



Australian Government

Department of Infrastructure, Transport, Regional Development and Communications

Civil Aviation (Unmanned Aircraft Levy) Bill 2020 and Civil Aviation (Unmanned Aircraft Levy Collection and Payment) Bill 2020

Submission to the Selection of Bills Committee Report No 8 of 2020

1. Background

As more and more Remotely Piloted Aircraft (RPA) are flown each year, this presents among many things, new safety challenges to the broader aviation industry. With increasing numbers of RPAs bringing increased risks, it is important for RPAs to be regulated for the safety of the public, drone pilots and other airspace users.

In 2018, the Senate Rural and Regional Affairs and Transport Committee's (RRAT Committee) report – *Current and future regulatory requirements that impact on the safe use of remotely piloted aircraft systems, unmanned aerial systems and associated systems* expressed support for a mandatory scheme of registration of unmanned aircraft. The Australian Government's response (27 November 2018) agreed to this.

In July 2019, the Government passed the *Civil Aviation Safety Amendment (Remotely Piloted Aircraft and Model Aircraft – Registration and Accreditation) Regulation 2019* legislation to introduce a RPA and model aircraft registration and operator accreditation scheme (registration scheme). This registration scheme will require all commercial, utility and similar RPA operators to be registered with the Civil Aviation Safety Authority (CASA). Operators will be able to register from 30 September 2020, and registration will be compulsory from 28 January 2021.

Consistent with Commonwealth cost recovery principles, CASA has developed a cost recovery mechanism to recover the cost of developing and administering the registration scheme. The intention is to ensure that users of RPA contribute to the costs imposed on CASA as a service provider to develop, maintain and administer a RPA registration scheme. The most appropriate means of doing this is to use a cost recovery levy and a limited standing appropriation mechanism.

On 27 August 2020, the Minister for Infrastructure, Transport and Regional Development introduced the Civil Aviation (Unmanned Aircraft Levy) Bill 2020 (Levy Bill) and the Civil Aviation (Unmanned Aircraft Levy Collection and Payment) Bill 2020 (Collection Bill) into the House of Representatives.

The purpose of the Levy Bill is to establish a legal mechanism that will be used in the future to enable cost recovery from RPA operators through a levy. The purpose of the Collection Bill is to establish a legal mechanism to collect the levy, whereby the Commonwealth will pay to CASA the levy amounts collected by CASA on behalf of the Commonwealth.

The Selection of Bills Committee (the Committee) has raised further issues for consideration outlined in Appendix 2 of Report No. 8 of 2020 and has referred these Bills to the Senate's Rural and Regional Affairs and Transport Legislation Committee.

2. Issues for consideration

The Committee has noted the following issues for consideration:

- (a) Cost of the registration fee thresholds and clarity of the registration fee structures
- (b) Consideration of the level of consultation undertaken
- (c) Use of delegated legislation

3. Department of Infrastructure, Transport, Regional Development and Communications response

(a) Cost of the registration fee thresholds and clarity of the registration fee structures

(i) CASA provides regulatory services to the RPA sector

RPA operators must operate safely and appropriately within the national aviation system and must comply with regulatory requirements relating to aviation operations. The registration scheme encourages safer operations and serves to deter unlawful and unsafe activities.

CASA provides regulatory services to the RPA sector, which enables RPA operators to perform or provide commercial and non-recreational aviation activities. RPA operators will be charged for these services as part of the cost recovery levy scheme provided for in the Levy Bill and Collection Bill. The Levy Bill and Collection Bill impose, and provide for the collection of, a RPA cost recovery levy on each application to CASA for registration of a RPA.

(ii) Users of RPA services charged for the administration and regulation services received from CASA

CASA currently recovers various elements of the cost of its regulatory processes through the Civil Aviation (Fees) Regulations 1995 under which costs are recovered. Fees are based on the amount of time specialist aviation regulators must spend in delivering a requested service. CASA will charge the RPA sector the cost of funding the activities associated with administering and regulating the RPA industry.

These activities associated with administering and regulating the registration and accreditation scheme include, but are not limited to:

- operating the registration and operator accreditation scheme,
- maintaining and managing enquiries and related reporting,
- developing legislation and policy frameworks,
- development and maintenance of regulations and standards,
- conducting safety education and promotion,
- administering appropriate governance, and
- support and maintenance of IT systems.

(iii) The cost of the registration levy will be considered as part of the broader CASA funding arrangements

It is important to note that while the Levy Bill states that the amount of the levy must not be more than \$300 and may be a nil amount, the actual levy has not yet been set. Due to the challenges facing the aviation and drone industry as a result of COVID-19, and the relative infancy of the RPA sector, the levy will be set at \$0.00 on the commencement of the scheme, and remain at \$0.00 until 30 June 2021.

The price of the levy will be reconsidered in 2021 and implemented through disallowable regulations. The \$300 maximum for the levy will allow for flexibility in determining an appropriate levy amount for a variety of RPA size and weight classes into the future.

Changes to the levy will be based on evidence collected from the registration scheme data, which will provide vital information regarding the size, scope and needs of the RPA industry, and inform the estimated cost required by CASA to deliver RPA safety regulatory services. The Government will ensure that the levy charged on RPA operators is fair and commensurate with the services received.

(b) Consideration of the level of consultation undertaken

CASA has undertaken multiple stakeholder consultations on the RPA registration and accreditation scheme.

In August 2017, CASA published a RPA discussion paper on RPA registration. The majority of the respondents supported some form of registration, training and proficiency when the weight of the RPA was taken into account.

In November 2018, the Aviation Safety Advisory Panel – Technical Working Group (TWG), which includes a range of government and aviation industry representatives, consulted with RPA and model aircraft industries on the cost recovery fee. The TWG indicated to CASA that cost recovery should be balanced to the delivery of safety policy outcomes. TWG also advised that a reasonable fee will maximise safety benefits through encouraging increased compliance rates.

In January 2019, CASA opened public consultations seeking feedback on the details of the proposed RPAs registration and accreditation scheme, including proposed charges to register RPAs. CASA received over 4,200 submissions from a range of stakeholders including recreational drone owners or drone pilots, model aircraft owners and pilots, commercial RPA operators and non-pilots. Many respondents to the consultations agreed with implementation of a registration scheme, however there was little support for the charging of a registration fee.

CASA is currently consulting further on the registration fee threshold and cost recovery charging structure through a Cost Recovery Implementation Statement.

(c) Use of delegated legislation

Registration costs for cost recovery are a function of the relationship between the overall cost of the scheme and likely number of potential registrants. The nature of RPA is highly varied and changing rapidly, with different weight and size classes, each operated for a wide range of purposes, and new aircraft types and applications being developed on a regular basis. It is expected that the levy will need to be regularly updated to ensure it remains fair and appropriate as the RPA sector evolves.

It is necessary, therefore, to have a regulatory mechanism for setting a cost recovery levy in a way that allows for greater flexibility and responsiveness than would be the case if the cost recovery levy were set as a fixed amount in an Act of the Parliament that would require relatively frequent amendment. The use of regulations avoids these logistical problems, and is appropriate because it will allow administrative and technical details of the schemes to be adjusted relatively quickly.

Further, the regulations are disallowable by either house of Parliament, placing the circumstances of oversight and control over what level the cost recovery levy should be set at within Parliament. Once the cost recovery levy is set in the levy regulations, it may be disallowed if a House of the Parliament thinks fit. If, through amending regulations, the cost recovery levy is raised, those amending regulations may be disallowed and the previous cost recovery levy automatically restored by virtue of relevant provisions in the *Legislation Act 2003*.

Given the complex and dynamic nature of this industry, and noting the oversight mechanisms available to Parliament, the use of delegated legislation remains appropriate.

Thank you for your consideration of this submission.