

NZ DESIGN DELEGATION HOLDERS

27 MAY 2021

TOPICS

1. Framework of Civil Aviation System
2. Overview of the design approval process
3. Delegations
4. Discretion – interests of aviation safety
5. External review of decisions
6. CAA Service Charter obligations
7. Recent case
8. Questions

FRAMEWORK OF THE CIVIL AVIATION SYSTEM

1. ICAO / Chicago Convention
2. Civil Aviation Act
3. Civil Aviation Rules / Regulations
4. Director Notices
5. Advisory Circulars



FRAMEWORK OF THE CIVIL AVIATION SYSTEM

Director of Civil Aviation



- ▶ Independent statutory position. Controls entry by granting, issuing and renewing aviation documents.
- ▶ Conducts ongoing Surveillance and Monitoring.
- ▶ Exit control.

FRAMEWORK OF THE CIVIL AVIATION SYSTEM

Participant's Obligations

- Ensure appropriate aviation documents and qualifications are held;
- Ensure compliance with the Act, Rules and conditions on aviation documents;
- Ensure activities are carried out safely and in accordance with prescribed standards/practices.

OVERVIEW OF THE DESIGN APPROVAL PROCESS

- Part 21 Subpart C of the Civil Aviation Rules deals with the approval process of design changes.
- Rule 21.73 states, among other things, that a design change may be approved by the approval of a modification.
- Rule 21.81 states that ‘the Director shall approve a modification by approving the modification’s technical data under 21.505’.

OVERVIEW OF THE DESIGN APPROVAL PROCESS

- In short, a design change can be approved as a modification by obtaining the Director's approval of the modification's technical data.
- Also, under rule 21.433 a repair may be treated as a design change and approved as a modification.

OVERVIEW OF THE DESIGN APPROVAL PROCESS

- It is impracticable for the Director to approve these.
- The Act contemplates this and allows the Director to delegate to external persons (with approval of the Minister of Transport).

DELEGATIONS

Key point - The **delegate holder** must act strictly within the bounds of the powers which are clearly identified.

If in doubt, contact CAA to discuss.

DELEGATIONS

Delegations allow for DDHs to authorise major modifications with the prior approval of the DCA.

Other key points

- ▶ Delegate holder acts as if he or she has power directly
- ▶ Director remains responsible for the exercise of the power

DELEGATIONS

- ▶ Delegation does not affect or prevent the Director from performing functions or powers
- ▶ Revocable at will
- ▶ Must provide evidence of delegation under when reasonably requested to do so. (s23A(11)).
- ▶ May charge a reasonable fee in respect of the exercise of that function or power. (s23A(12)).

DELEGATIONS

- ▶ As a delegate you should:
 - Know the scope of powers that you are exercising; and
 - Follow the procedural steps required by the legislation or conditions on the delegations – **failure to do so renders the decision invalid!**

Talk to CAA if unsure

DELEGATIONS

Insurance & Liability

- The CAA can only effect insurance to its members, office holders and employees (NOT DELEGATE holders)
- However, CAA may indemnify delegation holders in relation to any particular claim or proceeding
- In practice the CAA will indemnify a delegate who acts in good faith and within the scope of the delegation

DISCRETION – INTERESTS OF AVIATION SAFETY

Under rule 21.505(d)(2) approval of a modification's technical data must not be “contrary to the interests of aviation safety”.

What does interests of aviation safety mean?

- Cannot be exhaustively or prescriptively defined – reflected in Act and Rules but must be relevant to technical design/airworthiness concerns.
- May include technical, operational and policy considerations

DISCRETION – INTERESTS OF AVIATION SAFETY

Examples

- ✓ Technical airworthiness requirements met but pre-existing safety feature of aircraft or product design (or human factors!) compromised by modification.

Practical examples

- ✓ emergency exit that meets all the airworthiness requirements but inadvertently leads into the path of a tail rotor blade.
- ✓ the passenger seat armrest which can be designed to meet all the typical structural and crashworthiness airworthiness requirements but could still chop a babies finger off.

EXTERNAL REVIEW OF DECISIONS



A decision by a design delegation holder, on behalf of the Director, to approve technical data may be the subject of review by/to:

- High Court of New Zealand
- Ombudsman or some other government agency
- Coroner's Court (in worst case scenario)

This is because you are acting on behalf of the Director and following a legal process.

EXTERNAL REVIEW OF DECISIONS



In order to mitigate the likelihood of a review, decisions should:

- ▶ be carried out rigorously and in accordance with required safety standards;
- ▶ be made act free from bias;
- ▶ contain no pre-determination of the issue;
- ▶ Be made strictly in accordance with terms and limitation of the delegation;
- ▶ consider any wider interests of aviation safety considerations e.g. human factors.

CAA SERVICE CHARTER



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- The Minister of Transport requires external delegate holders to sign a letter of acknowledgement including a statement of compliance with the “standards of service” specified in the Authority’s Service Charter.
 - This is about the standard of service eg
 - **treat everyone with courtesy and respect;**
 - **provide timely, accurate and useful responses to all inquiries;**
 - **act in a helpful, co-operative and professional manner.**

CAA SERVICE CHARTER

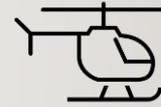


NOTE:

- ▶ The standards of service, Service Charter complaints procedure, and remedies set out in the Service Charter do not apply to the exercise of statutory powers, or to the exercise of discretionary decision making pursuant to the Civil Aviation Act.

RECENT CAA CASE

Helilogging and others v DCA and CAA



Court of Appeal decision upholding High Court decision dismissing Helilogging's claims based on deceit and misfeasance.

Very serious allegations made against former CAA staff and contractor. It arose out of a 2005 decision to decline an exemption allowing ex military Wessex helicopters to be used for logging operations.

An extreme example of what can arise out of the exercise of statutory powers. (Note: plaintiff has sought leave to appeal to the SC).



Collaboration

Me mahi tahi

We work together to achieve and succeed

Transparency

Me mahi pono

We are open and honest communicators

Integrity

Me mahi tika

We do the right thing

Respect

Me manaaki

We treat all people with consideration and kindness

Professionalism

Kia tū rangatira ai

We act in a way that brings credit to ourselves and our organisation

QUESTIONS?
