

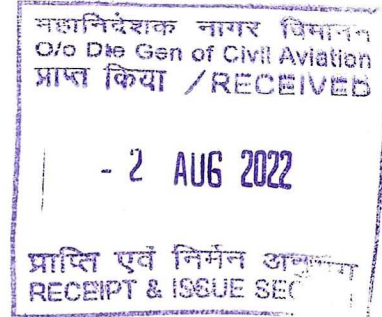


वायु यातायात नियंत्रक गिल्ड (भारत)
AIR TRAFFIC CONTROLLERS' GUILD (INDIA)

CC/ATCG/Operations/2022/07

2nd Day of August, 2022

The Director General of Civil Aviation,
Opposite Safdarjung Airport,
Aurobindo Marg,
New Delhi- 110003



Dear Sir,

We are constrained to seek your indulgence regarding the shortcomings in the **Civil Aviation Requirements Section 5- Air Safety Series F Part V Issue I** dated 27.09.2021, effective from 31.01.2022 (hereinafter referred as CAR). The said CAR prescribes the "Procedure for examination of the aviation personnel for consumption of Psychoactive Substances."

At the outset, we categorically submit that we do not condone the use of psychoactive substances. However, we are deeply concerned about the vague methodology that has been prescribed in the CAR that would subject the Air Traffic Control Officers (ATCOs) to a perennial state of uncertainty. We could not participate in the consultation process earlier as the whole country was subjected to COVID-19 restrictions, thereby rendering the meeting of Guild impossible. Many of our members were also tested COVID-19 positive, thereby thwarting the possibility of consultation between the members of the Guild.

Please find below our comments/suggestions on/for the point-wise shortcomings in the CAR that can potentially hamper the professional and personal lives of the ATCOs. The feedback contained in the ensuing

paragraphs are humble suggestions based on the professional experience of the dedicated ATCOs.

1. Introduction

- Bare reading of the introduction clause of the CAR reveals that the whole process has been carried out in hasty manner. We respect the adherence to the ICAO mandate; however, it is quit startling that a random study conducted by the Ministry of Social Justice and Empowerment has been made the basis of promulgation of the CAR.
- ATCOs are highly skilled professionals who adhere to strict lifestyle in consonance with the demand and functionalities of their job. They understand the gravity of the function they perform. It is for this reason that result of a general random study cannot be treated a premise to insinuate that ATCOs indulge in problematic use of psychoactive substances.
- It is an extrapolation having no empirical basis. It cannot be gainsaid that in a long illustrious history of civil aviation industry in India, there has not been a single incident where any mishap has occurred due to an ATCO performing his duty under the influence of psychoactive substance.
- ATCOs respect the professional requirements that have been laid down by your good office. However, it is humbly submitted that the procedure prescribed for implementing the CAR is vague, unscientific, against the settled tenets of service jurisprudence and sans any safeguards. It has the potential to dampen the spirits of ATCOs by pushing them into throes of uncertainty, mental agony and perpetual fear of being declared a defaulter.



- If the CAR will be implemented in its present form, every ATCO shall always stare at the stigma of being declare a drug addict, albeit on basis of a false report or other reasons which shall be discussed in detail later on.

2. Definitions

- Definition clause of any regulation is its soul. It ought to be drafted in such a precise manner that the scope of interpretation, albeit unavoidable, is reduced to minimum. However, the present CAR lacks acutely in this regard. The definitions laid therein are way too off the mark and vague to merit any appreciation.
- **Appropriate laboratory** has been defined in a very cavalier manner. No specific standards have been set out in the CAR itself. Given the purpose for which it has to be used it is essential that a specific scientific set of standards must be laid down to provide a sense of belief in the mind of ATCOs. Not any random lab approved by NABL/NABH can perform the super-specialised function of conducting test for psychoactive substances upon ATCOs.
- **Chain of custody** does not provide the methodology that would be used for maintaining the integrity of the whole testing process. There is not a whisper about the quality of containers that are to be used for sample collection. It is a matter of common knowledge that a sample collected in a container that is contaminated or gets contaminated results in a false report. With no safeguards, such a false report shall jeopardise the career of ATCOs.



- **Confirmatory Test** refers to the use of mass spectrometry technique. A genuine mass spectrometry test is quite expensive. CAR is completely silent about the cost mechanism. Further, in absence of any *minimum standard* being laid down for the preliminary test, whole process is rife with the possibility of false report. With the exemplary advance in the medical technology, by means of a proper scientific consultation this vagueness in the process could have been easily avoided.
- **Drug Use, Drug Dependence, Drug Addiction, Drug Habituation** have been defined in a very general manner without any insight towards the specific professional functions of ATCOs.
- **Sample Collector** is the most important link between the test and the final result. Yet, apart from general verbal safeguards the CAR does not provide specific qualifications necessary for a sample collector. Further, it fails to address the specific requirements of the civil aviation industry. A highly-skilled professional having no delinquent background ought not be subjected to a test process that has the potential to defile his career.
- **Medical Review Officer** has been vested with immense power in the whole process of testing for psychoactive substances. His word shall be the final word. In fact, it would make or break the career of a highly-skilled professionals like pilots and ATCOs. Despite that, merely a lip service regarding his qualifications has been paid. There are about 137 airports in India. Hence, the number of MROs required for conducting the whole process prescribed in the CAR would require a considerable number of MROs.



To the best of our knowledge, the status of MRO certification course in India is unknown. Generally, doctors pursue this course abroad. Perhaps there are only few doctors in the country who would fit in this criterion. Yet, ATCOs are being subjected to the decision of an individual who himself might not be properly trained or qualified to do that job. This lack of qualification and certification must be addressed to maintain the sanctity of whole testing process.

- **Negative Report and Non-negative report**, quite dangerously, uses the term *detectable quantity*. This quantity has to be defined as the stakes involved in the testing process are very high.

4. Safety Regulations

- Random testing has been prescribed in the supervision of in-house doctors. It has been completely ignored whether such doctors and other paramedical staff is trained for conducting sensitive testing process for detection of psychoactive substances.
- CAR 4.3 effectively changes the service condition of the ATCOs who had joined the services before. At the time of their joining, they were completely unaware about introduction of such a measure. Being a disciplined professionals' body, we are not against the testing process. It is the lack of safeguards, standardisation and uniformity that has impelled us to represent our cause.

5. Drug Testing Requirements

- The six category of psychoactive substances that have been provided in the CAR is not problematic. What piques us is the lack of precision and specification!



- No cut-off limit has been provided for these substances. It is a matter of general knowledge that many of these compounds are constituents of prescription as well as over-the-counter medicines. Hence, minimum and maximum limit for the same has to be defined. In absence of the same, the MRO will be armed with arbitrary discretion to declare an ATCO as drug addict. Such a situation cannot be countenanced.
- Many of these substances remain in the hair, urine and body system for more than 12-14 days. This scientific fact has not been addressed by the CAR.
- Instead of wide and general list of psychoactive substances, it would be appropriate to issue an exhaustive list of the drugs or substances that an ATCO is not substituted to consume. In the era of rampant lifestyle diseases such as hypertension and diabetes, such a wide array of substances would jeopardise the career of genuinely innocent ATCOs.

6. Procedure for Testing of Psychoactive Substances (Drugs)

- For the sake of brevity, we are not reiterating our veritable apprehension state hereinabove. The lack of precise prescriptions regarding the procedure is quite alarming. The same needs to be addressed forthwith.
- Specifying the use of facility of testing without creating the mechanism for it manifests the distance between the reality and impractical specifications that are prevalent throughout the CAR.



- Nothing has been specified to ensure that all the airports have the necessary gadgets, staff, medications, sample collecting devices etc so as to ensure a fool-proof testing process.

7. Confirmatory Test

- In light of the shortcomings pointed hereinabove, the confirmatory test would be reduced to a mere facade. In order to hastily lay down the instant CAR, the difficulties associated with the whole process has been given a complete go-by.
- The words used in para 2.3 of the definitions (The results of a confirmation test provide an absolute and definite result that indicates the specific drug/compound present in the urine sample) assume complete and absolute conformity of the procedure laid down under 2.2 which leaves no room for human error or faulty results due to mishandling of the samples or any other reason and would lead to only one possible conclusion against the officer. The problem not only ends here but extends to the failure of the said order to provide for a platform or procedure for appeal in case of grievance regarding the issues that might arise due to such errors.
- Additionally, there has not been a whisper in the entire CAR regarding the timeline that needs to be adhered to between the screening test (if found non negative) and a confirmatory report to be received (if negative). It is imperative to have one as the employee is to be immediately removed from the safety sensitive duty till a confirmatory report is received which will directly affect the pay scale and other benefits received by them and lead to monetary loss along with loss of reputation. There needs to be



some cap which will ensure that the officers are not being subject to harassment with this order.

- Process of testing is rife with insensitivity towards the practical problems that would be faced by the ATCOs.

8. Action on Positive Cases

- This is the most problematic part of the CAR. It flies in the face of settled principles of service jurisprudence.
- It inflicts punishment on the basis of non-negative preliminary test report which might turn out be false after the confirmatory test. This is wholly arbitrary and would detriment the service conditions of ATCOs majorly.
- There is no provision of appeal in the whole process. Punishment that extends to the extent of cancellation of licence has been subjected to terms and conditions that are quite slipshod, vague and uncertain.
- MRO has been vested with immense power sans any safeguard. Unlike any robust medical testing procedure, a single person and not a medical board has been made responsible for taking the final call about the career of an ATCO. Such a decision has the potential to damage the professional, personal and social life of ATCOs.
- Furthermore, vagueness and uncertain nature of the CAR would land the ATCOs in permanent state of agony and restlessness wherein they will be more concerned about what they are consuming rather than focusing on their job. Hence, the CAR in the present form more than assuring or enhancing the professional



quality has the potential to undermine the professional rigour of ATCOs, which has been unimpeachable till date.

Conclusion/Suggestions

- Instead of hasty implementation of the CAR, the concerned authorities ought to specify elaborate and precise process devoid of possibility of unnecessary interpretation. For this purpose, the good practices adopted by other international Civil Aviation Agencies may be referred to and incorporated with necessary changes.
- ATCOs already work in a regulated environment with ample back-up so as to deal with any unforeseen contingency. In light of this peculiarity it is humbly submitted that while subjecting an ATCO to this CAR, specific safeguards such as provision of appeal must be included. In absence of such safeguard the ATCOs would be left to the mercy of few officials such as MRO who may sully the professional and personal life of ATCOs irreparably.
- A specific list of banned drugs should be laid down rather than the group of psychoactive substances as provided in the present form.
- Specific minimum and maximum limit of psychoactive substances must be provided so as to deal with elements of human error, machine error etc.
- Uniform and step-by-step procedure for testing both for preliminary and confirmatory level should be provided. Nothing should be left at the discretion of authorities. A standard operating procedure must be laid down for ensuring uniformity in the whole process.



In the end, we unequivocally reiterate our commitment towards the objective of air safety. We do not support the use of psychoactive substances but are only aggrieved by the vagueness and uncertainty that plagues the CAR in its present form.
In hope of the expeditious redressal of our grievance.

With regards



(Alok Yadav)
General Secretary



Copy to-

- 1- The Chairman, Rajiv Gandhi Bhawan, AAI, New Delhi-11003
- 2- The Member (ANS), Rajiv Gandhi Bhawan, AAI, New Delhi-03

- 30/07/22
02/08/22