



Why Regulatory Reform is Mismanaged

Australia has a proven safe aviation system that is being restricted by an inability to transition all participants during regulatory change. The industry was prosperous, safe and growing until the Civil Aviation Authority was created and managed change.

Since the creation of the CAA, many regulatory reform projects have tried to “recertificate” Australian aviation into a European State or the USA. This is not possible due to our legislative and community structure. We are not Europe or the USA.

Pre CAA, participants would have their licence or certificate re-issued in the new format. An Authority transition plan was provided for certificate holders to update internal processes that the Authority field staff, providing regulatory oversight, would monitor during implementation. The implementation period could be 6 months, 1 or 2 years.

Until the attitude of CASA personnel, involved in regulatory reform, realise that they need to transition all current participants subject to any regulatory reform that must benefit the industry and community, including increasing participation, then reforms will continue to be mismanaged.

Adopting another country’s regulatory system, or parts of that system, must be adapted to fit the business and community structure of Australia, our education qualification system, apprenticeship system, employee industrial system, WHS, etc. etc...

You cannot adopt and implement another regulatory system unless it is adapted to fit in the Australian geographical and societal system which depends on aviation.

There is no reason why the principles from specific regulatory system from the USA, EASA or TCA aviation regulatory system cannot be adopted, if ICAO compliant, and adapted to work in the Australian societal system.

Regulatory reform, with industry full support in mid-late 1990s, supported adoption of the FAR regulatory structure. This was to provide the same “language” across all Parts.

The decision to change our aviation regulatory structure into the FAR regulatory structure provided a direction that was internationally recognised. However, for those of us that understand the FAR system, these regulations would impose requirements that would not be compatible in the Australian business system.

Mixing different regulatory systems has the danger of not being compatible or introducing overlapping requirements.

Australia had a safe complete aviation system but with excessive red tape and administrative processes that Government determined to change and modernise. Harmonisation for the benefit of the industry and to remove duplicating responsibilities of other NAAs. Remain ICAO compliant.

Aviation engineering, design, manufacture, maintenance and training were once compatible with the FARs and were ICAO compliant. A difference was the US non-FAA approved FBO system with minimum standards were approved by the Authority.

Transition current aviation participants into new provisions.

If a current AOC/AMO providing a service that is covered by a new proposed CASR, adopted from another regulatory system, that AOC/AMO should automatically transition to that authorisation with a CASA documented procedure on how to transition and amend internal company procedures to meet new requirements. Past practice pre-CAA.

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The Start of Regulatory Transition Mismanagement or Bungling

When the CAA was created in 1988, the transition from ANRs/ANOs to CARS/CAOs, topped by further regulatory reform in 1990, resulted in the decline in GA and small AOCs. Thousands of independent flight instructors with a fixed base of operations and small AOCs providing charter and scheduled services disappeared from our aviation system. The result was a major decline in the number of MRO businesses and jobs.

Why? The government report of the late 1980s identified many CAOs, exemptions, etc that were not supported by a “head of power” in the Act/Regulations. Irrespective that many of the requirements were ICAO compliant, the process used was to repeal the requirements that did not have a “head of power” in legislation instead of providing the “head of power” in the legislation for ICAO compliant requirements. A bungled process that damaged small GA/charter in particular. Were any lessons learnt – obviously not.

The adoption of FAR Parts 21-39 in 1988 was seen as sensible and supportive of the Bilateral Agreement with the United States. However, only 50% of small parts manufacturers transitioned as CASA applied a completely new recertification process. FAR Part 21 was based on a post WW2 “fabrication inspectorate system” whereas Australian manufacturers had already transitioned from an Inspectorate system to Quality Control Systems. FAR Part 21, in 2009, adopted Quality Systems.

These CAA processes were different to previous regulatory reforms that I experienced. The Authority used a system where an AOC/AMO was given time; 6 month, 1 or 2 years, to adjust their system by implementing any change to their requirements introduced. The same applied to licenced AMEs conditions/responsibilities. Licences or certificates were re-issued in the new format.

e.g. AMOs went from ANR 35 to CAR 30 approval by an Authority transition document. CARS required a manual that was new to ANO 104 Appendix 1 approved AMO’s not involved with airlines.

Example, an AMO, in 1988 transitioned from ANR 35 to CAR 30. The approved AMO did not have to be “recertificated” to CAR 30, they continued in business with a new CAR 30 certificate as an AMO. The difference between ANR & CAR was listed and CAA field staff worked with each organisation to help create manuals that met new provisions. Some AMOs took a couple of years to become fully compliant with CAR 30. It worked.

Using a similar approach, CASA could transition all CAR 30 AMOs to CASR Part 145 with a two-year period to amend the CAR 30 manual to comply with Part 145 Exposition. The required changes are administrative as no changes were made to the actual maintenance work practices being performed. Systems of maintenance are the same.

Proposed Adoption of FARs Transition

Past ANR 35/ANO 104 Appendix 1 AMO standards similar to FAA FBO/SASO. If you compare the 6 elements listed in ANO 104 Appendix 1 with the standards the FAA promulgates in FAA AC 150/5190-7 then it is obvious where Australia obtained their standards. Where it is the Authority responsibility to authorise the AMO, the FAA places that responsibility on the airport operator.

ANO 104.1 Appendix 1 stated the applicant had to furnish the following evidence:

- (a) *‘of the suitability of the premises, tools, equipment test apparatus and technical data at his/her disposal;*
- (b) *of the suitability of the storage facilities at his/her disposal for the segregation of his/her aircraft components and aircraft materials from other goods and for the protection of his/her components and aircraft materials against deterioration, contamination or damage;*
- (c) *of his/her ability to control the quality of the work;*
- (d) *of the competence of his/her employees;*
- (e) *of the satisfactory standard of work, performed in the past, which is similar to that for which the approval is sought; and*
- (f) *of the satisfactory standard of work performed under a certificate of approval already granted’.*

Appendix 2 associated with an airlines maintenance organisation included quality systems, etc. The Authority was a world leader in applying quality systems to engineering organisations. Adding a safety management system is simpler with a good Quality System.

In the AC, the FAA places the responsibility on the airport operator to make sure the AMO meets minimum standards including “(6) *What requirements will be imposed regarding minimum insurance coverage and indemnity provisions?*” The following is an example of an airport operator’s minimum standards for an AMO. Note: FAR Part 43 maintenance.

Fixed-Base Operator (FBO). *A commercial business granted the right by the airport sponsor to operate on an airport and provide aeronautical services such as fuelling, hangaring, tie-down and parking, aircraft rental, **aircraft maintenance**, flight instruction, etc.*

CATEGORY F. AIRFRAME AND/OR POWER PLANT REPAIR (General Airport Standards)

Any Lessee desiring to engage in airframe and/or power plant repair service must provide as a minimum the following:

1. LAND

Basic Requirement: *The leasehold shall contain an adequate space for all building and temporary parking of aircraft.*

2. BUILDINGS

Basic Requirement: *Lease or construct a building sufficient to provide shop and hangar space meeting local and state industrial code requirements plus adequate office space. Provide public use telephone.*

3. PERSONNEL

Basic Requirement: *One person currently certified by FAA with ratings appropriate for work being performed who may hold an airframe and/or powerplant rating.*

4. HOURS OF OPERATION

Basic Requirement: *The normal operating hours will be at the Lessee's discretion, but he should be reasonably available to the public.*

5. EQUIPMENT

Basic Requirement: *Sufficient equipment, tools, supplies and availability of parts to perform maintenance in accordance with manufacturers recommendations or equivalent.*

6. INSURANCE COVERAGE.

Comprehensive Public Liability and Property Damage

- *Bodily injury 100,000 each person*
- *300,000 each accident*
- *Property damage 100,000 each accident*
- **Hangar Keepers Liability**
(coverage depends on type and number of aircraft serviced at any one time)

7. Airframe and/or power plant repair FBO cannot be located in a T-hangar. T-hangars are designated for the storage of aircraft and aircraft-related items only.

8. Under FAA Order 5190, the T-Hangar Tenant is allowed to perform maintenance on the aircraft within/on the leased premises with its own equipment, employees, and/or agents. This maintenance **must not be done, however, in a manner that is unsafe, unsightly, or detrimental to the efficient use of the airport facilities by others.**

CASA should never abrogate its responsibility to issue certificates and licences.

Basically, a component maintenance organisation cannot issue an ARC unless the organisation is approved by CASA – this is an international standard.

Like the FAA, the CASA Form One (ARC) cannot be issued by an organisation or individual other than a CASA approved organisation.

b) FAA Form 8130-3 may not be issued by organizations or individuals other than those approved/authorized by the FAA within the scope of such an approval/authorization.

Virtually all component maintenance organisations need CASA approval so aircraft components can be returned to service and used in all segments of VH aviation domestically and globally.

We must remember that Australia is also a litigious society and aviation regulations should ensure that persons commercially involved in the engineering fields of design, manufacture and maintenance can be/are properly insured.

Current approval holders’ transition – a suggestion for 2019

How simple it would have been if CASA had identified the differences between CAR 30 and Part 145 and used that difference as a transition plan for all CAR 30 organisation, with new certificates issued under Part 145, to adopt and implement within a two-year period once their certificate was changed to Part 145.

Stage 1	Stage 2	Stage 3
CAR 30 Certificate Accept Differences Transition Plan	CASA Issue CAR 30 with Part 145 certificate pre-implementing Transition Plan	Part 145 complete transition plan within 2 years.

This process keeps a mature aviation industry working whilst implementing additional regulatory provisions adopted without adaption from another regulatory system.

Aviation is built on individuals and businesses having regulatory responsibilities when providing or receiving services. The long-term success of service providers depends on the owner's willingness to adapt his/her processes to new technologies, identify new opportunities to provide services or needs and to move quickly to meet those needs. Over time, successful service businesses will evolve so that their services stay relevant to market, build on existing skills, and find new markets for their skills and capabilities. Prescriptive regulations slow the industry reaction ability.

Aviation regulatory requirements should not regulate the commercial aspect of service providers in the operation and engineering fields.

Adoption that is adapted to our system can be implemented without disrupting the day to day operation and lower costs.

Australia had/has the same participants as the FAA system and the EASA system is starting to catch up with the FAR System.

Transition current participants into new provisions.

If a current AOC/AMO providing a service that is covered by a new proposed CASR adopted from another regulatory system, that AOC/AMO should automatically transition to that authorisation with a documented procedure on how to transition internal company procedures to meet new requirements which are produced by CASA.

Managing Organisational Change

Finally, each business “accountable manager” has more experience in making organisational changes than the imposed recertification process managed by CASA.

Managing organisational change, as a requirement of regulatory change, is the process of planning and implementing change in the organisation in such a way as to minimise employee resistance and cost to the organisation while simultaneously maximising the effectiveness of the change effort.

Today's business environment requires companies to undergo changes almost constantly if they are to remain competitive. Factors such as globalisation of aviation markets and rapidly evolving technology force businesses to respond in order to survive. Such changes may be relatively minor—as in the case of installing a new software program, or quite major, as in the case of refocusing an overall regulatory requirement that may affect marketing strategy, or transforming a company in the face of persistent competition.

Transitioning from CAR 30 to Part 145 is a major change to the administrative factors of an organisation that has to be managed so maintenance staff do not lose the safety attitudes that most approved organisations have developed over many decades.

Shifting focus to administrative issues from maintenance attitudes can be a risk.