

AMROBA[®]inc

ADVOCATE OF THE AVIATION MRO INDUSTRY

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2009 – A YEAR OF ADDITIONAL COSTS AND A NEW CASA CEO

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Stop Press

- To make sure the transition to the new maintenance regulations is timely and smooth CASA has appointed Greg Vaughan to head up a Regulatory Implementation unit within CASA. Greg's team will work on transition plans and will provide support to those in the aviation industry affected by the rule changes.
- While it is obvious that for a range of reasons there have been many delays to making these new regulations, it is now clear Government policy that the regulatory reform program be completed over the next two and a half years.
- AMROBA will give Greg Vaughan and CASA whatever we can to make fair and equitable non airline aviation regulations that do not duplicate other Australian business legislation.

No matter which way the industry looks at government policy and new legislation that is coming into force this year, it adds up to more costs on the participants in the industry.

The *Aviation Transport Security Act 2004* has imposed costs to aerodrome operators. Though the Federal Government has provided assistance to cover some costs, this requirement has added costs to small business as aerodrome owners pass costs onto tenants at these aerodromes.

Alcohol and Drug Testing.

These new regulations give aviation organisations, such as airlines and maintenance companies, six months to put in place detailed drug and alcohol management plans covering pre-employment testing, reasonable suspicion testing and post-accident testing, as well as education, training and rehabilitation.

Although AMROBA and everyone in this industry supports the purpose of these rules, the way they will be administered will add additional costs. We are hoping that there may be ways that AMROBA can, by consultation, help simplify this requirement for small organisations.

Regulatory Reform

AMROBA will support CASA bringing to finalisation its regulatory reform program. Consultation has gone on for two decades and outlives the project managers within CASA.

AMROBA MEMBERSHIP UPDATE

AMROBA continues to grow and participate in appropriate aviation committees.

AMROBA's long term survival depends on the MRO industry support. A minimum of 300 AMROBA members are required to make us financially viable but 500 to 1000 members is our aim.

What CASA must do is create new rules and then use their industry committees to provide a final review before making the rules. The industry can no longer continue to work under the unknown or proposals that can change, depending on who is the project manager.

Successive CASA CEOs have brought their ideas to the table and want to copy one regulatory system or another system. First the FAA, now EASA, but not an Australian system to be compliant with ICAO.

What our members desperately need is a removal of duplication of government legislation as well as the CASA promise of principle based (outcome based) aviation regulations.

The only problem with principle based regulations in a highly technical industry, is the over-riding impact of the Criminal Code. How does principle based regulations enable us to understand the ramifications if there are no fault elements specified. The justice system will read-in fault elements into criminal offences despite the complete absence of supporting language.

Will CASA guidance be a defence?

Whatever happens this year, CASA must, in consultation with its myriad of consultative committees, finalise the CASRs and remove the non standard application of the legislation that still exists.

CASA New CEO

Mr John McCormick has been announced as the new Director of Aviation Safety and CEO of CASA.

AMROBA welcomes a change in CEO and hope the new CEO will oversee a CASA that must regain Australia's international aviation creditability and open up foreign markets for our members.

AMROBA will give its support to the new CEO and hope that he will bring relief to the non airline segment based on implementing the ICAO standards for this segment.

Mr Mc Cormack has an enormous job to get recognition of our industry as many of our members have been excluded from foreign markets unless they obtain approvals from other ICAO contracting States.

There is not a level playing field, the current regulations allows the industry to use a free-market whereas other countries exclude our members.

CASA has been restructured so many times and been driven in so many directions, many of our members are concerned that they no longer focus on safety.

Most members complain that all CASA does is find fault with manuals they have previously approved.

CASA is really auditing itself and finding incompetence in each other that results in additional costs to our members. Why pay for their errors.

Membership growth continues to grow but many still sit on the fence collecting the benefits that AMROBA brings to the MRO industry. It is time for you to join — there is strength in numbers.

Complete an application and join now. www.amroba.org.au

We are registered as a non-profit organisation with a Management Team representing each segment of the aviation industry.

If you are not a member access our website www.amroba.org.au for details of AMROBA and membership application.

EASA Regulatory System Criminal Code Application

Mr John McCormack is the incoming CEO of CASA. At least we know that he has learnt to fly helicopters so that segment of industry will be able to talk rotorcraft lingo with him.

His background has been RAAF, Qantas, Cathay Pacific in a number of airline operation roles. Some of our members have contacted us with support for this appointment.

The industry, during what will be an extremely economically challenging year, will watch what costs that this CEO will add to the day to day operations. Lets hope he achieves a reduction in costs so you survive.

Based on outcomes in Europe, CASA's proposal to adopt outcome based legislation that is part of Australia's Criminal Code will put most participants into a no-win situation.

Basically, the physical element of criminal law is the "conduct" of an act. The code defines: "**conduct**" means to do an act or an omission to perform an act or a state of affairs.

Regulations should use the expression "commits an offence" rather than the expression "is guilty of an offence" to create a criminal offence.

A key object of Chapter 7 of the *Criminal Code* is to minimise the number of offences in other Commonwealth laws. CASRs should not include those offences that are included in Chapter 7 of the Criminal Code but our members should be aware of the kinds of offences that Chapter 7 include.

Chapter 7 of the *Criminal Code*, creates the following kinds of general offences:

- (a) *theft and other property offences;*
- (b) *fraudulent conduct;*
- (c) *false or misleading statements, information or documents;*
- (d) *making unwarranted demands with menaces;*
- (e) *bribery, corrupting benefits and abuse of public office;*
- (f) *forgery and falsification of documents;*
- (g) *giving information derived from false or misleading documents;*
- (h) *harming, or threatening to harm, Commonwealth public officials;*
- (i) *impersonating Commonwealth public officials;*
- (j) *obstructing Commonwealth public officials.*

Example: On the 20 August a *Spanair Boeing MD-82* take-off accident at Madrid Barajas airport, in which 152 of the 172 people on board perished, has resulted in two maintenance engineers and their supervisor being charged with manslaughter by a Spanish judge.

According to the interim accident report, the MEL consulted by the engineers before tripping the RATP circuit breaker permitted the action taken by the LAMEs.

Under EASA regulations they thought they were legal whereas the judge, under criminal law, charged them with manslaughter.

AMROBA accepts the Government decision to apply the criminal code to aviation legislation as long as the physical and fault elements are clearly identified in the legislation. Your future depends on clarity.

CAR 30 Maintenance Organisation Anomaly

Aviation Green Paper

Great words but will they be supported by government.

"General aviation services play an important role in supporting other industries and in providing broader community support including:

- *as an enabler for agriculture and mining;*
- *contributing to broader community programs such as medical evacuations, aerial fire-fighting services and law enforcement activities; and*
- *providing a public transport service in remote areas of Australia, in the same way that taxis might in metropolitan areas."*

To demonstrate a simple error in legislation development one only has to look at CAR30 and CAR42ZC.

CAR30 is very specific regarding authorisation of organisations for specific "activities" but nowhere in the CAR does it say the organisation can do aircraft maintenance. This is standard in ICAO, FAR, EASR, etc.

CAR 42ZC states that employees can do aircraft maintenance but CAR30 only states that it can 'control' aircraft maintenance.

This insinuates that an AMO can do aircraft maintenance but there is no clarity. ICAO, FARs, EASRs, etc all state that an approve AMO can do aircraft maintenance.

It is probably legally correct to make such a differentiation between who can do aircraft maintenance and who can control the doing of maintenance.

But this makes a mockery of CAR 42ZD that enables maintenance to be carried out by a person authorised by an ICAO contracting State. Most ICAO contracting States authorise

maintenance organisations to carry out maintenance.

However, as any organisation realises if it ends up in the justice system, aviation matters little because of other legislation like OH&S legislation makes the employer responsible.

It is this conflicting government regulatory requirements that a business needs to comply with that CASA must take into consideration when creating aviation specific requirements.

The problem with creating specific regulations is that individuals start applying them in a manner that ignores real safety approaches.

The problem is that what was intended by regulators in 1992, remember the promises of Director of Aviation Safety Ron Cooper, is no longer how his regulations are applied.

As part of the CASA Executive from that period, I have witnessed how specific regulations can be applied quite differently than how they were consulted with industry.

The application by government of the Criminal Code is the main reason

different interpretations are being applied.

Without complicated legislation, aircraft maintenance is quite simple. Maintain the aircraft to manufacturer's standard as regulated by the State of Design.

That is, maintain a US Type Certificated aircraft to the FAA standards. This would enable the non airline segment to utilise the annual inspection system the FARs allow. The US system has safe non airline aircraft.

The same should apply to an EASA NAA TC'd aircraft. This would enable aircraft certificated under one system or another to be maintained to what the aviation regulator responsible for the TC has determined to be safe for their TC'd aircraft.

Maybe CASA could do this industry a favour and require aircraft to be maintained to the NAA standards responsible for the TC.

This would remove CASA from being held accountable for a design that they do not approve. CASR Part 21 achieved this so why not adopt the same approach for maintenance.

This would remove industry lobbyists from wanting unique rules.

CASA DP08020S Will Increase Pressures on Small Business

Why is it possible for CASA to continue to increase the kinds of aircraft to be operated under the deregulated RA-Aus system whilst they cannot create a cost effective non airline system that would remove the need for these changes.

CASA's latest Discussion Paper (DP) to increase the kinds of aircraft that can be operated under the RA-Aus system will place more economic pressures on small MRO businesses that have to comply with the over regulated non airline regulatory system managed by CASA.

CASA DP 08020S issued in September 2008 states: "*RA-Aus has claimed that industry demand is driving it to pursue an increase in the MTOW benchmark of aeroplanes that can be accepted under its administration.*"

The reason that there is purported to be "industry demand" is that CASA point blankly refuses to deregulate the non airline segment similar to the FAA non airline system that would negate the need for most self administrative organisations.

In addition, the FAA non airline regulatory system would dramatically reduce CASA's costs and regulatory impost on this segment with a reduction in CASA involvement so it will never be proposed by CASA.

If CASA put as much energy into producing a cost effective non airline regulatory system as it does in placating self administration organi-

sations, then the non airline system would have had a cost effective system a decade ago.

Instead of CASA exempting and devolving aircraft numbers to other methods/systems, they impose and continue to propose, a more costly system than is required on those that make a living out of this industry .

CASA continues to fail to produce a non airline system deregulated in the same manner as the deregulated FAA system in favour of developing a regulated system that will impose unnecessary regulatory imposts.

AMROBA contends that the FAA system would enable the non airline segment to provide a cost effective safe aviation system.

DP 08020S will, for example, enable most C150s, B77 & PA-38 to be operated under the RA-Aus system that does not impose the same regulatory imposts that the current aviation regulatory system applies to VH aircraft participants.

In total almost 2000 VH registered single-seat and two-seat aeroplanes could transfer from the CASA Aircraft Register to the RA-Aus Aircraft Register under this proposal.

CASA admits in its own DP that "*RA-Aus has not presented any factual basis for its statement that the proposal to permit it to administer these aeroplanes conveys any positive benefit to the aviation industry*

as a whole, or that they could provide any advantage to the owners or operators over and above other possible aspiring administration schemes that would remove these aircraft from the perceived costs of the CASA bureaucracy."

On the other hand, Dr Stephen Lamble, Queensland University, stated in his 2006 paper on ultralight aircraft accidents that "*Research shows that Australian ultralight fliers are about six times more likely to die for every hour flown than if they flew in general aviation aircraft.*"

Obviously there are contradictory claims on safety and AMROBA has had a long term view that CASA could provide a safe regulatory system that would provide owners with a cost effective system based on the US non airline segment.

As we come to the end of another CASA CEO's reign, the industry that employs thousands once again has good reason to feel let down with regulatory reform that once again failed employers and employees alike.

Owners, operators, organisations and their employees have now lived through a number of CASA CEO's who promised cost effective regulatory reform and fail to produce. There is now more confusion regarding reform of the regulatory system than ever before. CEO Byron's regulatory reform has failed our members, what's new?

AVALON 2009 AUSTRALIAN INTERNATIONAL AIRSHOW AND AEROSPACE & DEFENCE EXPOSITION

10-15 MARCH 2009 GEELONG VICTORIA

The 2009 Australian International Airshow and Aerospace & Defence Exposition will be held over six days, from Tuesday 10 March until Sunday 15 March.

Industry-only trade sessions will be held Tuesday to Thursday (all day) and Friday (until 2pm). The exposition will open each day from 9am until 5pm

The show will open to the public on Friday 13 March (from 2pm until 9pm) plus Saturday 14 March and

Sunday 15 March (from 8am to 6pm). Flying Displays will take place between 1230pm and 430pm each afternoon from Tuesday to Thursday. On Friday, the flying display will commence at 3pm and conclude at approximately 900pm with a Night Aflight Finale. On the weekend days, flying displays will take place between 10am and 4pm daily.

A major Careers and Skills program for teachers and careers professionals will be conducted at Avalon during the event. It will be followed over

the weekend by a Careers and Skills Showcase to encourage interest among students, parents, teachers and careers professionals in aviation, aerospace and defence.

AMROBA has been a member of the Airshow committee that has brought together the Careers and Skills program attached to the Airshow.

Members may view the Airshow details on <http://www.airshow.net.au/avalon2009/index.html>

The aviation industry is bracing for another bumpy ride in 2009 as the global financial crisis continues to dent demand for air travel.

Airlines are expected to collectively incur \$US5 billion (\$A7.3 billion) in losses in 2009 due to the economic crisis, according to the International Air Transport Association (IATA).

About 30 carriers collapsed in 2008, which is more than after the September 11, 2001, terrorist attacks in the US.

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Supervision – legislative responsibility

Supervision has always been a concern to CASA and it is a basic safety tool. There is corporate supervision and task supervision.

What creates the debate is, what is the level of supervision that is needed to comply with legislation or, more importantly, to provide safety?

The problem in the legislation is that supervision has never been defined and what one person sees as adequate others will see it as deficient.

We can raise great legal arguments to what it means and every legal opinion will also be different.

It has long been recognised that you cannot inspect safety into the performance of maintenance. The old QA system was a disaster so it was abandoned for a system of QC.

Using the right qualified person to do a maintenance task is the best way to achieve safety.

So why do we have supervision?

To ensure that completion of work carried out is safe.

Supervision in trades goes back to a tradesperson supervising trainees and apprentices whilst teaching them their trade. This level still exists.

The tradesperson, once the trainee or apprentice has demonstrated competency to do the task, reduces the supervision gradually until he is confident the trainee/apprentice is competent enough so that no more supervision is required.

A tradesperson that takes on a corporate responsibility has a new level of supervision to ensure tradespersons perform the maintenance in a timely and safe manner.

The level of supervision can vary depending on the competency of the persons performing tasks.

For example, if a C/E is supervising the work in a hangar, he may only be performing corporate supervision if there are appropriately rated LAMEs supervising the maintenance on each aircraft.

Again, the individual LAMEs may be supervising a qualified tradesperson who actually has been determined as competent by the supervising LAME.

Supervision of such a person would be at a level where next to no task supervision is required.

Once a LAME has ascertained that the AME is competent, then there is no need to check the tradespersons work.

What a C/E and the supervising LAME has to determine is what level do they need to apply to those they are supervising.

All of us have supervised staff and know who needs to be checked and who doesn't need checking.

In many cases, we have all empowered tradespersons (AMEs) to do work without any direct supervision because we were so confident in the competency of the tradesperson.

There are many AMEs who can send out to do a maintenance task and be totally confident in the fact that the task was done properly.

The decision must be left to the C/E and supervising LAME. Irrespective of aviation legislation, other legislation applies a complete different view of trade work. If a person holds a trade qualification then that person is qualified to do that task.

Courts have held the AME accountable and not the supervising LAME.

The LAME could be held responsible if the person being supervised is not competent to do a task.

Aviation regulators normally expect the supervising LAME to be available to provide advice if a tradesperson needs guidance. This does not mean that the supervising LAME has to physically inspect the work by a tradesperson.

CASA has reason for questioning supervision because of work that has been badly supervised in the past. There has been cases where maintenance documents were faxed to a LAME in another location who signed the completion of the maintenance and then faxed the sheets back.

What CASA should do is regulate for what courts will expect under other Australian legislation.

The supervising LAME needs to be available if the AME needs advice, availability means in the locality.



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.”