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NEWSLETTER

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1. Implementing permanent change

Without doubt, there has been almost unanimous support in the aviation industry for the recommendations of the ASRR report. However, when will the Act be amended by the government to support ASRR recommendation?

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To enable these recommendations to be implemented permanently, the Civil Aviation Act must change

2. The ICAO Annexes are written in uncomplicated plain English

In each Annex to the Convention, the following paragraph can be found.

"Wherever possible, the provisions of this Annex have been written in such a way as would facilitate incorporation, without major textual changes, into national legislation."

Without major textual change!!!!

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The Annexes were re-written in plain English and use one paragraph for pages of regulations and/or standards.

3. Regulatory reform has not achieved general aviation job growth or an improvement in safety

AMROBA and other industry associations recognise the need for 'smart' regulations to ensure aviation safety and protect public health. Australians deserve a working aviation regulatory system that is fair for everyone, takes into account the views of communities and businesses, evaluates the impact rules will have on jobs and small businesses, and protects our economic and personal freedoms. Reduction, by devolvement and deregulation must be seriously considered.

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In 1988, the CAA informed industry the regulatory reform would provide clarity reducing requirements and their costs.

4. Without doubt, our skills need raising

Has our approach to skilling been correctly focused over the decades? Since the mid 1980s GA maintenance services in rural Australia have struggled to contain the costs of getting apprentices skilled under an out-of-date training system requiring "block release", etc.

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GA needs an A&P mechanic with LA and airlines need line trained LAMEs

5. CASRs have not been a success

It is now general agreement that benefits have not been attained from the CASRs and the drafting style has created confusion.

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CARs & CASRs continue to add red tape, regulations & standards.

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1. Implementing permanent change

Without doubt, there has been almost unanimous support in the aviation industry for the recommendations of the ASRR report. The government and industry obviously support these recommendations, so when will the Department of Infrastructure & the CASA Board initiate changes to the Civil Aviation Act to implement these recommendations permanently? The Board and Infrastructure must recommend changes to change the regulatory style.

The Act must be amended to implement the government supported ASRR recommendations.

The Act was rushed together to create the CAA back in 1988 and has a series of ad hoc amendments. NZ realises that after 20 years, the Act should be reviewed so when will Australia set up a review of the Act against international treaties and applicability to the current aviation industry.

CASA & aviation continually have review after review with no permanent result – regulatory review has been under way since the formation of the CAA in 1988. The rest of the aviation world are modernising their requirements utilising performance based regulations & standards and utilising a risk based approach. The USA are well ahead of Australia as we implement draconian requirements of the past. Changes must happen.

Many businesses that have spanned a few regimes of CASA and its predecessors, are not confident that permanent change will happen until the government support and direction to the CASA Board & DAS is given legislative support in the Act. We need a DAS reportable to the Board and a Board reportable to the Minister. The Board must be held fully accountable.

Act – Duties (1) The Director is to manage CASA subject to the directions of, and in accordance with policies determined by, the Board.

Subject to the directions of, and in accordance with policies determined by the Board. For the Board to direct and provide policies to implement the government ASRR recommendations, then they need to recommend a review of the Act, especially the following sections of the Act:

Sec 3A Main object of this Act

The main object of this Act is to establish a regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

Compare with NZ who are also reviewing their Act: *While the [NZ] Act is fundamentally sound, the Act is over 20 years old and during this period there have been a number of changes in the aviation industry. The Ministry wants to make sure the Act promotes a responsive regulatory system to support a dynamic aviation sector.*

[NZ] Objectives of Minister

The objectives of the Minister under this Act are—

- (a) to undertake the Minister's functions in a way that contributes to the aim of achieving an integrated, safe, responsive, and sustainable transport system; and*
- (b) to ensure that New Zealand's obligations under international civil aviation agreements are implemented.*

NZ is reviewing their Act after 20 years and we have had no review after 27 years.

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Sec 9 CASA's functions

(1) *CASA has the function of conducting the safety regulation of the following, in accordance with this Act and the regulations:*

(c) *developing and promulgating appropriate, clear and concise aviation safety standards;*

The ASRR clearly identified that this provision should be clarified; consistent with the Convention, compatible with other major NAAs, including NZ.

In AMROBA's opinion, CASA has never promulgated "clear and concise aviation safety standards" under this provision of the Act. All current "standards" are issued under the Regulations.

All future "standards" should be made under the Act and undergo full Parliamentary oversight.

Sec 20AB Flying aircraft without licence etc.

Provision in this section is seen as supporting prescriptive regulations – needs to be modernised.

(2) *A person must not carry out maintenance on:*

(a) *an Australian aircraft; or*

(b) *an aeronautical product in Australian territory; or*

(c) *an aeronautical product for an Australian aircraft;*

*if the person is not permitted by or under the regulations to carry out **that** maintenance.*

The word "that" can be interpreted very narrowly.

Sec 98 Regulations etc.

(1) *The Governor-General may make regulations, not inconsistent with this Act:*

(a) *prescribing matters required or permitted by this Act to be prescribed;*

(b) *prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act;*

(c) *for the purpose of carrying out and giving effect to the provisions of the Chicago Convention relating to safety;*

(d) *in relation to safety of air navigation within a Territory or to or from a Territory;*

(e) *in relation to safety of air navigation, being regulations with respect to trade and commerce with other countries and among the States; and*

(f) *in relation to safety of air navigation, being regulations with respect to any other matter with respect to which the Parliament has power to make laws.*

Compare with the FAA responsibilities for minimum standards.

USA Title 49. Sec. 44701. General requirements

(a) Promoting Safety. - *The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing -*

(1) minimum standards required in the interest of safety for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers;

(2) regulations and minimum standards in the interest of safety for -

(A) *inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;*

(B) *equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and*

- (C) a qualified private person, instead of an officer or employee of the Administration, to examine and report on the inspecting, servicing, and overhauling;
- (3) regulations required in the interest of safety for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;
- (4) regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers; and
- (5) regulations and minimum standards for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security.

The concept that CASA has to create regulations and standards without stating they should be the minimum regulations and standards is a major reason why regulatory reform is treated as regulatory development by CASA staff.

The above are but a few examples – a complete review is warranted.

2. The ICAO Annexes are written in uncomplicated plain English

“Use of the text of the Annex in national regulations. The Council, on 13 April 1948, adopted a resolution inviting the attention of Contracting States to the desirability of using in their own national regulations, as far as practicable, the precise language of those ICAO Standards that are of a regulatory character and also of indicating departures from the Standards, including any additional national regulations that were important for the safety or regularity of air navigation. Wherever possible, the provisions of this Annex have been written in such a way as would facilitate incorporation, without major textual changes, into national legislation.”

Safety All Around

Annex 2, for example, uses plain English and, if written without major textual changes, could be adopted into the aviation regulations. As an example of the SARP clarity, the following excerpt from Annex 2 demonstrates why the ICAO text should be used.

3.2 Avoidance of collisions

Note.— It is important that vigilance for the purpose of detecting potential collisions be not relaxed on board an aircraft in flight, regardless of the type of flight or the class of airspace in which the aircraft is operating, and while operating on the movement area of an aerodrome.

3.2.1 Proximity

An aircraft shall not be operated in such proximity to other aircraft as to create a collision hazard.

3.2.2 Right-of-way

The aircraft that has the right-of-way shall maintain its heading and speed, but nothing in these rules shall relieve the pilot-in-command of an aircraft from the responsibility of taking such action, including collision avoidance manoeuvres based on resolution advisories provided by ACAS equipment, as will best avert collision.

Note 1.— Operating procedures for use of ACAS are contained in PANS-OPS (Doc 8168), Volume I, Part VIII, Chapter 3.

Note 2.— Carriage requirements for ACAS equipment are addressed in Annex 6, Part I, Chapter 6.

3.2.2.1 *An aircraft that is obliged by the following rules to keep out of the way of another shall avoid passing over, under or in front of the other, unless it passes well clear and takes into account the effect of aircraft wake turbulence.*

3.2.2.2 Approaching head-on. *When two aircraft are approaching head-on or approximately so and there is danger of collision, each shall alter its heading to the right.*

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3.2.2.3 Converging. *When two aircraft are converging at approximately the same level, the aircraft that has the other on its right shall give way, except as follows:*

- a) power-driven heavier-than-air aircraft shall give way to airships, gliders and balloons;*
- b) airships shall give way to gliders and balloons;*
- c) gliders shall give way to balloons;*
- d) power-driven aircraft shall give way to aircraft which are seen to be towing other aircraft or objects.*

3.2.2.4 Overtaking. *An overtaking aircraft is an aircraft that approaches another from the rear on a line forming an angle of less than 70 degrees with the plane of symmetry of the latter, i.e. is in such a position with reference to the other aircraft that at night it should be unable to see either of the aircraft's left (port) or right (starboard) navigation lights. An aircraft that is being overtaken has the right-of-way and the overtaking aircraft, whether climbing, descending or in horizontal flight, shall keep out of the way of the other aircraft by altering its heading to the right, and no subsequent change in the relative positions of the two aircraft shall absolve the overtaking aircraft from this obligation until it is entirely past and clear.*

3.2.2.5 Landing

3.2.2.5.1 *An aircraft in flight, or operating on the ground or water, shall give way to aircraft landing or in the final stages of an approach to land.*

3.2.2.5.2 *When two or more heavier-than-air aircraft are approaching an aerodrome for the purpose of landing, aircraft at the higher level shall give way to aircraft at the lower level, but the latter shall not take advantage of this rule to cut in in front of another which is in the final stages of an approach to land, or to overtake that aircraft. Nevertheless, power-driven heavier-than-air aircraft shall give way to gliders.*

3.2.2.5.3 *Emergency landing. An aircraft that is aware that another is compelled to land shall give way to that aircraft.*

3.2.2.6 *Taking off. An aircraft taxiing on the manoeuvring area of an aerodrome shall give way to aircraft taking off or about to take off.*

Annex 6 Part III & Part II is no different to Annex 2, the following excerpt covers maintenance.

Part III 6.1 Responsibilities

6.1.1 *The owner of a helicopter, or in the case where it is leased, the lessee shall ensure that:*

- a) the helicopter is maintained in an airworthy condition;*
- b) the operational and emergency equipment necessary for the intended flight is serviceable;*
- c) the Certificate of Airworthiness of the helicopter remains valid; and*
- d) the maintenance of the helicopter is performed in accordance with a maintenance programme acceptable to the State of Registry.*

6.1.2 *The helicopter shall not be operated unless it is maintained and released to service under a system acceptable to the State of Registry.*

6.1.3 *When the maintenance release is not issued by an organization approved in accordance with Annex 6, Part I, 8.7, the person signing the maintenance release shall be licensed in accordance with Annex 1.*

Part II 8.1 Responsibilities

8.1.1 *The owner of an aeroplane, or in the case where it is leased, the lessee, shall ensure that:*

- a) the aeroplane is maintained in an airworthy condition;*
- b) the operational and emergency equipment necessary for the intended flight is serviceable;*
- c) the Certificate of Airworthiness of the aeroplane remains valid; and*
- d) the maintenance of the aeroplane is performed in accordance with a maintenance programme acceptable to the State of Registry.*

8.1.2 *The aeroplane shall not be operated unless it is maintained and released to service under a system acceptable to the State of Registry.*

8.1.3 *When the maintenance release is not issued by an approved maintenance organization in accordance with Annex 6, Part I, 8.7, the person signing the maintenance release shall be licensed in accordance with Annex 1.*

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Annex 8 is no different

8.4 Modifications and repairs

All modifications and repairs shall comply with airworthiness requirements acceptable to the State of Registry. Procedures shall be established to ensure that the substantiating data supporting compliance with the airworthiness requirements are retained.

8.5 Maintenance release

8.5.1 *A maintenance release shall be completed and signed, as prescribed by the State of Registry, to certify that the maintenance work performed has been completed satisfactorily.*

8.5.2 *A maintenance release shall contain a certification including:*

- a) basic details of the maintenance carried out;*
- b) date such maintenance was completed;*
- c) when applicable, the identity of the approved maintenance organization; and*
- d) the identity of the person or persons signing the release.*

So why is CASA complicating the international requirements? Why is there more detailed complicated regulations proposed? Without doubt, the most successful regulations are outcome based FARs that clearly make individuals and organisations responsible for safety. The modernisation of the FARs over the last decade has left Australia working with out-dated and prescriptive regulations that are uniquely Australian and do not have clarity.

3. Regulatory reform has not achieved general aviation job growth

AMROBA and other industry associations recognise the need for 'smart' regulations to ensure aviation safety and protect public health. Australians deserve a working aviation regulatory system that is fair for everyone, takes into account the views of communities and businesses, evaluates the impact rules will have on jobs and small businesses, and protects our economic and personal freedoms. Reduction, by devolvement and deregulation must now be seriously considered.

FAA GA Definition (Title 49): *'general aviation aircraft' means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under part A of subtitle VII of title 49, United States Code, at the time of the accident.*

Dept of Infrastructure: *General aviation commonly refers to that part of the aviation industry that engages in activity other than scheduled commercial airline activity. This **may** include charter operators, aeromedical operators, agricultural aviation businesses, aviation-based fire-fighting services, training and aerial work such as aerial photography and surveying. It also includes private, business, recreational and sports aviation activity and supporting businesses such as maintenance providers.*

The FAA has included the 19 seats and below in GA and treat larger aircraft, for airworthiness and maintenance, the same controls as operating under scheduled passenger operations.

GA has not changed its opinion on which regulatory system it should follow for 3 decades – there has been a constant push to adopt the FAR system and even some of the Canadian system relating to smaller aircraft. What GA needs is the US system, including implementing the US system for GA with very minor changes.

For instance, why does CASA issue so many AOCs for aerialwork operations when the operators have no FAA approval in the USA? Over prescriptive controls.

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4. Without doubt, our skills need raising

Has our approach to skilling been correctly focused over the decades? Since the mid 1980s GA maintenance services in rural Australia have struggled to contain the costs of getting apprentices skilled under an out-of-date training system requiring “block release”, etc. One of the most confronting problems today is to find prospective employees with the practical skills to perform maintenance.

Today, the Education Department is reviewing the needs and are trying to come to terms with skilling to meet the needs of our industry. AMROBA has made submissions to the Education Department and also through Skill Councils.

We are trying to correct nearly 3 decades of deskilling that has been a result of trying to cram ever increasing international standards to support modern aircraft whilst retaining the skills needed to maintain legacy aircraft and components.

ICAO recognises an aircraft maintenance engineer in avionics (electrical/instrument/radio) and mechanical (airframe/engines/electrical) categories. Airlines and general aviation have separate needs – major airlines with modern aircraft will probably never do major dismantling for inspections in Australia but still need these skills for maintenance.

GA needs a broad mechanical AME/LAME, especially in rural Australia and specialised avionics as modern avionic systems are retrofitted in legacy aircraft.

Our industry does not need to copy Europe or USA or Canada, it needs a system to support general aviation in Australia. Canada has a “structures” stream but the mechanical stream includes the “structures” stream as it is in Europe and the USA. “Structures” must be part of our mechanical stream in general aviation.

Safety All Around

It can be achieved if we can get changes to the NVET trade training system so competency based training is applied to the practical skills, preferably prior to employment.

5. CASRs have not been a success

It is now general agreement that benefits have not been attained from the CASRs and the drafting style has created confusion. When reform started by creating the CAA, government and the CAA promised a reduction in red tape. Over the years, aviation has become the most regulated industry in Australia. Only the tax system has more requirements.

The reason is that reforms means development to public servants – this has happened in many sectors of the public service so aviation should not think we are alone. Governments have judged themselves on the amount of legislative and regulative requirements they have imposed on the Australian society. What it has demonstrated is the model currently used to reform needs a complete overhaul.

If reform, not development, is to become the principle then the Board of CASA must set the policy to start a new reform process and change to performance based regulations like the CAA(UK) has done. Even EASA has admitted they created unworkable requirements.

General aviation engineering (design, manufacture and maintenance) has suffered under the draconian requirements that have been made and are proposed to be made.

Flight operations, pilots are now feeling the same effect as maintenance has experienced.

Time to stop and start rebuilding aviation using a whole-of-government approach to comply with international treaties and support general aviation and the airlines.