

FC5209/FC5212

Posted on 19.04.2023 by Steve Forward

Category: [Flight Crew \(Commercial\)](#)

Report Title Commander's discretion

Initial Report

The CHIRP comment below refers to a number of reports about commander's discretion.

Comment

CHIRP has received increasing numbers of reports in recent months about the use of commander's discretion and the perception that it is being programmed in to some rosters in order to resolve crewing problems. The majority of these reports are not publishable in isolation because the associated details make the reporters identifiable. However, CHIRP has represented these reports to the CAA in aggregate and has asked that they consider both reviewing the specific companies' policies on discretion and the reality of actual current rosters. As a result, the CAA have focused some of their oversight activities for particular airlines in this area and have commented that there needs to be a better understanding of discretion within the industry overall. In recognising this, the CAA hope to publish an information note in the coming months to give more detailed guidance and advice to individuals on what discretion is and the rules for its use.

The use of commander's discretion is not a safety issue in itself provided it is managed properly. Importantly, it should not be used on a planned basis but is intended to be employed for those unplanned and unforeseen circumstances and delays that occur during a duty and which would take the crew beyond the normal FDP limit. Crews should not be arriving at the report point to find the operator relying on the Commander's use of discretion to conduct the duty – if unforeseen circumstances arise prior to 'report' then the reporting time should have been delayed instead when feasible. [ORO.FTL.205 Flight Duty Period \(FDP\) \(f\)](#) states the rules for the use of commander's discretion in relation to FDP (extract shown) but, in stating that its use is for unforeseen circumstances which start at or after the reporting time, the problem is that there's no real definition of what an unforeseen circumstance might be and so this is potentially a grey area.

ORO.FTL.205 Flight Duty Period (FDP)

(f) Unforeseen circumstances in flight operations — commander's discretion

(1) The conditions to modify the limits on flight duty, duty and rest periods by the commander in the case of unforeseen circumstances in flight operations, which start at

or after the reporting time, shall comply with the following:

- (i) the maximum daily FDP which results after applying points (b) and (e) of point ORO.FTL.205 or point ORO.FTL.220 may not be increased by more than 2 hours unless the flight crew has been augmented, in which case the maximum flight duty period may be increased by not more than 3 hours;
 - (ii) if on the final sector within an FDP the allowed increase is exceeded because of unforeseen circumstances after take-off, the flight may continue to the planned destination or alternate aerodrome; and
 - (iii) the rest period following the FDP may be reduced but can never be less than 10 hours.
- (2) In case of unforeseen circumstances which could lead to severe fatigue, the commander shall reduce the actual flight duty period and/or increase the rest period in order to eliminate any detrimental effect on flight safety.
- (3) The commander shall consult all crew members on their alertness levels before deciding the modifications under subparagraphs 1 and 2.
- (4) The commander shall submit a report to the operator when an FDP is increased or a rest period is reduced at his or her discretion.
- (5) Where the increase of an FDP or reduction of a rest period exceeds 1 hour, a copy of the report, to which the operator shall add its comments, shall be sent by the operator to the CAA not later than 28 days after the event.
- (6) The operator shall implement a non-punitive process for the use of the discretion described under this provision and shall describe it in the operations manual.

[AMC1 ORO.FTL.205\(f\) Flight Duty Period \(FDP\)](#) gives some further guidance by recognising the shared responsibility of management, flight and cabin crew in managing 'unforeseen circumstances', and noting that the use of commander's discretion should be exceptional and should be avoided at home base and/or company hubs:

UNFORESEEN CIRCUMSTANCES IN ACTUAL FLIGHT OPERATIONS — COMMANDER'S DISCRETION

- (a) As general guidance when developing a commander's discretion policy, the operator should take into consideration the shared responsibility of management, flight and cabin crew in the case of unforeseen circumstances. The exercise of commander's discretion should be considered exceptional and should be avoided at home base and/or company hubs where standby or reserve crew members should be available. Operators should assess on a regular basis the series of pairings where commander's discretion has been exercised in order to be

aware of possible inconsistencies in their rostering.

Overall then, the management of unforeseen circumstances during flight operations is a shared responsibility between operations management, flight and cabin crew, with the Commander – exercising his/her overall responsibility for the safety of the flight – as the final arbiter of any decisions. Therefore, in the case of unforeseen circumstances, and at his/her sole discretion, the Commander may extend the Flight Duty Period providing he/she considers that the safety of the flight will not be adversely affected by that extension. The Commander may also use his/her discretion to reduce a rest period (the rest period following an FDP may be reduced, but never below 10 hours). In exercising discretion, the Commander must ensure that, at all times prior to take-off, there is a realistic plan to remain within the Maximum Allowable FDP (including commander's discretion). It is recognised that after take-off there may be unforeseen circumstances that could cause a minor exceedance of the Maximum Allowable FDP and, in such circumstances, the Commander must ensure that continued safe operation is prioritised over the need to stay within the Maximum Allowable FDP. Finally, although the crew must be consulted as to their alertness levels before commander's discretion is employed, discretion is the commander's to use or not and it is for them alone to decide on whether or not to invoke it rather than being a collective agreement by the entire crew.



