

Medical conditions may interfere with aviation safety

This Medical Information Sheet (MIS) describes the obligations of pilots and air traffic controllers to report certain medical situations to the CAA, and to stop flying or controlling until the matter is fully sorted out.

Others, including operators and medical practitioners, also have similar obligations to report to the CAA concerning the medical condition of pilots and air traffic controllers.

The main legislation relevant to this discussion are Schedule 2, clause 8(1) of the Civil Aviation Act 2023¹ (the Act) and the *Exceptions for Temporary Medical Conditions* General Directions (TMC GD)². For further information about the relevant law please see the 'Looking at the Law' section at the end of this MIS.

Why do I have to report anything medical to the CAA?

This reporting obligation is contained in the Act. Under Schedule 2, clause 8(1) of the Act all licence holders³ have an obligation to advise the CAA if they are aware of, or have reasonable grounds to suspect, any change in their medical condition or any previously undetected medical condition that "... may interfere with the safe exercise of the privileges to which his or her medical certificate relates".

Also, when this occurs, the pilot or air traffic controller may not fly or undertake air traffic control activities.

What do I have to report?

As a pilot or air traffic controller you have several reporting obligations. This MIS is only about your obligation, under Sch 2, cl 8(1) of the Act. Under that provision the things that you are required to report are any changes in your medical condition and any previously undetected medical conditions that "may interfere with the safe exercise" of your licence⁴.

The use of the word 'may' in this piece of legislation places a relatively low threshold for something to need to be reported. The use of a low threshold makes sense when you think of this in terms of being a public safety requirement.

Doesn't that cover pretty much everything? Are there exceptions?

While some medical conditions are not likely to impact aviation safety it is very difficult to define or describe any that can be relied upon to never impact aviation safety. The TMC GD does, however, provide information about situations where certain medical conditions do not need to be reported under Sch 2, cl 8(1) of the Act.

As a general principle you should interpret this obligation in a very conservative and careful way. Unless you have good reason to believe your medical condition **does not** trigger the Sch 2, cl 8(1) threshold, or it is clearly described as an exception in the TMC GD, then you should either seek expert advice (more on that later) or make a report to the CAA.

¹ <https://www.legislation.govt.nz/act/public/2023/0010/latest/LMS49346.html>

² <https://www.aviation.govt.nz/assets/licensing-and-certification/medical/general-directions-temporary-medical-conditions.pdf>

³ In this context a 'licence holder' is defined as a person who "holds an aviation document or is a pilot; and holds, or is required under the rules to hold, a medical certificate." (Schedule 2(1) of the Civil Aviation Act 2023).

⁴ The Act actually says "safe exercise of the privileges to which [your] medical certificate relates" which mostly means your licence ... but also applies to the ability of a student pilot, who does not hold any licence yet, to be able to fly solo.

Surely minor or temporary medical problems do not need to be reported?

Another section of the Act, Schedule 2, clause 25(c), provides for General Directions to be made describing situations and circumstances that are exceptions to the Sch 2, cls 8-9 reporting obligations. The TMC GD was published to fulfill that purpose. The Advisory Appendix of the TMC GD includes a column titled 'Acceptable characteristics for non-reporting' against each of the temporary medical conditions listed.

How bad does it have to be for me to need to report to the CAA?

Medical conditions, or their treatment, have the potential to interfere with aviation safety in a variety of ways. They may:

1. result in behavioural changes;
2. lead to an increased risk of incapacitation (sudden, gradual, profound, subtle, partial etc);
3. result in a reduction or impairment in functional capacity (physical, cognitive etc);
4. lead to a reduction in the capacity for decision-making, attention, or concentration.

The difficulty you face in interpreting your obligation under Sch 2, cl 8(1) is that virtually every medical condition or situation has the potential to cause one or more of these sorts of problems. Given that this is a public safety requirement you should always place public safety at the highest priority when interpreting such an obligation, certainly higher than your own desire to keep flying or controlling.

The TMC GD does provide detailed descriptions of some of the medical conditions that do not need to be reported.

Without the benefit of formal aviation medical expertise, you should interpret this obligation in a very conservative way. Unless you have good reason to believe your medical condition **does not** trigger the Sch 2, cl 8(1) threshold then you should either seek expert advice or make a report to the CAA.

I am not sure. Who can I ask?

The best person to seek further advice from is an aviation medicine expert. The most readily available aviation medicine practitioner is your regular Medical Examiner (ME). Discussing your situation with them has the potential to 'kill two birds with one stone'.

In the first instance, your ME can advise you whether your situation triggers the Sch 2, cl 8(1) reporting threshold, or whether it is specifically excluded in the TMC GD. Your ME can also readily liaise directly with the CAA if they are uncertain. Secondly, your ME can also be the 'Director' for the purpose of your reporting. So if you advise them then you will have also fulfilled that part of your Sch 2, cl 8(1) obligation.

Similarly, if you discuss the matter with your ME they will make a file note that, for example, they have advised you that the matter is not of aeromedical concern. That way if any question is raised in the future you will have a clear trail documenting your having done the right thing.

What about sick-leave or stress-leave?

If you are too sick or too stressed to attend work then the reporting thresholds of Sch 2, cl 8(1) of the Act will almost certainly have been met. You should advise the CAA as required under the legislation.

Will my ME notify the CAA?

Almost certainly. Unless the ME considers the matter to be entirely trivial, and therefore able to wait until your next certificate application, they will pass the information on to be placed on your CAA medical file.

When you think of how mobile some pilots and air traffic controllers are this makes sense. If the information was not stored centrally, with CAA, then it may not be available to your next ME if you were to move.

How do I notify the CAA directly?

Notifying the CAA directly, rather than via your ME, is best done either via telephone or email. Contact details for the CAA Aviation Medicine Unit are provided below at the end of this document.

What will the CAA do?

The CAA will review your medical situation considering the information received, and what is already held on your medical file. Further information may be sought, and a decision will be made as to whether, or not, further action is appropriate. The nature of any CAA response to this information will depend on the individual circumstances of your case, and you will be kept fully informed throughout the review.

A range of regulatory options are available to the CAA, extending from simply acknowledging and filing the information, through seeking further information from you or your medical advisers, to suspension or disqualification of your medical certificate.

Will the CAA tell anyone else about my Medical Condition?

Information about your medical condition will be available to your Medical Examiner and may be made available to others for safety reasons or if required under other legislation. Otherwise the CAA will not release medical information about you to your employer or any other person or organisation without your specific signed consent. In this respect the CAA is careful to comply with our obligations under the Privacy Act 2020⁵.

The CAA may advise your employer if any action is taken concerning your medical certificate, along with the general nature of that action (e.g. suspension), but the details concerning your medical condition will not be disclosed without consent. Even if your employer advised the CAA of your medical situation, we will not provide them with further medical details about you without your consent.

If I thought I was unsafe I would not fly/control

Unfortunately, people are not always good judges of the severity or implications of their medical condition. An example of this can be seen in the chronic fatigue problems that result from sleep disruption, as can be the case with Obstructive Sleep Apnoea (OSA—See MIS 022⁶), where sufferers are often very poor at assessing the degree of fatigue they are suffering.

You should interpret this obligation in a very conservative way. Unless you have good reason to believe your medical condition does not trigger the Sch 2, cl 8(1) threshold, or is specifically excluded by the *TMC* GD, then you should either seek expert advice (more on that later) or make a report to the CAA.

Does this requirement apply only to pilots?

No, this provision also applies to air traffic controllers.

My doctor (or employer) said they would report to CAA. Do I still have to?

Yes, the Sch 2, cl 8(1) obligation applies to you whether or not you believe someone else may have made a report concerning you. Any doctor involved with your medical care - including your GP, hospital or clinic doctors, and specialists - also has an obligation to report to the CAA. That obligation is similar to your Sch 2, cl 8(1) obligation in many ways and is further described in MIS 002, directed towards medical practitioners, and MIS 003, directed towards pilots and air traffic controllers.

What if I don't report?

Sch 2, cl 8(1) of the Act is an obligation under the law for you to report appropriate situations. Accordingly, it is an offence to fail to make such a report and doing so, 'without reasonable excuse', will place you at risk of prosecution and imprisonment or a fine (Section 112 of the Act—See 'Looking at the Law' section at the end of this MIS).

⁵ <https://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html>

⁶ <https://www.aviation.govt.nz/assets/publications/medical-information-sheets/mis022-obstructive-sleep-apnoea.pdf>

I'm still not sure. Who else can I talk to?

You are always able to seek further advice from the CAA Aviation Medicine Unit. This is best done either via telephone or email. Contact details for the CAA Aviation Medicine Unit are provided below at the end of this document.

I don't agree with a CAA medical decision. What are my appeal options?

In some cases, a Sch 2, cls 8-9 notification concerning your medical condition will result in action being taken concerning your medical certificate—e.g. a suspension or the imposition of conditions while further information is being sought.

If you do not agree with any subsequent decision that the CAA may make, in response to the information provided, you may elect to pursue: review by the Convener; District Court Appeal; and/or Judicial Review. Information concerning these appeal or review options can also be obtained from the medical section of the CAA website (www.aviation.govt.nz) under the heading of 'Review of medical certification decisions'.

Looking at the law

Changes in medical condition of a licence holder

Your obligations as a licence holder as defined in the Act, are contained within Sch 2, cl 8(1) which states:

If a licence holder is aware of, or has reasonable grounds to suspect, any change in the licence holder's medical condition or the existence of any previously undetected medical condition that may interfere with the safe exercise of the privileges to which the licence holder's medical certificate relates, the licence holder—

- (a) must advise the Director of the change as soon as practicable; and
- (b) must not exercise the privileges to which the licence holder's medical certificate relates.

Schedule 2, clause 1 — Interpretation

For this purpose, a **licence holder** is defined in Sch 2, cl 1 of the Act as:
licence holder means a person who—

- (a) holds an aviation document or is a pilot; and
- (b) holds, or is required under the rules to hold, a medical certificate.

Section 112 — Failure to disclose information required by Director

- (1) A person commits an offence if the person—
 - (a) fails, without reasonable excuse, to advise the Director of information about the person's medical condition as required by clause 8(1)(a) of Schedule 2; or
 - (b) fails, without reasonable excuse, to provide information required by the Director under clause 10 of Schedule 2
- (2) A person commits an offence if the person—
 - (a) is a licence holder and is aware of a change in the licence holder's medical condition, or the existence of any previously undetected medical condition, that may interfere with the safe exercise of the privileges to which the licence holder's medical certificate relates; and
 - (b) fails, without reasonable excuse, to advise the Director of information about the person's medical condition as required by clause 8(1)(a) of Schedule 2.
- (3) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding \$30,000.
- (4) A person who commits an offence against subsection (2) is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$30,000, or both.

The Exceptions for Temporary Medical Conditions General Directions

1.1 Purpose

(a) Sch 2, cl 8-9 of the Act requires licence holders, aviation examiners, medical examiners, operators, and medical practitioners to report changes in medical conditions or the existence of any previously undetected medical condition of a licence holder under certain circumstances.

(b) The purpose of these general directions is to provide exceptions for temporary medical conditions to the reporting requirements set out in Sch 2, cl 8-9 of the Act.

(c) These general directions do not in any way affect the requirements for disclosure that must be made at the time of applying for a medical certificate.

1.2.4 Exercise of privileges

If a licence holder is not required to report a temporary medical condition under these general directions, the licence holder may still be prohibited from exercising the privileges to which his or her medical certificate relates while suffering from a medical condition (Sch 2, cl 8(1)(b) of the Act).

Advisory Appendix (example)

Condition: Hay Fever

Acceptable characteristics for non-reporting:

- there are no distracting nasal or eye symptoms; and
- there is only occasional sneezing; and
- there is no nasal, sinus or Eustachian tube blockage or pain; and
- there is no history of nasal polyps, nasal or sinus surgery; and
- there is no wheezing or shortness of breath.

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