre-flight briefings and communicating necessary safety information during the briefing (between the crew, or the operator and the crew); and
  - (c) the importance of coordination between cabin crew and flight crew for operational safety when applying procedures, particularly in abnormal and emergency situations.

**13.17 Cabin crew—fire and smoke: initial training**

- (1) Initial training for a cabin crew member must include training in fire and smoke detection and suppression, including training in:
- (a) the importance of:
    - (i) frequently checking potential fire-risk areas including the toilets and any associated smoke detectors; and
    - (ii) dealing promptly with emergencies involving fire and smoke; and
    - (iii) correctly identifying the source of the fire; and
    - (iv) informing the flight crew as soon as practicable; and
    - (v) taking specific actions necessary for coordination and assistance when fire or smoke is discovered;
  - (b) the classification of fires and the appropriate type of extinguishing agents for each classified type of fire;
  - (c) firefighting techniques for particular fire situations, including techniques for the application of extinguishing agents;
  - (d) the consequences of misapplication of extinguishing agents and of using extinguishing agents in a confined space;
  - (e) the effects of smoke in an enclosed area;
  - (f) the visual restrictions associated with using smoke protection equipment relevant to aviation;
  - (g) the procedures of ground-based emergency services relevant to general fire and smoke emergency procedures for cabin crew.
- (2) On and after 2 December 2023, the training must also include practical training in firefighting that covers:
- (a) extinguishing a fire; and

- (b) using the firefighting equipment, specified for the purpose in the operator's exposition, in a smoke-filled (or simulated smoke-filled) environment.

Note 1: The practical training mentioned in paragraph (2)(a) is a live firefighting exercise and therefore must meet the requirements in subsections 13.09(2) and (3).

Note 2: The practical training mentioned in paragraph (2)(b) must meet the requirements in subsection 13.09(1).

Note 3: Subsection (2) does not require the firefighting equipment to be specific to a particular aeroplane type, since the requirement to use aeroplane-specific type equipment is covered by conversion training and the 3-yearly training requirements.

### **13.18 Cabin crew—general-survival training**

- (1) Initial training for a cabin crew member must include training in survival methods on land and water appropriate to the operator's areas of operation.
- (2) The training must include practical training using survival equipment determined by the operator, under the procedures mentioned in regulation 121.340 of CASR, for an aeroplane in respect of which the cabin crew member has been assigned duties.

### **13.19 Cabin crew—water-survival training**

#### *Life jackets*

- (1) The requirements in subsection (2) apply if:
  - (a) life jackets are, under section 11.59, required to be carried for a flight of an aeroplane operated by the operator; and
  - (b) the cabin crew member is assigned to duty for a flight of the aeroplane.
- (2) The training must include a comprehensive drill requiring the cabin crew member to:
  - (a) don a life jacket; and
  - (b) practice, in water, the techniques that maximise survival time in the water.

#### *Life rafts, slide rafts and associated equipment*

- (3) The requirements in subsection (4) apply if:
  - (a) life rafts are, under section 11.62, required to be carried for a flight of an aeroplane operated by the operator; and
  - (b) the cabin crew member is assigned to duty for a flight on the aeroplane.
- (4) The following requirements must be met:
  - (a) training of the cabin crew member must include a demonstration of:

- (i) the inflation of life rafts and slide rafts carried on the aeroplane; and
  - (ii) any life-saving equipment or survival equipment for the rafts mentioned in regulation 121.335 or 121.340 of CASR;
- (b) the training must include a comprehensive drill requiring the cabin crew member to:
- (i) practice boarding the life raft in water; and
  - (ii) practice using the life-raft equipment in water.

### **13.20 Cabin crew—first-aid training**

#### *Basic first-aid training*

- (1) Initial training for a cabin crew member must include basic first-aid training that includes instruction about treating the following:
- (a) airsickness;
  - (b) gastro-intestinal disturbances;
  - (c) hyperventilation;
  - (d) burns;
  - (e) wounds;
  - (f) an unconscious person;
  - (g) fractures and soft tissue injuries.

#### *In-flight emergencies and associated first aid*

- (2) Initial training must include instruction on in-flight medical emergencies and associated first aid on treating the following:
- (a) asthma;
  - (b) stress and allergic reactions;
  - (c) shock;
  - (d) burns;
  - (e) choking;
  - (f) epilepsy;
  - (g) childbirth;
  - (h) stroke;

- (i) heart attack.

*First-aid equipment and CPR*

- (3) The training must include instruction and practical training on:
  - (a) the use of appropriate equipment, including first-aid oxygen, first-aid kits, universal precaution kits and emergency medical kits and their contents; and
  - (b) practical cardio-pulmonary resuscitation that takes account of an aircraft environment.

**13.21 Cabin crew—training for passenger handling**

Initial training for a cabin crew member must include training on passenger handling, including:

- (a) the importance of correct passenger seat allocation, as follows:
  - (i) correct seat allocation with reference to weight and balance;
  - (ii) correct seat allocation of special categories of passenger (for example, passengers who are ill or incapacitated, with reduced mobility, or restricted passengers);
  - (iii) the necessity of seating suitable persons in emergency exit row seats; and
- (b) regulatory requirements concerning the safe stowage of cabin baggage and cabin service items and the associated risks to safety, for example, that baggage (including a portable electronic device) or service items can:
  - (i) become a hazard to occupants; and
  - (ii) obstruct or damage the emergency equipment or exits; and
- (c) precautions for when live animals are carried in the passenger compartment; and
- (d) the handling of a death on board; and
- (e) the identification of passengers affected by psychoactive substances.

**13.22 Cabin crew—training in the physiological effects of flying**

Initial training for a cabin crew member must include training about the physiological effects of flying, including instruction on the following:

- (a) hypoxia;
- (b) oxygen requirements;
- (c) the atmosphere and atmospheric pressure;
- (d) pressurised and non-pressurised aircraft cabins;



- (e) the physiological effects of pressure changes in the body, dealing with, for example, gases, cavities, sinuses, eustachian tubal function and barotrauma;
- (f) time of useful consciousness.

## **Division 5—Conversion training for cabin crew**

### **13.23 Scope of Division 5, Chapter 13**

This Division:

- (a) is made for paragraph 121.715(2)(a) of CASR; and
- (b) prescribes requirements for conversion training for a cabin crew member in relation to an operator and an aeroplane type.

Note: Provisions in Part 119 of CASR relating to human factors and non-technical skills also affect the training that an operator is required to provide to cabin crew members:

- (a) a cabin crew member must meet the requirements in the operator's exposition about training in human factors principles and non-technical skills before carrying out a duty of the person's position: see regulation 119.180 of CASR; and
- (b) regulation 119.175 of CASR requires the operator to have a program for training and assessing its operational safety-critical personnel in human factors principles and non-technical skills.

### **13.24 Cabin crew—fire and smoke: conversion training**

- (1) Conversion training for a cabin crew member for an aeroplane type must include training on:
  - (a) the use of firefighting and any related equipment (for example, protective clothing, smoke protection) fitted to, or carried on, an aeroplane of the aeroplane type;
  - (b) drills for firefighting.
- (2) The training must include a practical component in which the cabin crew member participates in a firefighting simulated exercise for the practice of what has been covered by the training.

Note 1: Training that requires the use of emergency and safety equipment in relation to an aeroplane type must use equipment that is representative of equipment fitted to, or carried on, an aeroplane of the type: see section 13.11.

Note 2: Practical training that uses a firefighting simulated exercise must meet the requirements in subsection 13.09(1).

### **13.25 Cabin crew—doors and exits: conversion training**

- (1) Conversion training for a cabin crew member for an aeroplane type must include training on the operation of each door and exit (including any flight deck window or hatch):
  - (a) fitted to each model or variant of an aeroplane of the aeroplane type to which the crew member has been assigned duties; and
  - (b) in normal and emergency mode.
- (2) Training must include use of the means (not including evacuation slides) for assisting evacuation on the aeroplane, for example, escape ropes.

Note: Requirements for training on evacuation slides are provided for in section 13.26.

- (3) The training must include a demonstration, given to the cabin crew member, of the operation of the flight deck exits (other than a flight crew compartment security door), in normal and emergency modes.
- (4) The training must include a practical component in which the cabin crew member:
  - (a) operates and opens each of the exits covered by the training (other than a flight deck exit whose operation is demonstrated under subsection (3)), in normal and emergency modes; and
  - (b) if escape ropes are carried on the aeroplane—prepares the escape ropes (other than flight deck escape ropes) for use in an evacuation, up to the point of (but not including) evacuating using the ropes.

### **13.26 Cabin crew—evacuation slides**

- (1) Conversion training for a cabin crew member for an aeroplane type must include training on the use of each evacuation slide that is fitted to, or carried on, an aeroplane of the type (the *first-mentioned aeroplane*).
- (2) If:
  - (a) the crew member is assigned to duty on another aeroplane of the aeroplane type; and
  - (b) an evacuation slide fitted to, or carried on, the aeroplane is different to an evacuation slide fitted to, or carried, on the first-mentioned aeroplane;then conversion training must include training on the use of the different slide.
- (3) The training must include a practical component requiring the cabin crew member to safely complete a descent using an evacuation slide representative of one fitted to an aeroplane of the aeroplane type.
- (4) For the purposes of subsection (3), if the aeroplanes of the aeroplane type have more than one passenger deck, the descent using an evacuation slide is required to be conducted from the height of the lower passenger deck only.
- (5) Despite subsection (3), a descent in relation to an aeroplane of the aeroplane type (the *relevant aeroplane*) need not be conducted if:
  - (a) the crew member has completed a descent when undertaking conversion training for an aeroplane of a different aeroplane type with the same operator; and

- (b) any difference in the characteristics of the evacuation slide used for that descent (such as height or width of the slide, or angle of the slide with respect to the ground) are not significant enough to affect the outcomes of the training regarding the crew member's competency to perform a descent using an evacuation slide for the relevant aeroplane.

### **13.27 Cabin crew—crew incapacitation procedures**

- (1) Conversion training for a cabin crew member and an aeroplane of the aeroplane type must include training on:
  - (a) how cabin crew are to respond in the event of crew incapacitation during normal, abnormal and emergency situations; and
  - (b) the aeroplane type specific elements and conditions relevant to the response.
- (2) The training must include instruction on how to operate any equipment fitted to, or carried on, the aeroplane that relates to treating an incapacitated crew member (for example, flight crew seats, flight deck oxygen).
- (3) The training must include a practical component in which the cabin crew member participates in simulated realistic scenarios that allow practice in what has been covered by the training.

### **13.28 Cabin crew—aircraft systems: conversion training**

- (1) Conversion training for a cabin crew member for an aeroplane type must include training on the location and use of the aircraft systems of an aeroplane of the aeroplane type, that are relevant to the duties of a cabin crew member.
- (2) The training must include a practical component in which the cabin crew member participates in simulated realistic scenarios that allow practice in what has been covered by the training.

### **13.29 Cabin crew—normal, abnormal and emergency procedures: conversion training**

- (1) Conversion training for a cabin crew member for an aeroplane type must include training on the operator's normal, abnormal and emergency procedures for an aeroplane of the aeroplane type.
- (2) The training must cover standard operating procedures that relate to the cabin crew member's safety-related duties and responsibilities during normal day-to-day operations, including the following:
  - (a) safety procedures for normal operations;
  - (b) management of the cabin environment;
  - (c) procedures for turbulence;
  - (d) the operation of equipment and aircraft systems;
  - (e) management of, and assistance to, the passengers;
  - (f) communication and coordination with crew members and other personnel who have safety-related duties (for example, ground crew);

- (g) security requirements and procedures.
- (3) The training must cover emergency procedures for abnormal and emergency situations in flight and on the ground, including the following:
  - (a) firefighting;
  - (b) smoke or fumes in the cabin;
  - (c) cabin pressurisation problems and decompression;
  - (d) unlawful interference;
  - (e) anticipated and unanticipated landing or ditching;
  - (f) rapid disembarkation;
  - (g) evacuation on land and water;
  - (h) crew communication and coordination (within the meaning of subsection 13.16(1));
  - (i) passenger handling and crowd control.
- (4) The training must include a practical component in which the cabin crew member participates in simulated realistic scenarios that allow the crew member to practice what is covered by the training.

## **Division 6—Annual training for cabin crew**

### **13.30 Scope of Division 6, Chapter 13**

This Division:

- (a) is made for subregulation 121.725(1) of CASR; and
- (b) prescribes requirements for annual training for a cabin crew member in relation to an operator and an aeroplane type.

Note: Provisions in Part 119 of CASR relating to human factors and non-technical skills also affect the training that an operator is required to provide to cabin crew members:

- (a) a cabin crew member must meet the requirements in the operator's exposition about training in human factors principles and non-technical skills before carrying out a duty of the person's position: see regulation 119.180 of CASR; and
- (b) regulation 119.175 of CASR requires the operator to have a program for training and assessing its operational safety-critical personnel in human factors principles and non-technical skills.

### **13.31 Cabin crew—general requirements: annual training**

Annual training mentioned in this Division must, in relation to any emergency or safety equipment covered by the training:

- (a) give a general description of the equipment;
- (b) instruct about pre-flight serviceability of the equipment;
- (c) instruct about the operation of the equipment;
- (d) instruct about the conditions required for the operation of the equipment;
- (e) instruct on the operational limitations of the equipment and duration of use;
- (f) instruct on precautions for use of the equipment;
- (g) instruct about the failure modes of the equipment;
- (h) instruct about the location of the equipment;
- (i) instruct on the relevant communication and coordination activities with crew members and other personnel.

### **13.32 Cabin crew—emergency and safety equipment: annual training**

- (1) Annual training for a cabin crew member must include training on emergency or safety equipment to which this section applies.
- (2) This section applies to each of the following items of emergency or safety equipment fitted to, or carried on, an aeroplane of the aeroplane type in relation to which the cabin crew member has been assigned duties (the *first-mentioned aeroplane*):
  - (a) survival equipment required under section 11.13;
  - (b) signalling equipment required under section 11.13;
  - (c) oxygen equipment required under Division 9 of Chapter 11;
  - (d) a survival ELT required under Division 10 of Chapter 11;
  - (e) each item of portable equipment required under Division 11 of Chapter 11;
  - (f) life jackets required under section 11.59;
  - (g) life rafts required under section 11.62.
- (3) If:
  - (a) the crew member is assigned to duty on another aeroplane of the aeroplane type; and
  - (b) an item of emergency or safety equipment fitted to, or carried on, the other aeroplane is different to any of the items fitted to, or carried on, the first-mentioned aeroplane;

then subsection (1) applies to that item of equipment.

- (4) If life jackets are carried on an aeroplane of the aeroplane type in relation to which the crew member has duties, the training must include donning of life jackets.
- (5) If an aeroplane of the aeroplane type in relation to which the crew member has duties carries portable supplemental oxygen, first-aid oxygen or protective breathing equipment—the training must include donning of the equipment.
- (6) The training must include a practical component in which the cabin crew member:
  - (a) practices handling the equipment to which this section applies (other than the equipment mentioned in subsection (7)); and
  - (b) participates in simulated realistic scenarios that allow practice in what has been covered by the training as it relates to the equipment.
- (7) The requirements in subsection (6) do not apply in relation to:
  - (a) life rafts, slide rafts, survival ELTs or signalling equipment; or
  - (b) if other survival equipment has been determined by the operator, using the procedures mentioned in regulation 121.340 of CASR, for an aeroplane of the aeroplane type in relation to which the cabin crew member has been assigned duties—that equipment.

Note: Training that requires the use of emergency and safety equipment must use equipment that is representative: see section 13.11.

### **13.33 Cabin crew—doors and other exits for passenger evacuation: annual training**

#### *Application*

- (1) This section applies to a normal and emergency exit:
  - (a) fitted to an aeroplane of the aeroplane type in relation to which the cabin crew member has been assigned duties (the *first-mentioned aeroplane*); and
  - (b) that enables passenger evacuation (a *passenger evacuation exit*).
- (2) If:
  - (a) the crew member is assigned to duty on another aeroplane of the aeroplane type; and
  - (b) a passenger evacuation exit on the aeroplane is different to any of the passenger evacuation exits on the first-mentioned aeroplane;

then this section also applies to that exit.

#### *Training on operating the exits and evacuation procedures*

- (3) Annual training for the crew member must cover:

- (a) the operation of each of the exits to which this section applies in normal and emergency mode; and
- (b) the evacuation procedures that relate to using the exits for passenger evacuation.

*Means for assisting evacuation*

- (4) The training must include instruction on use of the means for assisting evacuation on the aeroplane to which the exit is fitted (for example, escape ropes or evacuation slides).

*Practical component*

- (5) The training must include a practical component in which the cabin crew member:
  - (a) operates and opens, in normal and emergency mode, the exits for which the cabin crew member has been assigned responsibility, as required by the operator's evacuation procedures; and
  - (b) participates in simulated realistic scenarios that allow practice in what has been covered by the training.

*Flight crew compartment security door*

- (6) The training must also include:
  - (a) instruction on the operation of the flight crew compartment security door fitted to the first-mentioned aeroplane; and
  - (b) if:
    - (i) the cabin crew member is assigned to duty on another aeroplane of the aeroplane type (the *second-mentioned aeroplane*); and
    - (ii) the flight crew compartment security door on the second-mentioned aeroplane is different to the one fitted on the first-mentioned aeroplane;

instruction on the operation of the door fitted to the second-mentioned aeroplane.

**13.34 Cabin crew—abnormal, emergency and safety procedures: annual training**

- (1) Annual training for a cabin crew member for an aeroplane type must include training on the operator's abnormal, emergency and safety-related procedures for an aeroplane of the aeroplane type.
- (2) The training must cover safety-related procedures for the following:
  - (a) stowage of articles in the cabin;
  - (b) turbulence;
  - (c) the operation of equipment and aircraft systems that are relevant to the duties of a cabin crew member;
  - (d) the physiological effects of flying, including hypoxia, oxygen requirements, pressurisation in the atmosphere and the cabin, effects of pressure changes on the body and time of useful consciousness;

- (e) the provision of first aid on an aeroplane and treatment of the physiological effects of flying, including the use of equipment for the purpose;
  - (f) communication and coordination with crew members and other personnel who have safety-related duties (for example, ground crew);
  - (g) security requirements and procedures.
- (3) The training must cover emergency procedures for abnormal and emergency situations in flight and on the ground, including the following:
- (a) firefighting;
  - (b) smoke or fumes in the cabin;
  - (c) cabin pressurisation problems and decompression;
  - (d) unlawful interference;
  - (e) anticipated and unanticipated landing or ditching;
  - (f) rapid disembarkation;
  - (g) evacuation on land and water;
  - (h) crew communication and coordination (within the meaning of subsection 13.16(1));
  - (i) crew incapacitation;
  - (j) passenger handling and crowd control.
- (4) The training must also cover:
- (a) post-accident survival techniques on land and water and the use of related survival equipment; and
  - (b) reviewing incidents and accidents that are relevant to the operator and a flight of the aeroplane.
- (5) The training must include a practical component in which the cabin crew member participates in simulated realistic scenarios that collectively allow practice in at least the following matters covered by the training:
- (a) crew communication and coordination;
  - (b) firefighting;
  - (c) cabin pressurisation problems and decompression;
  - (d) crew incapacitation;
  - (e) evacuation on land and on water.



## **Division 7—Three-yearly training and checking for cabin crew**

### **13.35 Three-yearly training requirements**

(1) This section:

(a) is made for subregulation 121.735(1) of CASR; and

(b) prescribes requirements for 3-yearly training for a cabin crew member in relation to the operator of an aeroplane and the aeroplane type.

Note: Provisions in Part 119 of CASR relating to human factors and non-technical skills also affect the training that an operator is required to provide to cabin crew members:

(a) a cabin crew member must meet the requirements in the operator's exposition about training in human factors principles and non-technical skills before carrying out a duty of the person's position: see regulation 119.180 of CASR; and

(b) regulation 119.175 of CASR requires the operator to have a program for training and assessing its operational safety-critical personnel in human factors principles and non-technical skills.

(2) Three-yearly training must include the following:

(a) training in the method of opening the flight crew compartment security door (if any) in emergency mode;

(b) practical training in the operation of any other exit on the aeroplane that enables passenger evacuation and is not covered by the training in section 13.33;

(c) training in the use of the means for assisting evacuation in relation to an exit mentioned in paragraph (b) (for example, escape ropes or evacuation slides);

(d) if life rafts are, under section 11.62, required to be carried on the aeroplane—practical training in the use of a life raft and its associated equipment;

(e) practical training in the use of a survival ELT, and any other signalling equipment, fitted to, or carried on, the aeroplane;

(f) practical training in the use of the flight crew seats, restraint system and oxygen system fitted to, or carried on, the aeroplane, for the purpose of responding to pilot incapacitation;

(g) training on firefighting that requires the cabin crew member to complete a simulated firefighting exercise:

(i) using all of the firefighting equipment for the cabin crew member's duties on the aeroplane, including the donning and use of protective clothing and protective breathing equipment; and

(ii) which, on and after 2 December 2023, must be conducted in a smoke-filled or simulated smoke-filled environment.

Note: Practical training that uses a firefighting simulated exercise must meet the requirements in subsection 13.09(1).

## **Chapter 14—Emergency evacuation demonstrations and procedural requirements**

### **Division 1—General emergency evacuation procedure requirements**

#### **14.01 Scope of Chapter 14**

This Chapter:

- (a) is made for subregulation 121.755(1) of CASR; and
- (b) prescribes requirements for emergency evacuation procedures in relation to an aeroplane and a flight.

#### **14.02 General requirements**

The emergency evacuation procedures must:

- (a) account for the aeroplane carrying the number of passengers that corresponds to the aeroplane's maximum operational passenger seat configuration; and
- (b) provide for evacuations on ground and in water (ditching); and
- (c) be realistic, capable of being practically accomplished and such as to ensure that any reasonably anticipated emergency can be adequately handled; and
- (d) take into consideration the possible incapacitation of individual crew members.

#### **14.03 Crew members, emergency exits and cabin configuration etc.**

The emergency evacuation procedures must be appropriate having regard to the following matters:

- (a) the number of crew members;
- (b) the locations on the aeroplane at which a crew member is assigned;
- (c) the emergency evacuation duties and procedures assigned to each crew member;
- (d) the number, location, type of emergency exit or type of opening mechanism on an emergency exit available for evacuation in the aeroplane;
- (e) if the aeroplane is required by section 11.62 to carry one or more life rafts—the location of life rafts;
- (f) the way the passenger cabin interior configuration affects the emergency evacuation of passengers.

## **Division 2—Aeroplanes carrying more than 44 passengers**

### **14.04 Application etc.**

- (1) This Division applies in relation to an aeroplane that has a maximum operational seating configuration of more than 44 passengers.
- (2) The requirements of this Division are in addition to the requirements in Division 1 of this Chapter.

### **14.05 Emergency evacuation procedures**

- (1) An operator's emergency evacuation procedures for an aeroplane must ensure the crew members can achieve an evacuation capability at least equivalent to that achieved in an emergency evacuation demonstration that:
  - (a) was conducted by the aeroplane's manufacturer for the purpose of the type certification of the aeroplane; and
  - (b) meets the requirements of regulation 25.803 of the FARs, CS-25.803, or other requirements that CASA approves, in writing, as being of an equivalent standard.
- (2) If the aeroplane is required under section 11.62 to carry one or more life rafts, the emergency evacuation procedures related to the ditching of the aeroplane must ensure the removal of rafts and the evacuation of the occupants of the aeroplane will be conducted in an orderly and expeditious manner.
- (3) The emergency exits identified as being the primary responsibility of cabin crew members for the purposes of the emergency evacuation demonstration mentioned in subsection (1) must continue to be required, by the emergency evacuation procedures for the aeroplane, to be the primary responsibility of cabin crew members.
- (4) To avoid doubt, the requirement in subsection (3) does not prevent additional emergency exits becoming the primary responsibility of cabin crew members under the emergency evacuation procedures.

### **14.06 Requirement to conduct demonstrations**

- (1) An operator must demonstrate to CASA the emergency evacuation procedures for an aeroplane to the extent required by this Division.

Note: The demonstration of emergency evacuation procedures required by this Division is a demonstration commonly understood to be a "partial" emergency evacuation demonstration. This is because it is not the full emergency evacuation demonstration that is required as part of an aircraft's initial type certification.

- (2) A demonstration of the emergency evacuation procedures in relation to an aeroplane must be conducted:
  - (a) before the type and model of aeroplane is operated in an Australian air transport operation by an operator; and
  - (b) before the aeroplane is operated under an Australian air transport AOC following a change listed below that has not previously been demonstrated to CASA for the aeroplane:
    - (i) a reduction in the number of cabin crew members assigned to duty for the aeroplane;

- (ii) a change to the locations on the aeroplane at which a cabin crew member is assigned, or to the crew's emergency evacuation duties and procedures;
- (iii) a change to the number, location, type of emergency exit or type of opening mechanism on an emergency exit that is available for evacuation of the aeroplane.

*Ditching procedures*

- (3) If the aeroplane is required under section 11.62 to carry one or more life rafts, CASA may require the operator, by notice in writing, to conduct a demonstration of the procedures related to the ditching of the aeroplane (the *ditching procedures*).
- (4) In considering whether to require a demonstration of the ditching procedures, CASA may take into account:
  - (a) the availability and realism of facilities, cabin training devices and equipment used by the operator for training crew members on emergency and safety equipment and emergency procedures; and
  - (b) any ditching demonstrations the operator has carried out on an aeroplane of a similar type; and
  - (c) any other factor CASA considers relevant.
- (5) A demonstration of ditching procedures may be conducted:
  - (a) during the emergency evacuation demonstration required under subsection (2); or
  - (b) at another time, as directed by CASA.

Note: As a matter of normal practice, CASA will work with an operator to identify a mutually agreeable time and place for the demonstration of ditching procedures. Ultimately, CASA can provide a direction as to the time and place even where no such agreement can be reached.

**14.07 Demonstration requirements**

- (1) A demonstration to CASA of the emergency evacuation procedures of the aeroplane, including the ditching procedures if required under subsection 14.06(3), must be conducted in simulated emergency conditions.
- (2) Each crew member who participates in the demonstration must:
  - (a) have assigned duties for the type and model of aeroplane; and
  - (b) have been selected at random by CASA from a list of crew for the aeroplane compiled by the operator:
    - (i) for the purpose of testing the procedures with members of the crew who do not have an above average level of experience or exposure to emergency evacuation requirements; and
    - (ii) given to CASA; and
  - (c) have been assessed by the operator as competent to perform duties relevant to carrying out the emergency evacuation procedures and associated safety briefings for the type and model of aeroplane.

- (3) The operator must not cause the demonstration to have been practiced, rehearsed with, or described to, a participant, except as mentioned in subsection (4).
- (4) For the purposes of subsection (3), a participant may be advised only that he or she will be participating in an evaluation of safety procedures.

#### **14.08 Standards for demonstrations**

- (1) CASA must be satisfied that the emergency evacuation procedures for an aeroplane would enable the crew members to achieve the requirement in subsection 14.05(1).
- (2) A demonstration of the emergency evacuation procedures for the aeroplane must also meet the following standards:
  - (a) the cabin crew members, using the operator's emergency evacuation procedures, must:
    - (i) open 50% of the required floor level emergency exits; and
    - (ii) open 50% of the required non-floor level emergency exits;
  - (b) the emergency exits opened for the purposes of paragraph (a) must not include an exit if CASA has (for the purposes of the demonstration) identified that an unsafe condition exists outside the exit;
  - (c) the emergency exits must be ready for use within 15 seconds from the prearranged signal notified to the operator.
- (3) For the purposes of subsection (2), an emergency exit is a **required** emergency exit if:
  - (a) it was present at the time of the emergency demonstration evacuation mentioned in subsection 14.05(1) for the aeroplane; and
  - (b) the operator's procedures provide that the opening of the exit is a primary responsibility of a cabin crew member.

Note: The emergency demonstration evacuation mentioned in subsection 14.05(1) is a full evacuation demonstration conducted for the purposes of the certification of the aeroplane.

- (4) An emergency exit is **ready for use within 15 seconds** if:
  - (a) the emergency exit has been fully opened; and
  - (b) any other means required for a passenger to reach the ground using the exit (for example, an evacuation slide) would be ready within that time; and
  - (c) where those means are not physically deployed—the time it would take to deploy them for the use of the emergency exit is taken into account in the 15 seconds.

Note: For example, if it was determined that the slide deployment time for a type of aeroplane is 4 seconds, the measured time to open the relevant emergency exit would be 11 seconds.

- (5) If the operator is required to conduct a demonstration of ditching procedures for the aeroplane, the standard that must be met is that CASA is satisfied the ditching procedures meet the requirement in subsection 14.05(2).

#### **14.09 Manner of conducting demonstration**

##### *Emergency evacuation procedures*

- (1) A demonstration of the emergency evacuation procedures for an aeroplane must be conducted as follows:
- (a) either during the dark of the night or during daylight with the dark of the night simulated;
  - (b) the aeroplane is in a normal ground attitude with landing gear extended;
  - (c) the following methods be used to prevent disclosure of the available emergency exits to participants in the demonstrations:
    - (i) stands or ramps be positioned at all of the aeroplane's emergency exits;
    - (ii) if the crew would be able to see the means being used to indicate unusable exits before the signal to evacuation is given—the relevant passenger and cockpit windows are blacked out;
  - (d) the aeroplane's normal electrical power sources are de-energised at the commencement of the evacuation;
  - (e) each item of equipment:
    - (i) required to be carried on the aeroplane for the flight by Chapter 11; and
    - (ii) relevant to the conduct of an emergency evacuation demonstration under this Division;must be fitted to, or carried on, the aeroplane;
  - (f) each external door or other exit, and each internal door or curtain, must be in a position to simulate a normal take-off;
  - (g) a member of the cabin crew or the flight crew, or any other crew member or member of the operator's personnel who maintains or operates the aeroplane in the normal course of their duties, must not be used as a passenger in the demonstration;
  - (h) a passenger is not to be assigned a specific seat except under the direction of CASA;
  - (i) if the opening of an emergency exit is not the primary responsibility of a cabin crew member under the emergency evacuation procedures—an employee of the operator is not to be seated next to that exit;
  - (j) seatbelts and shoulder harnesses for the participants in the demonstration are fastened;
  - (k) the seating density and arrangement of the aeroplane is representative of the maximum operational passenger seat configuration of the aeroplane;

- (l) the crew complement on board is not to exceed the number normally carried, with each crew member to be a member of a regularly scheduled line crew;
- (m) each crew member is seated in the seat that is normally assigned to the person for take-off and is to remain seated until the signal to evacuate is given;
- (n) a crew member or a passenger participating in a demonstration is not given prior knowledge of the emergency exits available for the demonstration;
- (o) the demonstration must not include as a participant a person who has taken part in an evacuation demonstration within the preceding 6 months;
- (p) the pre-take-off procedures included in the operator's exposition are demonstrated, including instructions to follow the directions of crew members, except no instruction can be given on the procedures to be followed in the demonstration;
- (q) no more than 50% of the emergency exits on the sides of the fuselage of an aeroplane are used for the evacuation demonstration;
- (r) at least one exit used for the demonstration is a floor level exit;
- (s) any exit not used for the demonstration must be indicated by red lights, red tape, or other appropriate means, placed outside the exit to indicate fire or other reason for the exit to be unusable;
- (t) the emergency evacuation procedures are to be demonstrated, except that the flight crew must not take an active role in assisting any person inside the cabin during the demonstration.

*Demonstration of ditching procedures—other requirements and standards*

- (2) If the demonstration includes ditching procedures, the following requirements apply:
  - (a) the demonstration must include:
    - (i) removal of life rafts, and any other equipment required by regulation 121.335 of CASR, from stowage locations; and
    - (ii) taking life rafts and equipment to the appropriate exit; and
    - (iii) any other actions necessary for readying the raft for launching and inflation;
  - (b) if the operator's emergency evacuation procedures require the use of passengers to assist with ditching—the demonstration must include passengers as participants to assist with the ditching in accordance with the procedures;
  - (c) after the ditching signal is given, each crew member and passenger who is participating in the demonstration must, in accordance with the ditching procedures, don a life jacket.

**14.10 Demonstrations of ditching procedures only**

- (1) This section applies if:

- (a) CASA requires the operator of the aeroplane to conduct a demonstration of ditching procedures under subsection 14.06(3); and
- (b) the demonstration of the ditching procedures will be conducted separately to other evacuation procedures.
- (2) The demonstration:
  - (a) despite paragraph 14.09(1)(a), may be conducted under daylight conditions; and
  - (b) is subject to each other applicable requirement mentioned in subsection 14.09(1); and
  - (c) is subject to the requirements in subsection 14.09(2); and
  - (d) may be conducted either using an aeroplane or a cabin training device.
- (3) If a cabin training device is used, it must:
  - (a) be a life-size mock-up of the interior of the aeroplane; and
  - (b) include adequate seats for the use of participants in the demonstration; and
  - (c) include emergency exits that replicate the emergency exits on the aeroplane.