AVIATION MAINTENANCE REPAIR & OVERHAUL BUSINESS ASSOCIATION, INC

AMROBA®inc

ADVOCATE OF THE AVIATION MRO INDUSTRY

Newsletter Date 24/10/2014

Volume 11, Issue 10A October – 2014

Red Tape Reduction/Deregulation

AMROBA is making a submission to CASA's Red Tape Reduction and Deregulation Program.

Suggested changes to the burden level of individual regulations may be provided in the spreadsheet and sent via an email attachment to deregulation@casa.gov.au. *CASA has provided an excel format spreadsheet that you can use. It can be accessed at* Red Tape Reduction .

The problem is that, over many years, AMROBA, other associations and individuals have been submitting to CASA how they can reduce red tape and deregulate many aspects of the aviation industry without affecting safety. Have they the right people to meet this government initiative?

Since their decision to follow the European system, the growth in red tape and regulation has continued unabated. AMROBA has made many submissions over the years that would reduce the red tape and also reduce the size of CASA.

A major issue with the direction of regulatory changes is that CASA is purposely moving away from a "rule of law" system, where you are treated as innocent until proven guilty, to a system where compliance is to [hidden] CASA policy, advisory material & other non regulative requirements.

Unlike the attitude of the CAA when the CARs were introduced, the reduction in administrative processes were high on the agenda. However, like every legislative change since moving away from ANRs, industry was subjected to more laws, red tape and advisory documents that were used as quasi-regulations.

To reduce the red tape, CASA really needs to start from asking: "what needs to have a regulatory requirement?" We are over-regulated.

Not all ICAO SARPs need to be in legislation. Many of the SARPs are common sense and are abided to by aviation participants but anything that industry must comply with should be in documents tabled in Parliament.

Pre 1991, GA maintenance organisations were approved by CASA and had to comply with one set of standards specified in CAOs. No AMO documented 'quality system' in a manual, similar approach to the FARs for GA.

Very successful for GA and relied on "direct supervision" in small AMOs.

Compliance was with legislative requirements tabled in Parliament—Regulations and CAOs. The government provided 'legislative oversight' of the Orders.

However, that system was discredited by senior management utilisation of "exemptions, alternative means of compliance, etc. that some saw as providing a preferential or uneven application of the requirements.

That is when it was decided to re-write the requirements so all requirements in Orders had a "Head of Power" in the Regulations that also had a "Head of Power" in the Act.

New CASA management kept changing the goals until Byron decided Europe had it right. In the last decade, industry has suffered by bad laws.

Today, industry participants are being audited to advisory material. The following is from a CASA audit finding on an AMO.

> Any amendment to your procedures will be assessed in accordance with the COA handbook and CAAP 30-4(1). As I have previously advised you, the current procedures are consistent with the requirements of the COA handbook and CAAP 30-4(1) and, if followed, provide that an expired shelf life product should be removed from the store before it is available for use. This is a proactive procedure that mitigates the possibility of expired products being inadvertently used by staff.

The CoA Handbook is another level of compliance — we no longer work under the rule-of-law as other citizens of Australia do. This is a return to the 1980s.

> *"The Handbook sets out the criteria that CASA would expect an Applicant to meet to obtain a COA. Meeting these criteria should ensure that the Applicant will have the systems, including procedures, equipment and staff necessary to ensure that aviation safety is not compromised, thus satisfying government, CASA, and public expectation."*

One would have thought the criteria and policy was set out in legislation and/or instruments made under the legislation that the government oversighted.

History will continue to repeat itself unless the Federal Government changes the Act.

Compliance should always be with legislative requirements in documents oversighted by Parliament. Complies with the Rule of Law principles.

CAA/CASA Regulatory Transformation

On the 1st July, 1988, the Civil Aviation Authority was created and, after a few years, on 1st July 1995 the CAA was split into CASA, and Airservices was created on the 6th July 1995.

CEO & GM, CAA	Colin W. Freeland
CEO, CAA	J.F.S. 'Frank' Baldwin
DAS, CAA	Alan Heggen
DAS, CAA	Ron Cooper
CEO, CAA	Doug J. Roser
CEO, CAA (Atg)	Buck A. Brooksbank
DAS, CAA	George Macionis
DAS, CASA	Leroy Keith
DAS, CASA (Atg)	John Pike
DAS, CASA	Mick Toller
DAS, CASA (Atg)	Bruce Gemmell
CEO & DAS, CASA	W. Bruce Byron
DAS, CASA	John McCormick
DAS, CASA (Atg)	Terry Farquharson

During this period of transformation, many regional communities no longer have air services as regulatory costs increases and other competitive modes of transport placed pressures on operators.

The facts:

- ◊ BITRE listed **58 regional airlines** in 1993
- ◊ Today a total of **15 regional airlines exist**

A decline of 75% in just over 20 years

- ◊ In 1984 we had regional carriers servicing **277 ports.**
- ◊ By 2010 this had declined to **148 ports**

A drop of nearly 50%

This decline coincided with the 1988 creation, by government, of an independent government agency.

At the recent RAAA Conference, the RAAA Chairman, Mr Jim Davis stated: "*These numbers speak for themselves and unless this trend is arrested we may well end up one day with Qantas and Virgin as the Coles and Woolworths of regional air services.*

To arrest this trend and to ensure the continued viability of smaller regional operators we need to contain costs which have increased dramatically in recent years across the entire spectrum."

What Jim, other associations and many individuals in industry have recognised is that the transformation of the aviation under the regulatory changes imposed by CAA/CASA over the last two decades has meant regional and private aviation trending downwards.

Pre July, 1988, this industry operated under the Air Navigation Act, Regulations and Orders.

The question is: "what was so different with the change to a Civil Aviation Act, Regulations and MoS?"

One major difference is much of "CASA policy" is not in these 3 tiers of regulatory requirements because the MoSs are referring to additional requirements.

Those of us that were around prior to the 1980s Parliamentary Inquiries, that resulted in the creation of the CAA, fully understood the bureaucratic issues that the industry complained about. The report to Parliament identified the amount of policy and red tape that existed outside the regulatory framework including the frequent use of exemptions. Instead of complying with regulatory requirements, industry was being made to comply with Department instructions, some promulgated, some internal.

CASA's regulatory development has returned to the same approach as the old Department that resulted in the Parliamentary directional change in 1988.

Rule of Law

'The rule of law is an overarching principle which ensures that Australians are governed by laws which their elected representatives make and which reflect the rule of law. It requires that the laws are administered justly and fairly.' - Robin Speed, RoLIA President. http://www.ruleoflaw.org.au/principles/

RoLIA sees the following principles as essential, and is strongly opposed to their diminution, reversal or removal:

- ◊ *The presumption of innocence and the prosecution carrying the burden of proof*
- ◊ *The right to silence*
- ◊ *The privilege against self-incrimination*
- ◊ *A presumption against construing laws so as to allow for arbitrary or unrestricted power*
- ◊ *A tradition of independent judicial review of law and executive action*
- ◊ *The provision of reasons for judicial decisions*
- ◊ *Respect for legal professional privilege*

Laws which effectively compel judges to "rubber-stamp" the actions of the executive, or use courts in the prevention of crime, no matter how well intended, chip away at the institutional integrity of the judicial system and are incompatible with the rule of law.

Aviation legislation no longer meets these standards.

Subpart 21J Flaws

AMROBA still has some issues with CASR Part 21 Subparts J & M although CASA has conceded that there will need to be some amendments to Subpart J to meet industry's issues with this Subpart.

One major concern is that a lot of work was put into "adopting" FAR Part 21 to attain the BASA and FAA/CASA agreed Implementation Procedures.

Under this Agreement, our processes and practices must be as close as possible to the FAA system, including the use of industry engineering authorised persons based on the DER and subsequently DAR.

AMROBA and industry do not want the EASA system, nor will operators or AMOs. There is a place for both Approved Design Organisations and independent Authorised Persons. It has worked well in Australia for a number of decades—removing the anomalies in Subpart J will remain AMROBA's priority.

AMROBA members at the recent CASA Engineering meeting made real progress with CASA and CASA conceded that it will make changes to Subpart M to remove over bureaucratic requirements that are not industry practice in either the FAA or EASA systems.

Because of Australia's geographic size and spread of aviation, past government and the CAA decided that the FAA system was more appropriate than EASA.

There is a massive difference in the approach of EASA and FAA in this field.

EASA regulations (Commission Regulation European Community [EC] 2042/2003 Annex I Part M) require "approved" data for both minor and major classifications of aircraft repairs. This policy is in contrast to the FAA system that requires "approved" data for major repairs only and "acceptable" data for minor repairs. E.g. AC 43-13-1.

Additionally, EU operators under EASA regulations cannot make determinations of minor or major for repairs unless they hold an EASA design organisation approval (DOA). EU operators without an EASA DOA must rely on EASA directly or contract with an EASA-authorised DOA holder to have the repair classified.

Operators under FAA jurisdiction are responsible for ensuring that repairs are accomplished according to all applicable regulations under U.S. Code of Federal Regulations 14 CFR Part 43. Aircraft repairs of damage can be classified as either "major" or "minor." This assessment is based on the scope and complexity of the repair and the experience and capability of the operator.

In the U.S, all operators have authority to use acceptable repair data for minor repairs without additional FAA approval.

To get Australia's GA back to normal, the FAA system is needed to support mainly a FAA aircraft fleet, especially in the use of approved & acceptable data.

FAA TC aircraft maintained to the FAR system have a better chance when sold off-shore.

Modification & Repair Design Data Acceptance

What concerns operators is the acceptance of repairs and modifications approved in Australia by other countries' NAAs if they sell their aircraft off-shore.

This has caused the re-sale value of Australian registered aircraft to be de-valued in the past. It was one of the reasons that government endorsed the industry's concerns in the 1990s.

CASR Part 21 was implemented to achieve market access in the USA. In addition, the limited market access negotiated during this period was not a free and open market as the Memorandum of Understanding between Canada and the USA.

Australia is in a position to have an internationally recognised Australian Parts Manufacturing Approval industry but it needs regulations and standards that are acceptable to other aviation jurisdictions.

Australia should have aircraft design capabilities that could be used by any country in the Asia Pacific Region supported by international agreements.

The question that should be asked is who is responsible for the commercial viability of the aviation industry in government.

When industry lobbied the government to change the Act so that CASA only concentrated on safety, the industry commercially did damage to itself.

Negotiating a commercially benefiting agreement with another NAA by CASA is not possible as all CASA will concentrate on is a "safety" agreement.

That is the outcome of an inefficient Act.

For this industry to participate in foreign markets, we need the government to clearly specify in an Act that, whoever is responsible for international agreements, must negotiate commercially beneficial agreements between Government to Government and/or Technical Agreements between CASA and other foreign NAAs.

AMROBA will submit a paper to the Minister highlighting our concerns with CASA's commercial role.

Become a Member

The adage "there is strength in numbers" is absolutely true when it comes to influencing government regulations and policy. No one company, no matter how big or successful, can keep up on all the regulatory issues directly impacting businesses.

AMROBA is dedicated to serving the businesses that are responsible for the in-service continuing airworthiness of aircraft and aeronautical products, including the manufacture of replacement parts for in-service aircraft. This segment of the industry has never had a dedicated advocate until now.

AMROBA membership form is available from the AMROBA website: http://amroba.org.au/become-a-member/

print the membership form http://amroba.org.au/images/docs/AMROBA_Membership_Application.pdf

AVIATION MAINTENANCE REPAIR & OVERHAUL BUSINESS ASSOCIATION, inc

Postal Address:

PO Box CP 443
Condell Park
NSW 2200

Phone: 61 (0)2 9759 2715
Fax: 61 (0)2 9759 2025
Email:
amroba@amroba.org.au
inquiries@amroba.org.au
Website:
www.amroba.org.au

On-going Matters

1. AMROBA will be meeting representatives of the Department of Environment in late November to discuss, in our opinion, the unnecessary need to achieve their competency unit to 'handle' halon fire systems.

We raised with the Department that aviation maintenance includes a lot of exotic materials that could damage the ozone layer, the local environment and, most importantly, the health of the AME. The industry is more conscious than most other transport industries.

If the government is serious about red tape reduction, then accepting that the AME training includes environmental requirements, there should be no need for an exemption based on the AME/LAME obtaining their competency unit.

The exemption in environment legislation should be for the aviation industry as long as aviation requirements compels the industry to meet these environmental rules.

2. AMROBA has made a submission to the Commonwealth Government's Small Business Minister proposing that government can help reduce costs if other regulatory requirements such as Workplace Health & Safety requirements accept that an aviation business that implements a CASA SMS does not need to have an additional WHS manual.

Businesses will still be required to comply with WHS requirements but the risk assessment processes are duplicated by the WHS system. More chances to reduce red tape.

3. AMROBA has made a submission to the Education Minister covering the academic education of AMEs that must change if we are to remain level with our Asian aviation training standards. Basically, we have submitted that tertiary training should start at the end of Year 10 for most trades and industry needs. This is supported by other transport sectors.

In addition, we have suggested that government cost savings could be made if all modes of transport had their competencies developed by the one skill council.

Basic avionic and mechanical workshop hand skills are very similar across all the transport modes. These hand skills could be a common core across the various modes of transport. Specialising in aviation or other transport mode post the initial training could be beneficial.

5. AMROBA continues to lobby government to commit to the FAR system for the non major airline sectors. We will continue to pursue cost reductions wherever possible without lowering safety standards.

Some wins –some on hold.

The Aircraft Maintenance Engineers/Technician Creed

Worth Remembering

"UPON MY *HONOR* *I swear that I shall hold in sacred trust the rights and privileges conferred upon me as a qualified aircraft maintenance engineer/technician. Knowing full well that the safety and lives of others are dependent upon my skill and judgment, I shall never knowingly subject others to risks which I would not be willing to assume for myself, or for those dear to me.*

IN DISCHARGING *this trust, I pledge myself never to undertake work or approve work which I feel to be beyond the limits of my knowledge nor shall I allow any non qualified superior to persuade me to approve aircraft or equipment as airworthy against my better judgment, nor shall I permit my judgment to be influenced by money or other personal gain, nor shall I pass as airworthy aircraft or equipment about which I am in doubt either as a result of direct inspection or uncertainty regarding the ability of others who have worked on it to accomplish their work satisfactorily.*

I REALIZE *the grave responsibility which is mine as a qualified aircraft maintenance engineer/technician, to exercise my judgment on the airworthiness of aircraft and equipment. I, therefore, pledge unyielding adherence to these precepts for the advancement of aviation and for the dignity of my vocation."*