



Australian Government
Civil Aviation Safety Authority

CASA Regulatory Policy – DAS-PN022-2010
Technical Delegations and Authorisations Policy

Sponsor:	Executive Manager, Industry Permissions
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Regulatory Provision:	Civil Aviation Act 1988: Sections 26D & 94. Civil Aviation Regulations 1988: Regulation 6 Civil Aviation Safety Regulations 1998: Regulations 11.260 & 201.001

Responsibility

The Director of Aviation Safety is responsible for approving all CASA regulatory policy.

The Executive Manager Industry Permissions is responsible for the development, maintenance and publication of this policy.

All amendments to this policy shall be made in accordance with CASA Document Control policy and procedures.

Purpose of the Policy

The purpose of this policy is to guide the process by which determinations are made as to whether an individual or organisation should be given a technical Instrument of Appointment (IOA) or Instrument of Delegation (IOD) and the process by which CASA determines that an individual or organisation is fulfilling their obligations under their IOA or IOD.

This policy addresses the legislative basis for delegating CASA's powers and functions, what powers and functions will be given and the circumstances in which such instruments will be issued, the overarching requirements for entry control and the manner in which a delegate should exercise CASA's powers and functions, as well as considerations for the removal or variation of powers and functions where CASA considers it necessary.

Application of the Policy

This policy is applicable to any *person* who is a holder or prospective holder of, or applicant for, a technical IOA or IOD, including both CASA officers and industry persons. It also applies to CASA officers involved in any element of the lifecycle of IOA/IODs

Legislative Basis

The provisions of the *Civil Aviation Act 1988* and Regulations that govern the delegation of CASA's powers and appointment of authorised persons are set out below:

Section 26D of the *Civil Aviation Act 1988* relevantly states that:

26D Delegation of Australian powers to employees of CAA New Zealand.

- (1) *The Director may, in writing, delegate all or any of CASA's powers under this Act, other than Part IIIA, to an employee of CAA New Zealand for the purposes of the ANZA mutual recognition agreements.*
- (2) *A delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Director.*

Section 94 of the *Civil Aviation Act 1988* states that:

94 Delegation by the Director

- (1) *The Director may, in writing, delegate all or any of CASA's powers under this Act, the regulations, or an instrument made under this Act or the regulations, to an officer.*
- (2) *The Director may, in writing, delegate to an officer, if the officer holds, or performs the duties of, an office that is equivalent to a position occupied by an SES employee or acting SES employee, all or any of the following powers:*
 - (a) the Director's power under subsection 83(2);*
 - (b) the Director's powers under the regulations;*
 - (c) the Director's powers under an instrument made under this Act or the regulations.*

Regulation 6 of the Civil Aviation Regulations relevantly states that:

6 Authorised persons

- (1) *CASA may, in writing:*
 - (a) *appoint a person to be an authorised person for the purposes of a provision of these regulations in which the expression 'authorised person' occurs; or*
 - (b) *appoint persons included in a class of persons to be authorised persons for the purposes of a provision of these regulations in which the expression 'authorised person' occurs.*
- (2) *An appointment under subregulation (1) may be made subject to such conditions as are specified in the instrument of appointment.*

Subpart 11.H of the Civil Aviation Safety Regulations relevantly states that:

11.260 Delegation

- (1) *The Director may, by written instrument, delegate to an officer a power of CASA under these Regulations.*
- (1A) *The Director may, by written instrument, delegate to a person a power of CASA under these Regulations for, or in connection with, the performance of a function conferred on CASA under subsection 9(1) of the Act.*
- (2) *However, the following powers of CASA must be exercised by the Director personally:*
 - (b) *the power to issue a type acceptance certificate subject to a condition under subregulation 21.029B (2);*
 - (c) *the power to refuse to issue a type acceptance certificate under subregulation 21.029C (1);*
 - (d) *the power to suspend or cancel a type acceptance certificate under subregulation 21.051 (4).*
- (3) *A delegation may be subject to conditions stated in the instrument of delegation.*
- (4) *A delegate is subject to any written direction of the Director in the exercise of a power, or the performance of a function, delegated under subregulation (1).*

Regulation 201.001 of the Civil Aviation Safety Regulations relevantly states that:

201.001 Appointment of authorised persons

- (1) *CASA may appoint a person, or the persons included in a class of persons, to be an authorised person for CASR or a particular provision of CASR.*
- (2) *CASA may appoint a person only if CASA is satisfied that the person has the qualifications and experience to be an authorised person.*
- (3) *CASA may appoint a class of persons only if CASA is satisfied that each person included in the class has the qualifications and experience to be an authorised person.*
- (4) *An appointment may be made subject to conditions stated in the instrument of appointment.*

Background

The *Civil Aviation Act 1988* and associated Regulations vest specific regulatory powers in CASA's Director. These powers include powers to approve activities, issue permissions to conduct activities which would otherwise be prohibited and to issue exemptions against regulatory requirements.

Although it is a fundamental principal of administrative law that when parliament vests powers in a person that person is required to exercise those powers personally, consistent with contemporary practice the *Civil Aviation Act 1988* and Regulations expressly allow for the delegation of the CASA Director's powers, and the appointment of authorised persons under certain provisions of the Regulations.

The provision for the Director to further delegate CASA's powers arises from the recognition that the scope, size and complexity of Australia's civil aviation activities make it impracticable for the Director to exercise all of CASA's powers personally, and that it is more efficient, convenient and better serves the interests of aviation safety that some of these powers be delegated to persons appropriately qualified and experienced to exercise them.

Delegations and Authorisations

Section 94 of the *Civil Aviation Act 1988* empowers the Director to delegate all or any of CASA's powers to an officer, where "officer" means an employee of CASA. Subject to section 94, only the Director of Aviation Safety is authorised to delegate CASA's powers. Section 94 also allows for delegation of the Director's powers under subsection 83 (2), the regulations or an instrument made under the Act or the regulations, to an officer who holds, or performs the duties of, an office that is equivalent to a position occupied by an SES employee or acting SES employee. Certain powers and functions of CASA may also be delegated under regulation 11.260 of the *Civil Aviation Safety Regulations 1998*.

CASA Authorised Persons are generally appointed under regulation 6 of the *Civil Aviation Regulations 1988* or under regulation 201.001 of the *Civil Aviation Safety Regulations 1998*. Appointments may only be made by the Director of Aviation Safety or persons to whom the power of appointment has been delegated by the Director of Aviation Safety.

Note that section 26D of the *Civil Aviation Act 1988* relates specifically to delegations which may be granted to exercise all or any of CASA's powers under that Act, other than Part IIIA, to an employee of the Civil Aviation Authority of New Zealand, for the purposes of the ANZA mutual recognition agreements.

When an IOA or IOD will be issued

The decision to issue an IOA or IOD to a CASA officer should be based on the need to have powers and functions exercised at a particular level within CASA, with consideration given to the skills, knowledge and attitude required to exercise such powers effectively.

When an IOA/IOD is to be issued to a *person* who is not a CASA officer, CASA must be satisfied that there is a genuine need for such an instrument to be issued, and that at least an equivalent safety level will be maintained.

The Delegate Management Branch will maintain, and make publicly available, a “Schedule of Transfers to an Industry Person” stating whether or not particular powers will be delegated to persons who are not CASA officers and in what circumstances. Any proposal outside of the schedule must be approved by the Director, and must be made in liaison with the Delegate Management Branch.

Entry control

The Delegate Management Branch will be responsible for determining the initial and ongoing need for certain powers and functions to be conferred on Instrument Holders outside of CASA, in consultation with relevant technical areas of CASA as necessary.

CASA should have established guidelines and criteria to assess an application for an IOA/IOD.

Instruments should be issued with a fixed period of validity, which will normally not exceed two years.

On receiving an application for renewal of an IOA/COA, CASA should consider such things as the need for refresher training, requirement for professional development, CASA’s ongoing need to delegate the power and function, the Instrument Holder’s utilisation of the instrument and CASA’s capacity to oversight the Instrument Holder’s activities.

Exercise of powers

The exercise of powers as an Instrument Holder is to be undertaken in a manner consistent with the requirements of the *Civil Aviation Act 1988*, the Regulations, the applicable rules of administrative law, this policy, relevant guidance material and the CASA Code of Conduct, or such other requirements as may be identified in conditions placed on a specific instrument.

When exercising powers, an Instrument Holder is required to meet all legal and procedural directions by nature of the transfer of powers under an instrument; however technical judgements relating to the powers held will be made on the

holder's own cognisance and in their own right. An Instrument Holder may place appropriate conditions upon any permission generated as deemed appropriate.

In relation to powers delegated to CASA officers, such delegation will usually occur through the routine issue of an instrument conferring powers upon a *person* filling a specific position or positions, subject to such conditions or limitations as may be appropriate.

Geographic Restrictions

CASA may, at its discretion, limit an Instrument Holder's performance of functions to within prescribed geographic boundaries.

CASA may authorise or request an Instrument Holder to perform functions outside these geographic boundaries (including other countries) on a case-by-case basis.

Oversight

External delegates will be subject to oversight. The capacity of CASA to oversee such delegates will be one of the factors in determining whether or not a delegation will be issued.

Oversight will be conducted in accordance with CASA's relevant procedures manual.

Revocation or Variation of Instruments

CASA may decide either to not renew, to vary or to revoke a delegation at any time for good cause.

Links

- [Civil Aviation Act 1988](#)
- [Civil Aviation Regulations 1988](#)
- [Civil Aviation Safety Regulations 1998](#)
- [Surveillance Procedures Manual](#)

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