

CASA Functions

In 1995, CASA was created and the functions of the CAA were basically discarded and new functions were applied. The new functions placed an onus on CASA to promulgate **clear and concise aviation safety standards**. When will CASA observe this function?

In 1988, the CAA functions were quite different than the CASA functions created in 1995.

1988 CAA Functions	1995 CASA Functions
<p>Functions of Authority</p> <p>9. (1) The functions of the Authority are:</p> <p>(a) as provided by this Act and the regulations, to conduct safety regulation of:</p> <p style="padding-left: 20px;">(i) civil air operations in Australian territory; and</p> <p style="padding-left: 20px;">(ii) Australian aircraft operating outside Australian territory;</p> <p>(b) to provide air route and airway facilities;</p> <p>(c) to provide air traffic control services, and flight service services, for, in either case, surface traffic of aircraft and vehicles on the manoeuvring area of aerodromes;</p> <p>(d) to provide a rescue and fire-fighting service;</p> <p>(e) to provide a search and rescue service;</p> <p>(f) to provide an aeronautical information service;</p> <p>(g) to provide consultancy and management services relating to any of the matters referred to in this subsection;</p> <p>(h) to provide services to the Bureau of Air Safety Investigation in relation to the investigation of aircraft accidents and incidents;</p> <p>(i) any functions conferred on the Authority under the <i>Air Navigation Act 1920</i>;</p> <p>(k) any other prescribed functions, being functions relating to any of the matters referred to in this subsection; and</p> <p>(m) any functions incidental to any of the foregoing functions.</p>	<p>CASA's functions</p> <p>"9.(1) CASA has the function of conducting the safety regulation of the following, in accordance with this Act and the regulations:</p> <p>(a) civil air operations in Australian territory; by means that include the following:</p> <p style="padding-left: 20px;">(c) developing and promulgating appropriate, clear and concise <i>aviation safety standards</i>;</p> <p style="padding-left: 20px;">(d) developing effective enforcement strategies to secure compliance with <i>aviation safety standards</i>;</p> <p>(e) issuing certificates, licences, registrations and permits;</p> <p>(f) conducting comprehensive aviation industry surveillance, including assessment of safety-related decisions taken by industry management at all levels for their impact on aviation safety;</p> <p>(g) conducting regular reviews of the system of civil aviation safety in order to monitor the safety performance of the aviation industry, to identify safety-related trends and risk factors and to promote the development and improvement of the system;</p> <p>(h) conducting regular and timely assessment of international safety developments."</p>

Aviation Safety Standards

Regulatory “standards” are not Act “clear and concise aviation safety standards”.

Sec 9(1)(c) of the Civil Aviation Act states that CASA should be developing and promulgating “*clear and concise aviation safety standards*”.

Aviation safety standards are defined by the Act as:

'aviation safety standards' means **standards** relating to the following:

- (a) the flight crews engaged in operations of aircraft;
- (b) the design, construction, maintenance, operation and use of aircraft and related equipment;
- (c) the planning, construction, establishment, operation and use of aerodromes;
- (d) the establishment and use of airspace;
- (e) the planning, construction, establishment, maintenance, operation and use of:
 - (i) facilities of the kind referred to in paragraph 8(1)(a) of the *Air Services Act 1995*; and
 - (ii) services of the kind referred to in paragraph 8(1)(b) of the *Air Services Act 1995*; and any construction associated with those facilities or services;
- (f) the personnel engaged in:
 - (i) the maintenance of aircraft and related equipment; or
 - (ii) anything referred to in paragraph (c) or (e);

Aviation Safety Standards means **clear and concise** standards relating to “aviation safety” aspects related to the subject items listed above.

- “clear and concise” has not been applied to current and proposed regulations.
- “Aviation safety” limitation has not been applied as well.
- Covers just about everything to do with GA aviation.

History

In 1995, CASA was created and the functions of CASA were changed quite drastically from the previous functions of the CAA.

- What the amendment to the Act to create CASA clearly stated is that CASA must produce *Aviation Safety Standards* as a major function of CASA.
- *Standards* under the Act – not *Standards* under the Regulations.

In 2009, CASA's ex General Counsel, Peter Ilyk, submitted to a Senate committee that CASA had 'abrogated their responsibility by not promulgating *Aviation Safety Standards* under Sec 9(1)(c)'.

- Is it because the Criminal Code does not apply to "standards" made under an Act?
- The ASRR Report identified this provision – why isn't CASA compliant with the Act?

Is it really because the application of the Commonwealth Criminal Code applies to Regulations and not Standards made under an Act?

The Act makes sense and supports the three tier system proposed in the ASRR Report.

- 1) A Civil Aviation Act,
- 2) Aviation Safety Standards made under the Act,
- 3) Civil Aviation Safety Regulations; and
Supporting advisory material

The failure of CASA to use this important provision in the Act is why industry end up in disputes about "Standards" made under the Regulations.

Obviously, the government, when making these changes, expect CASA to promulgate Sec 9(1)(c) ***Aviation Safety Standards*** whereas CASA has opted to promulgate standards as instruments under CASRs.

Note: Singapore has a similar provision and have made *Singapore Aviation Safety Standards* based on ICAO SARPs, consistent with either EASRs or FARs.

- Should not Government or the CASA Board demand CASA issue clear and concise ***Aviation Safety Standards*** in accordance with the Civil Aviation Act?
- In addition, CAAct 9(1)(c) (clear and concise) ***Aviation Safety Standards*** should be based on ICAO SARPs consistent with EASRs/FARs (ASRR Report).
- CASRs would be high level (as recommended in the ASRR Report) and include proper enforcement provisions. Examples:
 - *A person must not fly an aircraft unless the person holds the appropriate pilot licence and/ or rating applicable to the particular aircraft; or*
 - *A person must not knowingly fit an unapproved replacement part to an aircraft or aircraft component.*

Naturally legal drafters will expand on these samples.

In our opinion, CASA simply has not come to terms with their responsibility under the functions specified in the Civil Aviation Act.

By "adopting" the FARs as ***aviation safety standards*** for general aviation operations, engineering, manufacturing and maintenance, the whole regulatory reform changes could be completed within 12 months.

If industry participants did not follow the law, then CASA would take action against them.

Many senior industry participants have told AMROBA that they were disappointed that CASA was not required by government to promulgate ***clear and concise aviation safety standards***.

If this function was ignored in 1995, then what chance the ASRR Report Recommendations?