

What's Different Since the Eighties

For those that were in businesses in the 1980s, they must be wondering what is different to the aviation legal framework that was so harshly criticized in findings post a number of 1980s government reviews. The current legal framework, if subjected to the same review by the same government enquiries, would most likely end up with the same findings today.

The Civil Aviation Act that set up the CAA to create a legal framework of Act, Regulations and Aviation Safety Standards was supposed to reduce the multiple requirements with 'hidden' quasi-regulations specified in regulatory exemptions, instruments, policy statements, procedures, etc. All the things that the government's Best Practice Guidelines identify to eradicate. It was why the CAA proposed a two-level system, Act & Regulations, supported by advisory material, like FAA Advisory Circulars. Today is no different to pre-CAA days.

OECD: *“Develop a consistent policy covering the role and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence.”*

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It is time to build a high level of professional competence and attract, develop and retain the best people to manage and perform aviation maintenance functions. It is time that aviation regulatory adopts the same national vocational education training (NVET) system approach as other professions, trade and individual industry licencing systems. The first aspect is to have aviation regulations that specifies the NVET qualification, or equivalent, applicable to any regulatory airworthiness crucial position. **4**

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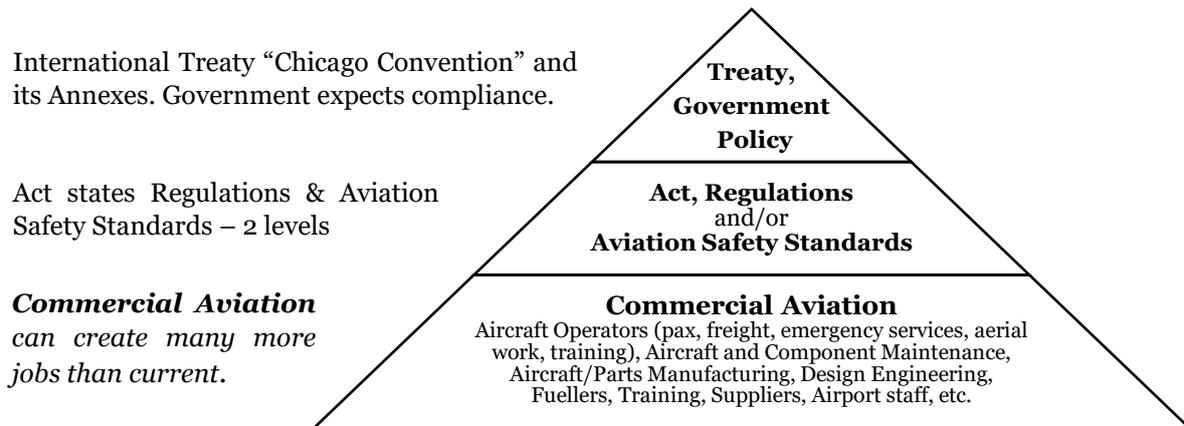
The support of government in the ASEAN countries for manufacturing and maintenance businesses is very high as they realise the job growth potential of this industry. Though “robotics” has some possibilities, the industry is mainly based on having a highly multi-skilled workforce. This requires an education and regulatory system to support the employers and entrepreneurs necessary to implement growth. The aviation regulatory system must be developed in harmony with other Australian legislative to reduce duplication and multi layered responsibilities between government departments and agencies. **5**

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Are Political Recommendations Heeded

OECD states the role of a Regulator should be to “implement and administers regulation, identifies breaches and enforce standards, monitors functioning of regulatory arrangements, provides information about regulatory system and advises on government policy. Making regulation is the process of developing government policy into legislation or other regulatory instruments (e.g. ADs). It involves identifying the objectives of intervention and assessing the case for action; considering alternatives; evaluating the effectiveness and efficiency of varying alternatives; and turning the chosen option into a legal instrument”.
Refer: *The Australian Government Guide to Regulation*

How can employers invest in a future and create jobs when the legal framework is constantly changing and continually changing the administrative processes involved?



Instead of having Regulations referencing Act ‘Aviation Safety Standards’, we have a legal instrument made under the Regulation to simply create more quasi-regulations. This could be accepted but the ‘hidden’ instruments such as Exemptions, AMOC, GM, ACs, CAAPs, CASA procedure manuals/policy manuals, etc. that support each particular regulation has implemented a system very much like the system that existed pre-CAA.

The Act’s two-tier system of **regulation** and “*clear and concise*” **aviation safety standards**” really has not been implemented. It is time that government review the Act and implement what the Regulator wants to support their multi-layered system because governments have demonstrated they are unwilling to force the two-tier system stated in the Act to be used. The Canadian Aviation Regulatory system uses Regulations and Standards.

Canada: *The CARs consist of regulations, standards and advisory material. Compliance with the regulations and standards is mandatory, while complying with the advisory material is not mandatory. Standards tell how to comply with the corresponding regulation.*^[4]

The Civil Aviation Act defines ‘Aviation Safety Standards’ as:

aviation safety standards means standards relating to the following:

- (a) the **flight crews engaged in operations of aircraft**;
- (b) the **design, construction, maintenance, operation and use of aircraft and related equipment**;
- (c) the planning, construction, establishment, operation and use of aerodromes;
- (d) the establishment and use of airspace;
- (e) the planning, construction, establishment, maintenance, operation and use of:
 - (i) services and facilities of the kind covered by paragraph 8(1)(a) of the *Air Services Act 1995*; and
 - (iii) services of the kind referred to in paragraph 6(1)(b) of the *Australian Maritime Safety Authority Act 1990* to the extent that those services use aircraft;
and any construction associated with those facilities or services;
- (f) the **personnel engaged in:**
 - (i) the **maintenance of aircraft and related equipment**; or
 - (ii) anything referred to in paragraph (c) or (e).

So why did the government approve an amendment to Section 98 of the Act to allow CASA to promulgate Manual of Standards for each Part of the CASR's instead of ASS?

This has re-created a 3-tier system.

The Morris Report that created CASA in 1995, stated

- 3.30 The committee considers that CASAs primary or core functions should be:
- (a) to **establish aviation safety standards;**
 - (b) to issue licences, certificates or permits to those who satisfy CASA that they can meet the standards established under (a) above or in the Act; and
 - (c) to **supervise compliance with standards** and take appropriate action for non-compliance.
- 3.42 The Explanatory Memorandum says that subsection 10(2) is no longer necessary because the Bill amends the CA Act to require CASA to **consult with bodies representing the aviation industry to develop aviation safety standards.**

The Minister, Brereton, stated in March 1995: *CASA will be responsible for setting **aviation safety standards**, registration of aircraft, licensing, compliance with safety regulations, safety promotion and education, and the regulatory oversight of AA's services.*

So, when will government direct CASA to develop and promulgate Aviation Safety Standards?

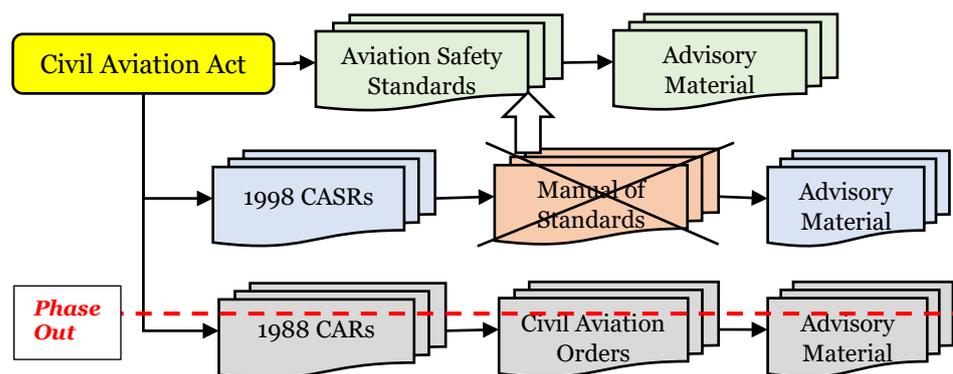
The Government's second report recommendations, 1990, samples:

- R60.** The CAA should develop methodology for measuring the cost benefit of safety regulatory proposals, based on the USA precedent.
- R64.** The CAA should conduct a review of the information document system with the aim of reducing the number and types of documents to two.
 - The first type should be the means to convey information to the industry, for example, similar to the present FAA Aviation Advisory Notices; and
 - the second should be a means of conveying instructions and information to Staff.

The system should be developed to respond quickly to particular needs by means of a temporary amendment "green page" method or similar.

- R66.** All information that can be of interest or concern to the industry, aircraft owners or the Public, should be transferred from internal documents to the public documents.

Basically, we were looking forward to having a controlled two-tier regulatory system supported by advisory circulars. This was replaced with EASA AMOC &



GM. Now we have a multi-layered system with multiple location for information.

It really is the time for CASA to comply with the Civil Aviation Act and start working with representative bodies to develop Aviation Safety Standards as previous Ministerial directions required. **Canada** can do it, why can't Australia?

STANDARDS: a technical or personnel standard is an established norm or requirement. It is usually a formal document that establishes uniform engineering or technical criteria, methods, processes and practices or personnel qualifications. [Back to the Top](#)

Recognising NVET Qualifications

It is time to build a high level of professional competence and attract, develop and retain the best people to manage and perform aviation maintenance functions. It is time that aviation regulatory adopts the same national vocational education training (NVET) system approach as other professions, trade and individual industry licencing systems. The first aspect is to have aviation regulations that specifies the NVET qualification, or equivalent, applicable to any regulatory airworthiness crucial position.

Australia's education system is designed to provide qualifications for professions and trade.

In nearly every other profession and/or trade, the regulatory system identifies the academic qualification required to hold or perform as a professional or tradesperson.

If you spend time reviewing different trade and their licencing system, they all state that you need to provide the “*details of your qualifications, including proof of completion of the relevant training courses*” when applying for a licence.

So why have we made it so complicated to obtain a Basic AME Licence?

Most have an entry qual: Certificate II in XXXXXXXX Vocational Preparation;

Followed by: Certificate III/IV for trade levels.

Once they hold the Certificate IV they can perform and sign for their work without a licence.

Licencing within the industry is what licencing should be in aviation.

Tradespersons qualified to perform and certify maintenance.

A licenced tradesperson coordinates work by tradespersons and submit approvals / authorisations and/ certificates.

The EASA regulatory system is more akin to our trade system if it was properly adopted & applied in a manner harmonised with other Australian requirements.

1. A qualified tradesperson should be able, in base maintenance, to perform, supervise and certify for completed maintenance.
2. The LAME should coordinate maintenance and sign the Release to Service.
3. The LAME should also certify, at specific stages of the maintenance, the maintenance that has been performed by tradespersons, that the part of the aircraft affected by the maintenance is still airworthy.

The LAME is responsible for quality of the work confirming the aircraft is airworthy.

Similar role to EASA's “supporting staff” and the FAA's Inspection Authority.

In both regulatory systems, their LAME performs the two ICAO specified tasks for licenced personnel.

The first step is for Regulation to accept VET provided trade qualification to perform, supervise and certify for base maintenance tasks. This is the EASA system that was expected to be adopted.

Internationally, the aircraft maintenance licence is issued for two purposes, not to impose on an employer, licenced qualifications for employees to perform basic base maintenance tasks. Australia has drifted away from international standards.

Government directs application on competency based training systems so employers can be confident that employees are qualified and competent but aviation systems requires qualifications to remain in the past and ignore competency process be demanding a theoretical “pass mark” of 70%. [Back to the Top](#)

Removing Roadblocks for MROs

The support of government in the ASEAN countries for manufacturing and maintenance businesses is very high as they realise the job growth potential of this industry. Though “robotics” has some possibilities, the industry is mainly based on having a highly multi-skilled workforce. This requires an education and regulatory system to support the employers and entrepreneurs necessary to implement growth. The aviation regulatory system must be developed in harmony with other Australian legislative to reduce duplication and multi layered responsibilities between government departments and agencies.

Aircraft are a form of transport just like road vehicles and should be treated as such. Safety in aviation is more important than other forms of transport simply because air is not as solid as water or *terra firma*.

What stops growth is politics and a popular belief by so many councillors (local government) that small airports are unnecessary in today’s society. Over time, the aviation regulatory (legal) framework has not been focused on restricting growth and not concentrating on managing actual safety issues.

Governments today need to adopt a program to concentrate on removing road blocks to the growth of air transport, especially small aircraft transport, private and commercial.

For instance, when do you need an AOC to provide commercial aviation enterprise?

EASA: “Commercial air transport means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration.”

ICAO only defines/recognises three kinds of operations, commercial air transport, general aviation and aerial work.

- Commercial air transport operation. An aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.
- General aviation operation. An aircraft operation other than a commercial air transport operation or an aerial work operation.
- Aerial work. An aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.

However, business aviation is not addressed by ICAO as a different sector but it exists within our system. There are many roadblocks that slow down approvals from government department/agencies.

To open a business in aviation is daunting when compared to other professions and trades in Australia. The need for safety exists in all professions and trades. Aviation is not unique.

1. A majority of the employers are highly critical of what they see as the excessive bureaucracy involved in managing the apprentice training contract.
2. Licencing should be for the purpose stated in the ICAO Convention Annexes, not for doing trade work.
3. Company manuals should be to provide guidance to staff to meet all legislative requirements, not just aviation requirements.
4. There needs to be a high priority government red tape reduction program for all government/agencies implied requirements to ensure there are legislative head of power for department/agencies requirements.

Virtually, reform has had the reverse effect, instead of clear and concise government requirements, the opposite has been applied. [Back to the Top](#)