

## **1. Can Australian Civil Aviation System Change?**

3 years ago, AMROBA took on the challenge to get the fundamental legislation changed so our civil aviation system enables global recognition of government certificates (e.g. the Authorised Release Certificate) and manufacturing and maintenance products and services recognised in their own right globally, especially with North America for manufacturing and the Asia Pacific region for maintenance services (where we should be participating). Since the new Deputy Prime Minister was appointed we have seen a change in attitude by his office, his portfolio Department and CASA's CEO. There are positive signs. [Read on.](#)

## **2. What if the FARs were adopted? – NZ or the PNG version based on NZ?**

What if the US system was adopted for all but the international airlines? If full adoption, the non-airline sector and the non-turbine powered helicopter sector. What would be the future if the FAA FBO system was adopted in Australia. No AOC or AMO for general aviation, including aerialwork. How will CASA provide regulatory oversight that is covered by the FAA's Airports Division, not Flight Standards. Will CASA promulgate the FAA standards for non-approved FBOs or will it stick with a more stringent approach or will they adopt the NZ/PNG system?

It would be a massive change that would need a massive education program. [Read on.](#)

## **3. FAR FBO Adoption Consequences.**

Whenever a foreign country's aviation regulatory system, or part of that system is adopted, it is an obligation on government to ensure it is amended to work within other Australian legislation, federal and State. [Read on](#)

## **4. Would adopting the FARs remove Chicago Convention Annexes Differences.**

This has been an on-going debate within CASA and its predecessors for a couple of decades to no avail. AMROBA does not believe this is a decision that should be made by CASA. This is a political decision the DPM must make to meet the aspirations of the aviation participants. AMROBA and all of GA have voted for FAR alignment while Airlines have opted for the EASA system. Charter operators and supporting AMOs have also shown support for the FAR based system. The ultimate political policy should be adoption of the Treaty (Convention) Standards and Recommended Practices as close as practical when adopting the FAR system. [Read on.](#)

## **5. Using on-line module eBook training adopted.**

Members are taking up the offer for Emperious eBook discussed in the last months Newsletter. This simply means an AME can either self-study to pass the CASA modular or participate in an AQF IV trade course and use the eBook to assist in sitting CASA examination. [Read on](#)

### Content

1. Can Australian Civil Aviation System Change? .....	1
2. What if the FARs were adopted? – NZ or the PNG version based on NZ?.....	1
3. FAR FBO Adoption Consequences. ....	1
4. Would adopting the FARs remove Chicago Convention Annexes Differences..	1
5. Using on-line module eBook training adopted.....	1
1A. Civil Aviation Required Changes .....	2
2B. FAR Version? NZ or PNG Model? .....	3
3C Adopting FARs Consequences .....	3
4D. Adopting FARs – Removal of ICAO Differences .....	5
5E. Apprenticeships Using Part 66 module eBook. ....	6

## 1A. Civil Aviation Required Changes

Political & Public Service now seem to be focusing on positive change.

Feedback from the DPM's office, the *Department of Infrastructure, Transport, Regional Development and Communications (DITRDC)*, and CASA's CEO has at last given the non-airline sectors some hope. The only outcome is harmonised regulations, standards and practices.

DITRDC is communicating with DFAT (*Department of Foreign Affairs and Trade*) to include aviation manufacturing and maintenance services in future Free Trade Agreements. Must be permanently added to applicable legislation.

The Department is also communicating with the Education Department to make Education responsible for providing education qualifications that meet ICAO competency based training standards for AMEs – CASA is not an educator.

- This will be the first time in Australia's aviation history that the Federal Education Department would be responsible for AME qualifications.
- Canada, like many EU nations, did this decades back.

In addition, CASA is seriously discussing the adoption of the FAA Certified Flight Instructor operating from a fixed base to resurrect general aviation.

We also know the Department is looking at the shortfalls in the Civil Aviation Act and Airports Act. These were rushed into production when CAA was created and are way overdue for review.

The problem has been past politics has seen little change being made because the project managers and their superiors were not wedded to the politically directed changes.

### **Government must Replace Unique Regulatory Concepts**

Whoever came up with the 'strict liability' concept for aviation regulations within CASA should not have anything to do with future legislative change. This is a concept that is totally against "[Rule of Law – Strict Liability](#)" principles and is not applied in any other international aviation jurisdiction. So why is it applied by government when pilots and maintenance engineers are approved by CASA to make aviation safe? What is the mentality of government to impose such "presumed criminal" legislation on those that are there to ensure it is safe? Why are they treated like criminals just because they work in the aviation industry?

Does the government apply "strict liability" to other forms of transports?

"An important part of the rule of law is reviewing, updating and removing laws to **make sure they are fair and reflect social values**. The Australian Law Reform Commission is an independent agency that provides recommendations for law reform to the Australian Government.

- Everyone is innocent until proven guilty – presumption of innocence – in a fair and public trial {**except aviation where every body are treated as guilty**}
- All citizens are given 'natural justice' – procedural fairness." {**except aviation**}

"10.1 It is an important principle of the common law that a **person generally should not be criminalised for committing a physical act** (*actus reus*) without an accompanying 'guilty mind' (*mens rea*). However, some statutes impose strict or absolute liability on one or more physical acts, meaning that proof of *mens rea* is not required."

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### ***What is the reason for applying “strict liability”?***

Because the “CASA Concept” of drafting regulations is removing the presumption of innocence to make it easier to prosecute; we struggle to retain many industry participants who find the “attitude” between Government & industry untrusting and not just.

**“it is generally neither fair, nor useful, to subject people to criminal punishment for unintended actions or unforeseen consequences unless these resulted from an unjustified risk (i.e. recklessness).”**

**Industry’s attitude is based on safety not criminal intent.**

This government/CASA attitude has to change to apply a fair and just aviation legislative/regulatory system harmonising with FAA/NZ/PNG system.

[Back to the Top](#)

### ***2B. FAR Version? NZ or PNG Model?***

When CASA was drafting a FAR based system 1990s to early 2000 it was also aware of NZ developing FAR based regulatory system. Many of the drafted CASRs based on the FAR based system would have meant that there was an Australasian FAR based regulatory system which could have led to a harmonised system in the operations and maintenance Australasian airspace.

PNG, who also adopted and improved the NZ regulatory model, have also benefited by adopting the NZ model. Many of the Australian aviation businesses in Northern Queensland/NT have aviation links into PNG. Their advice is the PNG regulatory model is an improvement on the NZ model regulations.

Both NZ and PNG implemented their aviation regulatory system within a few years – apparently CASA/CAA has not the same capability to adopt the FAR system and make it fit to the Australian legislative system in a few years.

AMROBA recommends the government adopt the PNG/NZ system to provide a south west pacific harmonised system that would lead to closer links to the FARs.

[Back to the Top](#)

### ***3C Adopting FARs Consequences***

How will general aviation and aerialwork operators and maintenance organisations cope with the removal of CASA approval of their businesses?

Based on CASA’s past regulatory development change record, it could be a disaster for government to place this responsibility on CASA. The responsibility should be placed on DITRDC to coordinate the legislative change/adoption as it will need consequential changes to other Australian Legislation/Regulations to remove conflicts.

The FAA approval system is for operators and organisations in the Commercial Air Transport sectors with a couple of exemptions.

General aviation, which includes aerialwork, operate iaw the standards promulgated in the FARs and FAR referred documents. There is no FAA approval of these organisations and operators.

The major issue that organisations have is the use of Form One, Authorised Release Certificate by non-approved AMOs operating under Part 91/43. FAA Order 8130-3 Chapter 3, 3.1, a, states

***“Note: The restriction in this order relating to the issuance of the form does not apply when the form is used as a maintenance record and approval for return to service. Copies of the form when used as a maintenance record or an approval for return to service may be provided to the owner/operator or others who require copies of maintenance records as prescribed by the applicable CFRs.”***

In the US system, even an A&P mechanic returning a product to service can use this form. So why does CASA restrict its use?

FAR Part 43 places the responsibilities on persons holding FAA licences working for themselves or businesses that are not approved by the FAA.

Virtually, the general aviation and aerialwork sectors, including supporting maintenance organisations would not have to be approved by CASA.

However, the FAA Airports Division, not Flight Standards, promulgates standards that these organisations and operators must meet if operating on an airport and the Airport Division provides indirect regulatory oversight.

How does CASA keep these businesses in business during adoption?

Others CAR 30's do not operate from airports.

Engine, propeller and instrument workshops are still FAA approved, it is mainly the aircraft maintenance organisations that are not approved.

Some maintain large aircraft so FAA approval relates to mainly commercially operated large airlines and turbine powered helicopters.

### ***Contributing Safety Factor.***

The US aviation criminal code is harsher than Australia's and include jail terms and multi-million dollar fines. This a major reason for their safety record.

The FARs are supported by FAA produced Orders and ACs. Orders and ACs must be followed like our regulations and Manual of Standards. Basically, the Orders have the details how to comply with the Regulations that are plain English performance based regulations.

The FAA also produces Guides and Handbooks for industry approved personnel.

### **If CAR 30 disappears**

The current system is the core of general aviation and if made redundant by legislative change like 'one man flying schools' and 'direct supervision maintenance organisations' like the 1988 legislative change, then it would be another government created disaster in aviation.

CAR30 AMOs are the core of general aviation and aerialwork that would not exist under the FAR system. Besides FAR Part 43 CASA must also adopt associated regulations from other FAR Parts like Parts 145, 91, 65 and 183.

A FBO-SASO, not FAA approved, can still use the Form 1, ARC, to return products to service.

[Back to the Top](#)

#### 4D. Adopting FARs – Removal of ICAO Differences

Unlike Australia, the FAR system adopts the Convention Annexes requirements by setting standards for participants from the ICAO Annexes.

*FAA Annex 1, Chapter 4.2.1.8 Diff: "The USA does not require 4 years of experience to qualify to take the written examination for a mechanic's airframe and powerplant license." (they use CBT)*

*Annex 1, Chapter 4.2.1.4. "Australia has a national competency-based training and assessment model for aircraft maintenance personnel. CASA does not provide specific guidance material on the design and development of training programs for aircraft maintenance personnel. All training packages are developed and designed to be encompassed into nationally recognised qualifications that are aligned to the Australian Qualifications Framework."*

Annex 8 has too many differences to list here.

"Australian aviation legislation does not define 'continuing airworthiness'".

"Airworthy. The definition currently applies to Part 42 only."

Annex 8, 2.4.1 states: "**Civil aeroplanes above 5700 kg MTOW are not designed or manufactured in Australia.**"

CASA expertise is stopping the design & manufacture of aeroplanes above 5700Kg. We have made the Department aware of those that want to manufacture. No wonder our manufacturers move off-shore.

Many definitions are not implemented and the adopted airworthiness standards from the FARs and EASA CSs do not comply even though EASA and FAA do not list the same differences.

Time to adopt FAR Part 21 standards and practices and remove the differences. They make Australia look way out of step with Annex 8.

CASA does not have the expertise to state whether EASA or FAA Airworthiness Standards meet Annex 8 requirements because they have not been skilled in the design standards of EASA or FAA.

Nor have they been skilled in the basically FAA administration processes contained in CASR Part 21.

To regain global credibility, Australia must reduce the differences lodged with ICAO so other countries can see that we comply.

Annex Differences lodged with ICAO is the true level of compliance, not the self-audit findings of Australia's compliance assessment.

In many cases, CASA could remove many differences by simply stating that Australia has adopted the airworthiness requirements of EASA or FAA.

It is up to EU and USA to lodge their differences, not Australia.

Adopting Annex definitions will better clarify Australia's aviation legislation and regulations. These ICAO definitions appear in many manufacturers manuals.

Overhaul in the Macquarie Dictionary has a different inference than what is defined in the ICAO and FAA definitions.

[Back to the Top](#)

## ***5E. Apprenticeships Using Part 66 module eBook.***

As of next year, with CASA providing the Part 66 modular examination system, GA AMOs can return to using an RTO, not necessarily approved as a Part 147 MTO, to provide NVET AQF IV trade training to complete an apprenticeship.

Maybe some of the RTOs that went missing post the introduction of Part 147 may resurrect themselves as RTOs and provide the Aeroskills AME trade training courses pre Part 66. We know RTOs can package the current NVET training competencies to support a modular AME trade skill training course.

In fact, using RTOs to provide AME trade training without the need to be CASA approved, will provide a more cost effective method to skill and obtain enough tradespersons to support what will be an expanding industry. It will provide good competition to the CASR Part 147s.

There is no need to use a CASA approved Part 147 for training.

All you need is to find an RTO that can provide the Aeroskills Training and have the AME sit the CASA (Basics) Modular examinations.

AMROBA strongly supports the return to RTOs not getting CASA Part 147 approvals and providing NVET AME trade training.

The government is negotiating with the Education Department to be fully responsible under the Convention to skill our AMEs to the ICAO Competency Standards.

This means they will nationally provide the competencies that RTOs can use.

Once this comes into practice, we will push CASA to accept NVET qualification in lieu of their module examinations.

With the licencing eBooks coming on-line, this is all that an apprentice/tradesperson needs to pass CASA examinations.

### ***eBook Update***

Some of our members have purchased the Emperious eBook to support their apprentices to pass the CASA Part 66 module examinations.

There is also a massive opportunity for Australian RTOs to become on-line training providers, using the 'Emperious' eBook, to provide training all across Australia that would prepare an apprentice or a skilled person to obtain the practical skills and knowledge to pass the Part 66 examinations. An Australia on-line RTO would only need to develop an Australian Module 10 on-line training guide.

<https://youtu.be/03t18Bq3Ibo>

<https://youtu.be/q9PDCV2bsY0>

AMROBA can see a better training environment than what is available today.

RTOs can still provide an in-house 12 months introductory course to aviation maintenance that should reduce an apprenticeship to a little less than 3 years.

Can we get the Education Department to accept a trade pathway like the following:

Year 10 student move to 12 months government funded AME pre trade training.

- During this period, RTO keeps future employer informed on students progress.
- Full time will reduce the State's apprenticeship period.
- During apprenticeship, if seeking CASA licence, pass CASA module examinations.

19-20 year old AME would be able to hold a CASA AME licence.

[Back to the Top](#)