

Goodbye 2020 – Hello 2021

Thank goodness 2020 is over; what a year. Australia is supposed to be in the top 10 ICAO contracting States but we don't have recognition of our design, manufacturing or maintenance sectors by other ICAO contracting States and their NAAs.

Recognition requires State to State agreements that enables acceptance of our design, manufacturing and maintenance capabilities. There are agreements but not to accept our designed products or services. State to State agreements require governments to enter into agreements with other governments. **e.g.** US's BASA with the EU, Australia's BASA with US.

When will DFAT negotiate agreements for the benefit of our aviation engineering products and services with other governments? DFAT have recently made "*Foreign Relations (State and Territory Arrangements) Bill 2020*" to "control" State & Territories foreign agreements.

Will 2021 bring about changes that will help create jobs in aviation, reduce regulatory burden and finalise regulatory reform?

- What is the government's aviation 2021 policy post COVID-19?
- Who is really responsible for safety and will there be a fair-dinkum attempt to reduce red tape and unnecessary costs?
- To create jobs you need employers – fast disappearing in aviation.
- The forgotten regulatory reform principles:

The introduction of Civil Aviation Safety Regulations in **1998** were based on the following **principles** being applied by government to the development of new regulations:

- are harmonised internationally with the US Federal Aviation Regulations (FARs) and the European Joint Aviation Regulations (JARs now EASRs); [failed]
- are clear, concise and understandable; [failed]
- have a safety outcome approach; [failed]
- are enforceable; [success]
- avoid over-regulation; and [failed]
- are consistent with the role of CASA. [Annexes 1, 2, 6, 7, 8, 10, 11, 14, 18 and 19] [failed]

These **principles** should have been included in the Act in 1998 because they have been ignored for 22 years. Despite decades of work and enormous costs expended on re-writing the CASRs, the results cannot be considered an improvement; if anything, they are a retrograde step. We now have a suite of regulations and standards that are even larger than before, and among the most verbose, complex and confusing in the developed world.

Will the next CASA CEO return to these principles or will there be a new policy once again?

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1. *The First Issue – Which Department is responsible for government to government aviation (trade) safety agreements?*

Long term aviation businesses with global aspirations are not supported by government to government "safety" agreements that are really trade agreements. These government to government bilateral aviation safety agreements require harmonisation of standards, something that Australian aviation finds hard to achieve.

No Act of Parliament requires a government department to negotiate aviation agreements for the recognition of Australian manufactured aviation products, maintenance services, training and aviation licences. The *US – Australia Bilateral Aviation Safety Agreement* is an example of the kind of agreements that are needed with many more countries.

Why is the aviation industry left out of Free Trade Agreements?

For Australian aviation business employers to compete in the global aviation market, the Department of Foreign Affairs and Trade (DFAT) must obtain Free Trade Agreements (Aviation) with other countries. Without these global agreements, aviation engineering design, manufacture, maintenance, licences are not accepted, therefore businesses cannot participate in the global aviation market in their own right.

DFAT, with the support of the Department of Infrastructure, Transport, Regional Development and Communication, (DITRDC) should be negotiating these agreements with Asia Pacific Rim countries, Europe, Asia etc., etc.

Without them, we can only regulate a uniquely Australian domestic aviation market which is what has been happening for a decade or more.

e.g. NZ government aviation foreign agreements

<i>Australia</i>	<i>India</i>	<i>Saudi Arabia</i>
<i>Canada</i>	<i>Mongolia</i>	<i>Singapore</i>
<i>China</i>	<i>Niue</i>	<i>Tonga</i>
<i>Cook Islands</i>	<i>Pacific Islands</i>	<i>United States of America</i>
<i>Europe</i>	<i>Samoa</i>	<i>Vietnam</i>

Action: Amend DFAT & DITRDC Acts so these Departments are responsible for obtaining aviation (safety) agreements for recognition of Australian aviation produced products (aircraft/parts), licences, maintenance and training services in their own right by other aviation trading nations.

- This will stop the loss of Australian aviation businesses to other countries.
- This will encourage manufacture in Australia.
- This will encourage maintenance services to be involved in foreign aviation markets.
- This will encourage training to attract foreign students.
- Will set the foundations so jobs can be created.

"The Parliamentary Review in the late 1980s made 101, (yep, 101 recommendations.)

The ASSR report made another 37 recommendations, as has every Inquiry between 1990 and 2020. The latest Senate Inquiry will make more recommendations but to what extent will they be implemented unless the Department is made responsible for the aviation regulatory framework."

Secondary Benefit:

- **Obtaining international aviation safety (trading) agreements forces harmonisation of our aviation regulatory framework.**
- Once these agreements have been made, the foreign country's NAA and CASA will develop Implementation Procedures as was done under the USA BASA.

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2. Second Issue for 2021 is “POLICY”. Who Actually Sets it?

Political Party Policy (PPP)

We lobby political parties to cost effectively improve aviation and they produce policy they take to the election. Policy should be implemented when they are in government.

Portfolio Department Policy (PDP)

Policy created as interpreted by public servants to ‘implement’ the **PDP**.

CASA Board Policy (CBP)

The CAA(UK) Board promulgates minutes of their meetings & decisions.

“CASA Board never promulgates anything. A past Minister supported transparency”

CASA Aviation Policy = CAP (CAP)

PPP + PDP + CBP + CAP = “Filtered Policy”

“Often found to be different to **Political Party Policy**.”

“**Filtered policy**” can be very different to the policy produced by the political party elected to give effect to their policy.

The “**political principles**” stated in 1998 with the introduction of the CASRs, including CASR 1.003 stating these Regulations are based on the FARs, failed to open any foreign markets to CASA approved organisations as the government said it would.

The CASRs state the “object” of the Regulations is to harmonise certain parts of Australia’s aviation safety law with the FARs. (CASR 1.003 Harmonisation with FARs).

e.g. If you adopt/adapt a FAR, such as FAR Part 21, then you need to remain harmonised. In 2009, the FAR Part 21 was amended to clarify regulator/industry roles and to improve safety. Over a decade later and no changes to CASR Part 21 to adopt FAR Part 21 amendments that better define the role of the FAA, industry delegates and participants.

Why is it so hard for government to remain “*harmonised internationally with the US Federal Aviation Regulations*” once they adopted this FAR in 1998?

- Does some person that is in position disagree with harmonisation with this particular FAR or is it total incompetence?
- CASA told industry that they will amend to adopt current FARs post a Bilateral meeting with the FAA a few years back but still no action.
- CASA has failed in “harmonisation” with FAR or EASR since 2001 – a twenty year proven record of not meeting a fundamental responsibility to the government and people of Australia.

Action Required: Make portfolio Department primarily responsible for harmonisation.

Policy & Job Creation.

“The Government’s *Trade Modernisation Agenda* is “supposedly” supporting businesses, particularly micro and small businesses, to engage and **compete on a global scale**. This 10-year agenda will transform and simplify Australia’s international supply chain, and will provide businesses with a single window for international trade”.

To create these jobs you need [aviation] employers. Without government to government treaties, recognition of our designs, products, maintenance services and personnel licences less and less employers will be able to compete on a global scale.

According to the current government, “The role of Government as a domestic regulator is evolving to:

- *be more closely linked to citizens and businesses;*
- *adapt faster to change;*
- *minimise negative impacts on innovation;*
- *ensure maximum access to international markets.”*

The only way this will be achieved is by amending applicable Acts of Parliament.

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Recent Forbes Article:

"If the regulatory system unnecessarily impedes business innovation, they may not adopt new technologies to grow and create jobs. In a rapidly moving digital economy, getting the balance right is harder than ever. Technology is developing much faster than new regulations can be written. Business models can change rapidly. Regulations can quickly become redundant and the impacts of new technologies and business models can be particularly difficult to forecast."

Circumstance:

In Australia's aviation regulatory framework, there is simply too many levels involved with the production of aviation regulations. (Delegated regulations in some cases). It can be simplified by adopting a more standard approach by:

AMENDING ASSOCIATED AVIATION ACTs TO CREATE MINIMUM REGULATIONS TO PROMOTE AVIATION SAFETY.

2.A CAA/CASA have failed to meet the 'objective' of the Civil Aviation Act in 30 years.

Should the responsibility to establish a civil aviation regulatory framework be the role of a Government Agency or the portfolio Department? Many are now suggesting that it is the Department's role as CASA is not capable of developing a regulatory framework after 30 years.

Parliament	Amend Acts to implement elected political party policy.
Department	Primary responsibility for Regulations associated with amending Acts based on Annex SARPs then table them in Parliament.
CASA	Develop and promulgate Aviation Safety Standards to support Regulations.

Why change? Simply because the public service has been carrying out regulatory reform since 1990 and has not yet succeeded. The system today is worse than the regulatory system that the 1980s Parliamentary Inquiry recommended amending.

Solution: Face the fact in this region and harmonise with the aviation regulatory system the rest of the Australasian nations have adopted. The USA FARs.

Fact: A USA FAR based system will enable harmonisation within the Australasian aviation market that has more global recognition than Australia's current verbose aviation regulatory system.

Note: (from a submission to latest Senate Inquiry).

"Despite the decades of work and enormous costs expended on re-writing the CASRs, the results cannot be considered an improvement; if anything, they are a retrograde step. We now have a suite of regulations that are even larger than before, and among the most verbose, complex and confusing in the developed world.

The most serious consequences of the changes have been the loss of small, regional flying schools, charter operators and GA maintenance organisations, all of which are now almost non-existent; far less accessible training for new maintenance personnel; and a serious shortage of well qualified LAMEs."

"As long as air travel depends on qualified pilots or other air and ground personnel, their competence, skills and training will remain the essential guarantee of efficient and safe operations. Adequate personnel training and licensing also instil confidence among States, leading to international recognition and acceptance of personnel qualifications and licences and greater trust in aviation on the part of the traveller."

2021 New Start? "Failure is not falling down but refusing to get up."

Time for DITRDC and CASA to 'get up'.

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3. Third Issue ‘Who is Responsible for Safety?’

In other words, what is the role of CASA?

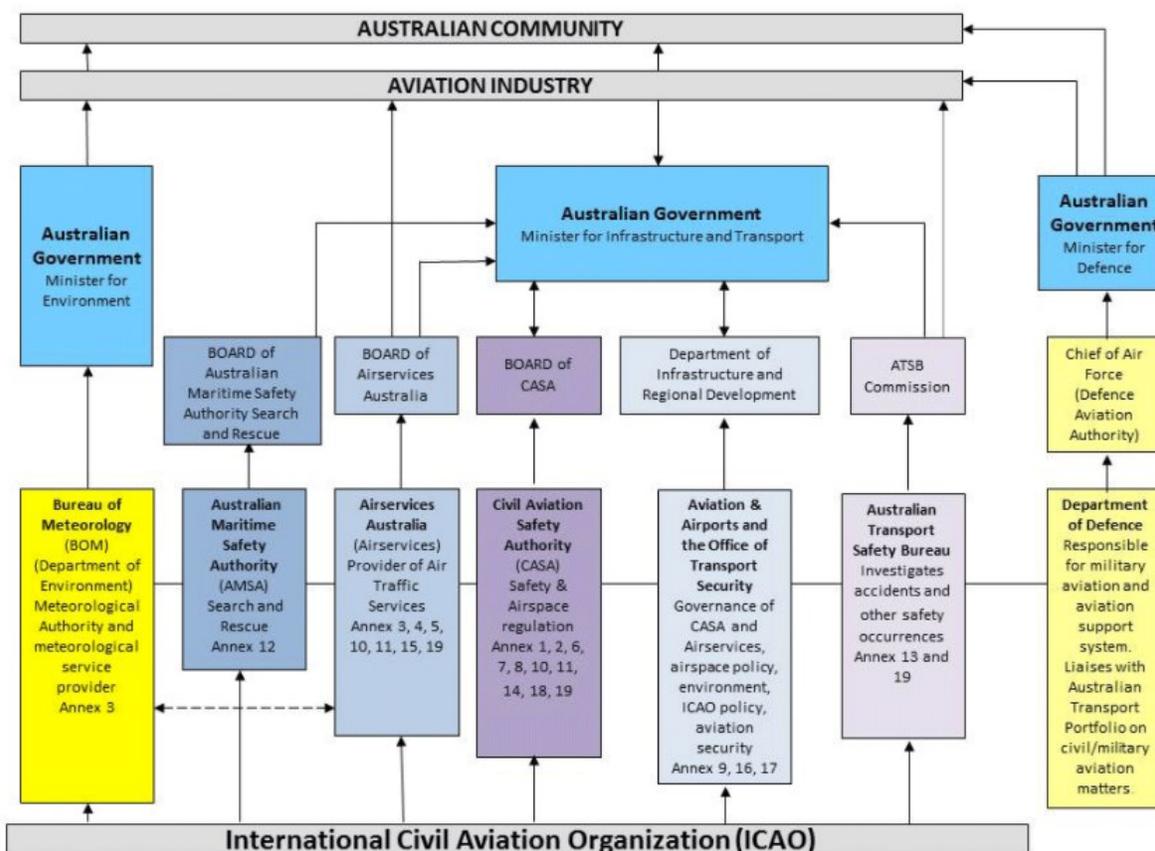
ICAO defines **safety** as “the state in which the possibility of harm to persons or of property damage, is **reduced to and maintained at or below an acceptable level**, through a continuous process of hazard identification and safety risk management.”

“**At or below an acceptable level**” supports the USA method to make “**minimum regulations to promote aviation safety**”. However, the chart below is government’s view.

The Minister is responsible to Parliament for civil aviation matters, including safety and security.

“The major agencies responsible for managing civil aviation safety in Australia are:

- **the Department of Infrastructure and Regional Development (the Department);**
- **the Civil Aviation Safety Authority (CASA);**
- **the Australian Transport Safety Bureau (ATSB),**
- **Airservices Australia (Airservices);**
- **the Australian Maritime Safety Authority (AMSA);**
- **the Bureau of Meteorology (BOM); and**
- **the Department of Defence (Defence).”**



Every government department/agency associated Act should be amended to include the assigned Annexes listed above. It is interesting the links in this chart. You would think that CASA would be linked with the aviation industry.

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