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## **AIRCRAFT MAINTENANCE REPAIR & OVERHAUL BUSINESS ASSOCIATION - INC**

### **Addendum to AMROBA Submission to the Independent Aviation Safety Review - 2014**

**Interaction with Industry  
Hidden Policy**

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# CASA – RESPECT AND TRUST

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## Interaction Issues

### CASA personnel

CASA, over the last decade, has become an employer of last resort – the place to go for a job when the industry won't employ you. Under its current micro-managing direction, the organisation has lost the respect and trust of the industry.

In its earlier days, the Authority employed competent engineers and fair-minded inspectors. Most of these have now all gone. They have been replaced by individuals who are attracted by the power that the office offers rather than by a genuine desire to improve aviation safety.

CASA has gained a reputation for focusing on regulatory trivia and the generation of purposeless red tape without being capable of seeing the big picture. This is illustrated by the mania for the creation of operational manuals/expositions with ever changing requirements, and the witch hunting of individuals and organisations that individual CASA inspectors take a personal dislike to. Once such a target is identified, considerable taxpayer funded resources are directed into the process of hounding him/her – irrespective of the truthfulness or triviality of the original alleged misdemeanour. There appears to be no balanced mechanism to ensure that government funded assets are used in order to maximise aviation safety. CASA is a little "arrogant and dismissive" and industry participants and the public do not appreciate it.

This situation can only be redressed with significant personnel and philosophy change. If genuine change is to be achieved, the current CEO and senior management must be replaced. Over a considerable number of years, with differing CEO's, the industry has lost confidence in and respect of the senior executive structure. Most of the current senior management have served the last two or three CEOs, who have introduced regulatory changes that have seen the most significant participation decline in Australia's commercial aviation history, especially in the GA sector. Also the CASA Board does not appear to have provided any positive guidance since its formation. The Board should be comprised of individuals who bring a wide range of aviation related experience, including members that represent the public interest in aviation.

With this significant change at the top, and the changes to direction that this would bring, the industry's perception of the regulator will change. Aviation is too complex for safety to be ensured by the draconian imposition of a huge and over complex array of regulations. We need understandable and reasonable rules and a respected regulator that fosters aviation safety by encouraging safety conscious behaviour from the industry.

Authority inspectors and managers of the past had integrity, were impartial in carrying out their tasks, were tactful and respectful and had a better understanding of the non-airline aviation industry than what is being witnessed today from the outcome of internal training.

Many aircraft owners, small business owners and individuals have expressed their lack of respect and trust in what was once a globally respected Authority. Is it the senior management or the application of the criminal code to international aviation standards that is causing this distrust? Application of the criminal code to international aviation standards is unique to Australia.

Many industry participants have stated they feel like they are treated as 'criminals' whenever they talk with CASA inspectors, so they no longer voluntarily provide information to the regulator. The current regulatory system is now so complex that many feel that it is written to trap participants, not to encourage safety. Though there are some inspectors that are respected by industry, the establishment is not.

Open communications between regulator and industry participants without fear of prosecution is the crux of any safety system and culture. Without the right leadership, the regulators will not obtain that respect or trust from those that they oversee.

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Communications is vital to the ongoing safety of the aircraft fleet – open communications between the Authority and these key personnel is the key to an industry safety culture. The loss of trust and respect affects the national safety culture.

Pilots, LAMEs, industry delegated/authorised persons, planners, etc. all become obsessed with their knowledge and skills associated with their particular role in aviation. Experience in applying that knowledge results in good airmanship and airworthy aircraft. Each of these key skilled people play a particular important role in aviation safety.

Many regulators forget the skills and experience they obtained in industry in their initial years as a regulator and become obsessed with regulations, it will take a number of years and experience before they can professionally utilise their additional expertise in regulatory requirements and assimilate them with the expertise they had as a pilot, LAME, etc. and apply those safety skills to their role in aviation safety.

Every individual regulator finds that their role, in tutoring industry participants to operate above the aviation requirements, is to educate what are the minimum regulatory requirements. Combining the roles of tutoring and surveillance can be daunting. One indication of success of a good regulator is the voluntary acceptance of safety responsibilities by those that are regulated. The willingness of those that are regulated to take corrective action if an unsafe situation is identified, without the need to take enforcement action. Resorting to enforcement action without first educating is also a failure of good regulatory oversight.

The major issue confronting industry participants and regulators is defining the minimum aviation safety standards required by the regulatory requirements currently being promulgated. Because of the lack of clarity of regulatory requirements, industry is reliant on the individual interpretation of inspectors during entry and continuing regulatory oversight by inspectors.

## **Global Standards**

Australia is not getting aviation requirements that establishes with any clarity minimum requirements. That is not the current direction – different to NZ and North America.

Mature aviation regulators fully understand the need for minimum aviation requirements and the need to encourage industry participants to aim for higher standards. When minimum standards are not included in a state's aviation requirements, confusion arises and standards are interpreted by individual regulator inspectors.

The responsibilities for safety must be clearly established, preferably in a manner similar to how NZ has prescribed responsibilities in their Civil Aviation Act. The current regulatory development direction and oversight has not delivered a sustainable, let alone growth, aviation environment for small business and private VH registered aircraft owners.

***CAA(NZ) – Shared Responsibility.** Every participant shares a responsibility for safety and security. The CAA does not oversee every flight. Aviation organisations, pilots, engineers, air traffic controllers and aircraft owners are each responsible for meeting the statutory safety and security standards. The Rules set the minimum standards for entering, and operating within, the system. It is in the best interests of all aviation participants to perform to a standard above the minimum.*

Most NAAs have a similar approach so why doesn't CASA, with such a mature aviation industry, adopt and implement the same shared safety environment.

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ICAO's Safety Oversight Manual goes to great depths in describing the difference between a 'passive' and 'stringent' role recommending a balanced approach to safety. A balanced approach is not a 'passive role' supported by stringent enforcement actions.

*“2.4.2 In a stringent regulatory role, close day-to-day involvement in the civil aviation industry direction and control of activities would be carried out by the State through an assessment organisation. In a passive role, the State would intervene only to institute proceeding or investigatory action in the case of an accident/incident or of a violation of the regulations.*

*2.4.4 If, on the other hand, the State safety oversight is so rigorous as to amount to a complete domination and dictation of the conduct of operations, then under such an environment the civil aviation industry is not empowered with the responsibility and self-sufficiency for safe operations. This can undermine the morale of the civil aviation industry's personnel and result in a lowering of safety standards. It could also be cost-prohibitive for the State to maintain the large enforcement organisation required to sustain this level of oversight.”*

The growth in red tape and prosecution of minor regulatory miscalculations as though they were a major safety issue is addressed by ICAO's Safety Oversight Manual, paragraph 2.4.4 above. The last paragraph really sums up what has been spoken about at many industry meetings held over the last 12 months. “... undermine the morale of the civil aviation industry's personnel and result in a lowering of safety standards.”<sup>ICAO</sup>

Morale has been undermined and ICAO's finding of resultant lowering of safety standards is of concern to industry.

CASA's regulatory development direction needs transforming to adapt minimum international aviation standards so that a shared responsibility for safety can be clarified.

*2.4.7 A balanced safety oversight system is one which both the State and the aviation community share responsibility for the safe, regular and efficient conduct of civil aviation activities. This relationship should be established in the primary aviation legislation, regulations and put into practice as a matter of policy and methodology of the CAA (safety management policy).*

*3.9.1 The resolution of identified deficiencies and safety concerns is a critical element at the core of all safety oversight activities. A good safety oversight system will provide for the identification of deficiencies and safety concerns and the appropriate action required for resolution.*

Though there are some very dedicated individual inspectors within CASA, they are being tarred with the same brush as the inspectors that have lost the respect of many in industry. Every meeting in every State ends up as a CASA bashing simply because of the reputation that they have amassed. “*Considering the specialised and sensitive nature of the CAA's inspector's mission, it vitally important that qualifications ....., to perform licensing, certification, inspection and surveillance duties be verified and carefully evaluated before selections are made.*”

*3.5.1.2 The satisfactory execution of the various functions of the CAA Inspectorate depends to a large extent on the qualifications, experience, competence and dedication of individual inspectors. In addition to the vital importance of technical competency in performing certification, inspection and surveillance functions, it is critical that inspectors possess a high degree of integrity, be impartial in carrying out their tasks, be tactful, have a good understanding of human nature and possess good communication skills. Considering the specialised and sensitive nature of the CAA inspector's mission, it is vitally important that the qualifications, previous experience and personal characteristics of each person employed, whether directly or on contract, to perform licensing, certification, inspection and surveillance duties be verified and carefully evaluated before selections are made.*

Maybe all of CASA's senior management should attend IATA's Civil Aviation Management Diploma course designed for Director Generals and senior regulator management.

A new Act and a sign of “under new management” will be expected of this aviation review that the Minister initiated. We understand the enormous responsibility of the review team but, if the recommendations do not address these fundamental issues, the recovery and growth of private and non-airline operators will continue to stagnate.

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# CASA HIDDEN POLICY

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## CASA Hidden Policy

AMROBA has become aware of CASA's internal "procedures manuals" that are not public documents. These documents use the regulatory term "shall" and "must" throughout the procedure manuals and they state in the manuals some of the requirements have no regulatory head of power. These manuals are used in the assessment process.

Hidden policies must be removed and the transparency of a "rule of law" system must be re-established.

Whether the "hidden" requirements make sense or not, they may be very informative and even ICAO compliant, the inclusion of any requirement not required by the Regulation or Manual of Standards in a company manual (exposition) approved by CASA means you are applying the criminal code to requirements that have no legal head of power.

We now know why CASA staff demand industry do things a particular way when their hidden policy contained in their procedure manuals state an organisation "must" or "shall" even though they declare in their "hidden" manuals that not all requirements have a head of power in legislation. A return of the regulator's "wish list".

The real issue for businesses is that by including provisions that do not have a head of power in legislation (Regulation & MoS), the provisions become subject to the criminal code. For example, *CASR 145.045 Approval subject to conditions*, states:

The organisation must, at all time, comply with the requirements of "**its exposition**"; and paragraph (b) states the organisation must ensure that, at all time, its employees comply with the requirements mentioned in paragraph (a). *CASR 145.070, Provision of maintenance services*, makes it a "strict liability" offence of 50 penalty points.

It is evident that the leadership of CASA are not documenting what they would like to see included in an exposition/manual in their acceptable means of compliance and advisory material, but applying these "hidden standards" contained in internal procedure manuals and assessment processes during approval also and during audits.

Industry cannot be expected to meet 'hidden standards' contained in CASA internal policies and procedures and interpretations. The legislation should require CASA to promulgate the "standards" associated with the contents of an approved manual. The ICAO maintenance organisation requirements are at Annex A to this document.

As a minimum, the [aviation] law should make provision for industry education and the dissemination of information regarding the right to access information, the scope of information which is available and the manner in which such rights may be exercised.

### ***When is legislation required?***

*1.3 Departments should give careful consideration to whether legislation is actually needed or whether administrative action would be sufficient.*

*1.4 Legislation should not be proposed simply to give a matter "visibility". The limited drafting resources of the Office of Parliamentary Counsel (OPC) and the time available for government business in Parliament must be used for proposals which cannot proceed without legislation.*

*1.5 While it is not possible to list every situation where legislation is needed, the guidance at paragraphs 1.12 to 1.15 should assist departments. The Attorney-General's Department is able to advise on the need for legislation in order to implement a proposal.*

*1.6 The Cabinet Handbook emphasises that the Attorney-General's Department must be consulted on any proposal involving legislation being brought forward for Cabinet consideration and that sufficient time should be allowed for alternatives to be considered. The Attorney-General's Department should also be consulted on minor policy proposals involving legislation submitted for the Prime Minister's consideration unless it is absolutely clear that legislation is required.*

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One of the major issues with the Department's Aviation Authority pre CAA/CASA was the lack of transparency that gave rise to accusations of 'hidden' deals. There were many exemptions and many variations of approvals and conditions that applied during this period of aviation. The lack of transparency, numerous exemptions and concessions applied, without any standardised methods promulgated, that led to a full enquiry into the Authority resulting in the creation of this government agency that obviously has not learnt from its own corporate history.

The real question is, do the regulatory requirements have clarity? or could CASA promulgate these 'hidden' procedures manuals (handbooks) as 'standards'. It is obvious that CASA is trying to overcome the problems of a two tier regulatory system that does not direct CASA what functions to administrative control. Maybe the information in the CASA "internal procedures manuals and assessment sheets" is of a safety benefit to industry organisations as they may simply be endorsing what ICAO states should be in an organisation's manual (exposition).

AMROBA encourages CASA to promulgate all internal procedure manuals and align them with regulatory requirements, manuals of standards, acceptable means of compliance, guidance materials and other advisory material CAA has promulgated.

AMROBA is highly concerned with the way CASA policy is now being promulgated. In addition to the listed above, airworthiness bulletins, airworthiness advisory circulars, CASA procedure manuals that already on the CASA website, legislative exemptions and concessions, interpretations, etc. etc. have to be researched so a business can continue to feel comfortable that they are compliant.

Any requirement that does not value add to safety, that is, functions associated with the day-to-day tasks of aircraft and/or aeronautical product maintenance. e.g.:

- Does the procedure provide guidance for maintenance personnel?
- Does the procedure provide guidance on how the work is to be performed?
- Does the procedure provide guidance on compliance with maintenance data?
- Does the procedures provide guidance on the scope of the terms of approval?

What the manual (exposition) is supposed to do is provide guidance for staff so the organisation stays in compliance with regulations and manual of standards. It should reference company instructions how staff are to perform their functions associated with the business meeting its regulatory obligations.

Many argue that "company instructions' are being forced to be included and this does not value add to safety as much as CASA thinks it does – some are unaware of the value a particular requirement has on the culture of the organisation.

A review of the ICAO requirements at Annex A of this document clearly identifies that these requirements may be the foundations for CASA's procedure manual.

Maybe CASA could promulgate their internal procedures manuals so we are all working from the same criterion and just maybe CASA could repeal their acceptable means of compliance and guidance material. A single procedure manual would make compliance much easier to attain.

AMROBA is aware of 'hidden' internal procedures/assessment manuals for Design Instrument of Appointment Holders and other organisation assessment.

We assume that there are other internal 'hidden policy' procedures manuals.

Whatever happened to the transparency promised by Governments and Agencies over the last couple of decades?

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## Annex A

ICAO Annex 6, Part I, states:

### 8.7.2. Maintenance organisation's procedures manual

8.7.2.1. The organisation **shall** provide for the use and guidance of maintenance personnel concerned a procedures manual which may be issued in separate parts containing the following information:

- (a) a general description of the scope of work authorised under the organisation's terms of approval;
- (b) a description of the organisation's procedures and quality or inspection system in accordance with 8.7.4;
- (c) a general description of the organisation's facilities;
- (d) names and duties of the person or persons required by 8.7.6.1 (management);
- (e) a description of the procedures used to establish the competence of maintenance personnel as required by 8.7.6.3;
- (f) a description of the method used for the completion of the maintenance records required by 8.7.7;
- (g) A description of the procedures for preparing the maintenance release and the circumstances under which the release is to be signed;
- (h) The personnel authorised to sign the maintenance release and the scope of their authorisation;
- (i) A description, when applicable, of the additional procedures for complying with an operator's maintenance procedures and requirements;
- (j) A description of the procedures for complying with the service information reporting requirements of Annex 8, Part II, 4.3.5 and 4.3.8; and
- (k) A description of the procedures for receiving, assessing, amending and distributing within the maintenance organisation all necessary airworthiness data from the type certificate holder or type design organisation.

The ICAO Airworthiness Manual is a little more prescriptive.

### 10.3.1 Purpose of the maintenance organisation's procedure manual.

10.3.1.1. The maintenance organisation's procedures manual (MOPM) is a document which provides information about the organisational structure, management responsibilities, type of work performed, maintenance procedures and the quality assurance or inspection systems to be followed by the maintenance organisation.

10.3.1.2. The MOPM specified in Annex 6, Part 1, Chapter 8 should provide clear guidance to personnel on how the work is to be performed under the approval issued by the CAA. The MOPM should also explain how personnel are managed, describes personnel responsibilities and how compliance with the relevant continuing airworthiness requirements is achieved. The manual should also include a statement of the organisation's policies and objectives.

10.5.1.1. Annex 6, Part 1, 8.7 provides that the approved maintenance organisation establish procedures, acceptable to the State granting the approval, which ensure good maintenance practices and compliance with all relevant requirements. These procedures are listed in Attachment A to this chapter and may vary according to State regulations.

## Attachment A to Part III, Chapter 10

### Content of the Maintenance Organisation's Procedures Manual

Annex 6, Part 1, 8.7.2 provides that the following information to be included in the manual:

- (a) A general description of the scope of work authorised under the organisation's terms of approval;
- (b) A description of the organisation's procedures and quality or inspection system in accordance with Annex 6, part 1, 8.7.3;
- (c) A general description of the organisation's facilities;
- (d) Names and duties of the person or persons required by Annex 6, Part 1, 8.7.6.1;

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- (e) A description of the procedures used to establish the competence of maintenance personnel as required by Annex 6, part 1, 8.7.6.3;
- (f) A description of the method used for the completion and retention of the maintenance records required by Annex 6, Part 1, 8.7.7;
- (g) A description of the procedure for preparing the maintenance release and the circumstance under which the release is to signed;
- (h) The personnel authorised to sign the maintenance release and the scope of their authorisation;
- (i) A description, when applicable, to the additional procedures for complying with an operator's maintenance procedures and requirements;
- (j) A description of the procedure for receiving, assessing, amending and distributing within the maintenance organisation all necessary airworthiness data from the type certificate holder or type design organisation.

Notwithstanding the above requirements, consideration should be given to include the following in the procedures manual:

## **(a) Management**

- i) A statement signed by the accountable executive confirming that the manual defines the organisation's procedures and associated personnel responsibilities and will be complied with at all times;
- ii) An organisation chart showing the associated chains of responsibilities of the persons nominated in accordance with (d) above;
- iii) Notification procedures to the CAA regarding changes to the organisation's activities, approval, location and personnel;
- iv) liaison or contractual arrangements with other organisation which provide services associated with the approval; and
- v) Amendment procedures for the manual.

## **(b) Maintenance procedures**

- i) Supplier evaluation procedure;
- ii) Acceptance/inspection of aircraft components and material from outside contractors;
- iii) Storage, labelling/tagging and release of aircraft components and material to aircraft maintenance;
- iv) Acceptance of tools and equipment;
- v) Calibration of tools and equipment;
- vi) Use of tools and equipment by personnel (including alternate tools);
- vii) Cleanliness standards of maintenance facilities;
- viii) Maintenance instructions and relationship to aircraft/aircraft component manufacturer's service information including updating and availability to personnel;
- ix) Repair procedure;
- x) Procedures for compliance with an operator's aircraft maintenance programme;
- xi) Mandatory Continuing Airworthiness Information (MCAI) handling procedure;
- xii) Optional modification procedure;
- xiii) Maintenance documentation in use and completion of same;
- xiv) Technical record control;
- xv) Procedures for handling of defects arising during maintenance;
- xvi) Issue of the maintenance release required by Annex 6, Part 1, 8.8 and Part III, Section II, 6.7;
- xvii) Records for the operator (if the organisation is not the operator itself);

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- xviii) Reporting of defects and other occurrences as required by the CAA;
- xix) Return of defective aircraft components to store;
- xx) Control of defective components sent to contractors;
- xxi) Control of computer maintenance record systems;
- xxii) Reference to specific maintenance procedures such as engine running procedures, aircraft pressure run procedures, aircraft towing procedures, and aircraft taxiing procedures;
- xxiii) Contracting procedures;
- xxiv) Human factors; and
- xxv) Manpower resources.

**(c) Line maintenance procedures (when applicable)**

- i) Line maintenance control of aircraft components, tools, equipment, etc.;
- ii) Line maintenance procedures related to servicing/fuelling/de-icing, etc.;
- iii) Line maintenance control of defects and repetitive defects;
- iv) Line procedure for pooled parts and loan parts; and
- v) Line procedure for handling of defective parts removed from aircraft.

**(d) Quality systems procedures**

- i) Quality audit of organisation procedures;
- ii) Quality audit of aircraft;
- iii) Quality audit findings remedial action procedure;
- iv) The qualification and training procedures for certifying personnel issuing a maintenance release;
- v) Records of certifying personnel;
- vi) The qualification and training procedures for quality audit personnel;
- vii) The qualification and training procedures for mechanics;
- viii) Exemption process control;
- ix) Concession control for deviation from organisation's procedures;
- x) Qualification procedure for specialised activities, such as non-destructive testing (NDT), welding, etc.;
- xi) When required, control of manufacturer's working teams based at the premises of the organisation, engaged in tasks which interface with activities included in the approval; and
- xii) Quality audit of sub-contractors (or acceptance of accreditation by third parties, e.g. use of NDT organisations approved by State regulatory body other than the CAA).

**(e) Example of standard documents.** Examples of standard documents used by the organisation which are associated with activities undertaken under the terms and conditions of the approval, such as:

- i) Technical record control: or
- ii) Rectification of defects.