

Air Crew Fatigue Fact Sheet

“Legal References”

EU & international law require EU air crew fatigue rules to be based on scientific evidence, describe a process for developing science-based rules, and provide some (soft) protection against safety regression.

In a nutshell, EU law requires the European Commission – supported by EASA – to carry out a medical and scientific evaluation of the current EU fatigue rules, to amend these rules where necessary, and to do so “on the basis of the results of this evaluation” and “without delay”. Furthermore, EASA’s future fatigue rules must take “into account the latest scientific and technical evidence”, and the new ICAO Annex 6 requires national fatigue rules to be “based upon scientific principles and knowledge, where available”.

Furthermore, at the moment EU Member States are allowed to keep higher safety standards than the minimum set by EU law, to ensure that higher national safety standards do not “regress” (so-called “non-regression clause”). In the future harmonized EASA system, such national rules are not foreseen; the principle is that national authorities will no longer be able to impose stricter safety rules on their national operators.

EU-OPS Regulation 1899/2006:

- [Art. 1\(11\), 1899/06 – new Art. 8\(a\)](#): ‘Art.8a (1) *By 16 January 2009, the European Aviation Safety Agency shall conclude a scientific and medical evaluation of the provisions of Subpart Q and, where relevant, of Subpart O of Annex III. (2) Without prejudice to Article 7 of Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, the European Aviation Safety Agency shall assist the Commission in the preparation of proposals for the modification of the applicable technical provisions of Subpart O and Subpart Q of Annex III.*
- [Art. 1\(2\), 1899/06 – new recital](#): ‘*By 16 January 2009, the European Aviation Safety Agency should complete a scientific and medical evaluation of Subpart Q and, where relevant, of Subpart O of Annex III. On the basis of the results of this evaluation, and in accordance with the procedure referred to in Article 12(2), the Commission should, if necessary, draw up and submit proposals without delay to amend the relevant technical provisions.*
- [Recital \(11\) – “non-regression clause, part 1”](#): ‘*Member States should be able to continue to apply national provisions on flight and duty time limitations and rest requirements for crew members, provided that the limits established by such national provisions are below the maximum limits and above the minimum limits laid down in Subpart Q of Annex III.*
- [Recital \(7\) – “non-regression clause, part 2”](#): ‘*The aim of this Regulation is to provide harmonized safety standards of a high level, including in the field of flight and duty time limitations and rest periods. In some Member States collective labour agreements and/or legislation exists which provides for better conditions as regards flight and duty time limitations and as regards working conditions for cabin crew. Nothing in this Regulation should be interpreted as limiting the possibility of concluding or retaining such agreements. Member States are allowed to maintain legislation which contains provisions more favourable than those laid down in this Regulation.*

EASA Basic Regulation 216/2008:

- **Art. 22(2)(a):** *'With regards to flight time limitations: (a) the Agency shall issue applicable certification specifications to ensure compliance with essential requirements and, as appropriate, the related implementing rules. Initially, the implementing rules shall include all substantive provisions of Subpart Q of Annex III to Regulation (EEC) No 3922/91, taking into account the latest scientific and technical evidence.'*

New ICAO Annex 6 (applicable as of Nov. 2009):

- **Chapter 9.6:** *'For the purpose of managing fatigue, the State of the Operator shall establish regulations specifying the limitations applicable to the flight time, flight duty periods, duty periods and rest periods for flight crew members. These regulations shall be based upon scientific principles and knowledge, where available, with the aim of ensuring that flight crew members are performing at an adequate level of alertness.'*