

EMPLOYMENT - JOBS

The number one priority of government(s) over the next couple of years, post COVID-19, will be creating jobs. It is also another chance for government to re-focus its departments and agencies to ensure regulatory imposts are minimised.

‘These include: cheaper gas and electricity, a highly skilled workforce, reduced red tape, greater collaboration between research and industry, support to commercialise “good ideas”, improved access to export markets and “lower taxes and a stronger economy”.

*“One of the other areas which I believe is crucial is **simplifying red tape and regulation** to fast-track interaction with all levels of government’.*

Does this mean the Government’s “Guide to Better Regulations” will be amended to include a check to:- **“consider how many jobs will be created”**.

“Safety regulations that create aviation jobs.”

“Aviation safety is the responsibility of the private aviation participants individually and collectively from small businesses to large businesses.” Small businesses are the biggest employers and need to exist..

“Minimum regulations/standards providing for standardized operational procedures, equipment and infrastructures (including safety management and training systems), **in conformance with** the *Standards and Recommended Practices (SARPs)* contained in the Annexes to the *Convention on International Civil Aviation.*” (ICAO)

Standards that all have to comply with, individuals and employers.

To create jobs we need employers – red tape reduction is crucial.

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One would think that creating jobs would be the major priority of every government post COVID-19 and they would be taking actions that have held back growth. The core of the problem is that there has never been a priority of governments to create jobs as the number one priority. They talk the talk but don’t walk the walk. If they did they would make legislation to reduce paperwork, simplify government forms, etc. The Government’s Guides for Better Regulation includes a check list that has to be addressed but nowhere in the check list is the department/agency recommending changes to regulations. Do they have to tell government how many jobs the change will create? Should not that be the number one check needed? Jobs.

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1. ‘Entitled’ – Deregulation - Devolvement.

No matter which way you look at it, aviation has been badly served by the current government guidelines for regulatory development. “The aviation industry has the overall responsibility for maintenance of safe regular and efficient operations for aviation personnel training and for the manufacture and maintenance of aircraft and aviation equipment.” ICAO Safety Oversight Manual. An acceptable regulatory system should provide clarity that an individual or operator or organisation is entitled to their authorisation if they meet the promulgated regulatory standards without the need to ‘satisfy’ CASA.

Entitled

One of the aims of any regulatory reform should be to remove the need to “satisfy” CASA and to implement a system stating an applicant is ‘entitled’ to an authorisation if they meet the applicable promulgated regulatory standard(s). This approach brings certainty to businesses who can plan with conviction future changes, etc. Very much the approach of FAA & TCA.

This approach removes the pressure on individuals within CASA to make a determination that the applicant has ‘satisfied’ CASA. Also reduces the costs of assessment. In many cases, self-assessment check lists can be generated that enables the applicant to tick as meeting the standard.

If CASA “finds” the applicant meets the standard(s) then the authorisation is issued. The manual required is not “approved” by CASA but verified the manual meets the “standard(s)”.

It also requires “regulatory standards” to be well written without the need for interpretation. Back when regulatory reform started, this was the outcome that was expected by government.

Clear standard: e.g. ‘speed limits’ – no debate or interpretation. The same can be done with many aviation safety standards. Skill standard – list a NVET standard.

FAR 21.21 *An applicant is entitled to a type certificate for an aircraft in the normal, utility, acrobatic, commuter, or transport category, or for a manned free balloon, special class of aircraft, or an aircraft engine or propeller, if—
Product qualifies, etc, etc and **the FAA finds it meets the standard(s);**
“The applicant **is then entitled to:**”*

In this case, the onus to “approve” the product as meeting the design standard(s) rests with the authorisation holder.

The costs to be involved in aviation has to be reduced to enable more jobs to be created in all levels of aviation. The single sector that has priced many budding aviators out of having a career in aviation. CASA must concentrate on providing more pathways to obtain a pilot licence.

In Australia, we need the FAA independent flight instructor who can provide training throughout rural Australia similar to what Australia had pre 1988. We also need more small directly supervised operators and organisations that can provide jobs.

Small operators and organisations should be “entitled” to hold an authorisation from CASA and only be held responsible to comply with agreed minimum promulgated standards applicable to their sector approval standards.

Deregulation/Devolvement

Deregulation/devolvement is also based on being “entitled” instead of CASA “approving”. It also means that more functions/activities are included in regulations without the need for a person holding an authorisation to hold additional authorisations.

Government role is to provide a balanced and proportional regulatory system. This includes regulatory standards. It has to be built from the bottom up, not from the top down.

It requires commitment from government to devolve functions and activities to the private sector like the CAA(UK) and the FAA system.

The onus on compliance with the regulations and standards is shifted to the authorisation holder. Individual authorisation holders that are licenced should be able to operate within those licences and ratings.

For instance we have: pilot maintenance, LAME maintenance, non-approved organisation maintenance (employing a LAME or working under an arrangement), approved small, medium and large organisation maintenance. These different groups are no longer clearly identified in regulations and regulatory standards.

- Do our government and its departments and agencies support the safety culture of the Australian aviation industry or not.
- Australia has a mature aviation industry that has more than 100 years of aviation experience.
- Australia has economic regulations and standards between VH-registered and non-VH registered aircraft. Same regulatory standards should apply as has happened:
 - EASA has listed standards for maintenance personnel for aircraft used by the non-VH and VH registered kinds of aircraft.
 - Transport Canada Aviation has pilot licence standards for all non-VH registered and VH-registered aircraft.

Adopt the same licencing standards and enable these licence holders to take responsibility.

It is time for governments to move more towards a passive regulator than a restrictive regulator. Adopt the same GA policy as the CAA(UK) or adopt the FAR non-airline regulatory system. We should not have economic and regulatory divisions that exists for the same aircraft that are registered with CASA and those registered with another entity.

They still operate in the same airspace and should be subject to the same regulations and standards, including personnel involved with these aircraft.

CAA(UK) GA Policy:

“The principles we have used so far, and will continue to use are:

- Only regulate directly when necessary and do so proportionately.
- Deregulate where we can. (**Deregulation**)
- Delegate where appropriate. (**Devolvement**)
- Do not gold plate and quickly and efficiently remove any gold plating that already exists.”

If the conservative CAA(UK) can adopt a policy to ‘deregulate’ and ‘devolve’ functions and activities, then there is no reason why the Department of Infrastructure and CASA cannot adopt the same policy to safely generate more jobs in aviation.

Deregulation

The basic level of general aviation only needs a pilot and a licenced aircraft maintenance engineer. Individual owners, aero clubs and any registered business should be able to employ a pilot and/or LAME to fly and maintain their own aircraft.

Basically, the international concept of safety is based on the registered operator being responsible to maintaining their registered aircraft in an airworthy condition, just like owning a motor vehicle. The person maintaining the aircraft be appropriately qualified and the person certifying as airworthy and releasing the aircraft back into service to be licenced by the government's Licencing Authority.

In aircraft sport and recreational sectors, the Licencing Authority has devolved responsibility to the sector organisation(s) by delegating these organisations with specified regulatory responsibilities and activities.

The concept of devolvement and delegation has been adopted by CASA's predecessors in fields like engineering where experienced professional engineers hold applicable delegations.

Many of today's participants in aviation probably never realised that CASA's predecessors many years ago did "annual" inspections on the GA fleet. However, as more aircraft were registered, they realised they had to devolve the "annual" inspection to ensure the aircraft complied with its design standards (Part 21) was devolved to the LAME.

The Part 21 aircraft system of inspection to certify the aircraft as airworthy is not apparent or clearly specified in regulations or regulatory standards today. The maintenance requirements, different to the Part 21 inspection system, to ensure the aircraft is serviceable needs clarity.

This can be achieved by adopting FAR Part 43 and additional FAR/FAA safety mitigators.

Deregulation of GA to the same level as the FAA or CAA(UK) will rebuild small GA businesses that will safely create many jobs, especially throughout rural Australia.

"A State exercising a passive role relies almost completely on the civil aviation industry's technical and organizational competence and commitment to safety. In these situations, the industry is responsible for both the interpretation and the implementation of the regulations, thus becoming essentially self-regulating.

If, on the other hand, the State safety oversight system is so rigorous as to amount to a complete domination and dictation of the conduct of operations, then under such an environment the civil aviation industry is not empowered with the responsibility and self-sufficiency for safe operation.

In practice, neither of these extremes is compatible with the objective of a well-balanced division of responsibilities between the State and the aviation community. The public interest would best be served by a balanced approach, where both the State and the aviation community have clearly defined responsibilities for the safe and efficient conduct of their functions." ICAO Safety Oversight Manual.

Deregulation relies on the skill of CASA's specialist providing drafting instructions to the OPC. Many demand CASA that CASA adopt the FAR system but then support more restrictive wording developed under the CASA consultative system.

When do you need to mandate the requirement for an AOC or AMO approval?

Study the FAA system and learn that the operator (AOC or not), has the choice.

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2. Regulatory Impact Statement

One would think that creating jobs would be the major priority of every government post COVID-19 and they would be taking actions that have held back growth. The core of the problem is that there has never been a priority of governments to create jobs as the number one priority. They talk the talk but don't walk the walk. If they did they would make legislation to reduce paperwork, simplify government forms, etc. The Government's Guides for Better Regulation includes a check list that has to be addressed but nowhere in the check list is the department/agency recommending changes to regulations. Do they have to tell government how many jobs the change will create? Should not that be the number one check needed? Jobs.

Governments are suddenly wakening to the need to have regulations and standards that encourage jobs to get the system working.

The problem is no government department or agency will start promulgating job creating regulations and regulatory standards unless they need to tell government how many jobs new regulations or standards will help create.

What it has proven, is that government promulgated policy and guides are just PR documents.

Until the government internal documents and guides for developing regulations and regulatory standards state they have considered whether jobs will be created or not, nothing will change.

The *Regulatory Impact Statement* Check List should have a new provision added.

- considered how many jobs this will create?*
- defined regulation objectives/outcomes? (encourage participation in civil aviation)*
- conducted a risk assessment and considered whether other stakeholders are best placed to manage these risks? (devolve to industry)*
- considered whether the regulation is still relevant? Consider technological and other changing conditions. (reduce regulations/standards)*
- considered whether mechanisms such as public education could be used in conjunction with regulation? (better feedback)*
- considered best practice consultation principles when engaging with stakeholders? (introduce first priority – job creation)*
- developed appropriate KPIs to assess outcome of regulation in place (e.g., activities, behaviours, and specific outcomes)? (increased participation, employment, hours flown, reduction in incidents/accidents)*
- is it feasible to alter the regulation in such a way as to achieve greater cost effectiveness while still achieving the intended results? (remove barriers)*
- considered whether the underlying evidence changed since this regulation came into effect such that the change supports revision to the regulation? (computerisation)*
- considered alternatives and tested these alternatives with industry that could reduce this regulation's burden without compromising intended objectives? (drafting style – liability responsibilities)*
- considered if this regulation requires coordination with other regulations, could it be better harmonised than it is now? (remove duplication)*
- included flexibilities within the regulation to encourage innovative thinking and identify the least costly methods for compliance? (multi-pathways)*
- familiarised yourself with relevant information and guides? –*

If all of the above check list items were complied with, why do we have the prescriptive regulations and standards that we have today?

“Office of Parliamentary Counsel aims for consistency in the presentation and form of legislation. This consistency is intended to provide a ***coherent statute book that is easy to use for regular users of legislation***. Therefore, this is an area in which there are a substantial number of rules which must be followed when drafting legislation.”

Consultation

Governments, irrespective of their political background, are controlled by the public service and do not provide politically directed legislation and regulations. These developments are left to the myriad of government departments and agencies that, over the years, have an attitude that they determine what will be made with lack of transparency.

To create jobs, the regulatory burden has to be reduced.

The regulatory system today is much more complicated than it was before the creation of the CAA. For instance, compare ANO104.1 six (6) basic requirements. e.g. CAR30/CASR Part 145.

ANO 104.1 stated:

- (1) ***The holder of a certificate of approval shall, in respect of the activities in which his certificate relates ensure that:***
- a. *his facilities and staff are adequate for the work being carried out;*
 - b. *his premises are maintained in a clean and sound condition;*
 - c. *his tools, equipment and test apparatus are maintained in such a condition as will enable them to perform satisfactorily their intended function;*
 - d. *his employees are competent to perform the duties allotted;*
 - e. *if applicable, his system of quality control is:*
 - i. *Being observed;*
 - ii. *Revised as necessary to ensure that its purpose is achieved; and*
 - iii. *Readily available to employees who are required to observe it; and*
 - iv. *Where the certificate is granted iaw paragraph 3.4 (airline)*

Approval holders submitted amendments to the manuals if they had a system of quality control, later changes forced “directly supervised” approval holders to also have a manual instead of just complying with Appendix 1 of the ANO. Appendix I applied to directly supervised organisations.

Appendix I – 1. This is the appendix referred to in paragraph 3.3 of this Section

3. An applicant for the grant of a certificate of approval will normally be required to furnish to the Director-General evidence, as applicable (AMO only):-
- a. of the suitability of the premises, tools, equipment, test apparatus and technical data at his disposal;
 - b. of the suitability of the storage facilities at his disposal for the segregation of his aircraft components and aircraft materials from other goods and for the protection of his aircraft components and aircraft materials against deterioration, contamination or damage;
 - c. N/A; distribution
 - d. of his ability to control the quality of the work;
 - e. for the competence of his employees;
 - f. N/A; training
 - g. of the satisfactory standard of work, performed in the past, which is similar that for which the approval is sought; and
 - h. of the satisfactory standard of work performed under a certificate of approval already granted.

Note – Work may be carried out by persons working under an arrangement with the applicant. However, to be eligible for the grant of a certificate of approval it is intended that the applicant provide the major portion of the facilities and staff required to carry out the activities for which approval is sought.

The decision to use a Part 43 person or organisation is the aircraft operator, not regulatory imposed as is done under CAR/CASR.

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