

	SAAA CONTROLLED DOCUMENT	
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Information Paper

Buying a partially built aircraft project.

This information paper provides some info on buying a partially built aircraft to complete.

Introduction:

Every so often, an enquiry comes in about partially built projects. Can they be purchased and completed, what sort of things need to be done, etc.

Exactly what aircraft are we talking about?

Amateur-built Experimental aircraft.

From CASA regulations: *An **amateur-built aircraft** is an aircraft, the major portion of which has been fabricated and assembled by a person or persons who undertook the construction project solely for their own education or recreation.*

“Major Portion” is often referred to as “the 51% rule.” 51% of course, being the major part of 100% of anything. In practice, it is a very subjective and rubbery topic, though CASA (and other sources) do have some guidance on how to actually determine major portion.

What is a partially built aircraft project?

A partially built aircraft project could come in many forms from an unstarted kit, a pile of raw materials and a set of plans, to an aircraft that has anywhere between 1 and 99% of the work already done.

Some basic questions answered:

Can you buy a partially built aircraft project from someone? YES.

You should also get any records that might be available with it, photo's, builder log or diary, plans, manuals, instructions, receipts, details of any inspections conducted thus far, anything and everything you can get is rather important to have.

Can you complete that aircraft project yourself? YES.

You can continue the project on the basis of Experimental Amateur-Built – that it is done for your education and recreation - not for any commercial purposes or uses.

Can you get it registered (VH Experimental)? YES.

Normal CASA registration applies. For aircraft destined for RAAus registration, contact RAAus for information. Their amateur-built class aircraft are not “experimental”, they are just “amateur-built.” SAAA can support builders of these aircraft, prior to registration with RAAus.



Can you get an Experimental Certificate for it? YES.

For a CASA registered VH aircraft, yes. On the basis that the aircraft was genuinely built by an amateur-builder (or builders, as the case would be). There is a CASA Eligibility Statement form to fill out when the time comes, which you make a declaration about who built it. There's no problem describing that Joe Public built the first half, then you completed the project. It would not be correct to say that you built the entire project. But "it depends..." – it depends on how much was done when you bought the project. A little, or a lot? We can't give you % figures of which side of the fence you'd be on. If you bought a 5% built project, is that even worth mentioning? We can't say yes or no. What if it was 75% built – that's a definite yes.

Can you also maintain it? IT DEPENDS.....

This is really the question most asked, and it also the most difficult for us to answer.

Persons who build amateur-built experimental aircraft can generally maintain it (if they want to) subject to a few conditions set by CASA (within a Legislative Instrument). Some persons however, cannot.

Scenario 1: If the new owner actually does more than the major portion themselves (that "51%") to complete the aircraft, then that's easy – it would be exactly the same as if you'd met that major portion rule all by yourself from the start. You are eligible to be the maintainer also.

Scenario 2: If the new owner actually does less than the major portion themselves, that's when things get complicated and very grey. CASA Instrument 18/22 (our maintenance permission document) talks about it in somewhat complicate language at paragraph 4 and Schedule 1 para 3, and still leaves a lot unanswered.

There's a lot more to that CASA document, but let's zoom in firstly on Scenario 1 from above. The Instrument (the permission to maintain) applies to you, in full, if you have fabricated and assembled more than half of the aircraft. You've done the major portion or the 51% yourself.

But *who* gets to decide the major portion or 51% then? That is the very next question that comes up. That exact question is examined in another SAAA Information Paper – ***Review of CASA Maintenance Instrument 18/22***. That information paper goes in to great detail of the whole document, and still leaves a few questions unanswered, primarily, "who gets to decide?"

Generally, we advise that if person did not build ("fabricate and assemble") more than half of the aircraft, then, though the aircraft itself is still eligible for the Experimental Certificate, you probably do not have the acquired knowledge and skills about the aircraft to be the maintainer of it. Some try to throw in all sorts of qualifications that "*should*" be considered or deemed suitable, engineer, motor mechanic, etc, but the reality is, CASA recognises none of it. You are either entitled to be maintainer based on CASA's criteria, or you are not. No amount of trade qualifications matter - other than one that says *LAME*.

CASA's underlying philosophy about maintenance was and still is, that if you built the major portion of an aircraft, you acquired intimate knowledge about it along the way and on that basis, they are happy for builders to also be maintainers if they so choose – it's not mandatory.

But where does that leave someone that has only done 49%, or 40% or 20% themselves? The Authorised Person who issues the Experimental Certificate does not approve *anyone* to become maintainer, (they don't have that delegation to) but they do have the power to *prevent* it. Why? If an aircraft is presented and it is known that the final builder has only done a limited amount of work to complete it, the AP will likely write a clause that the aircraft must be *LAME* maintained (just as they probably would for an



aircraft that has come in completed and flying from overseas). They can do this as part of their duties to protect third parties on the ground or water who are not involved in our amateur-built aircraft activities. They have no responsibility to protect pilots/occupants from themselves.

So back to the question we go again, “*Who gets to decide? SAAA? CASA?*” Neither, really.

Maybe we can answer it this way....

It is not up to an Authorised Person who can issue the Experimental Certificate to prove that you *did not* build the major portion of the aircraft. It is up to **you** to prove that you did. The same as everyone else has to. How? For you, photos of the project when and as acquired, records, builder’s log/diary, more photos along the way, records of inspections along the way, receipts, all of those things will add to proof of build – if you genuinely believe that you can get yourself over the line. If the Authorised Person is still not satisfied (has not received sufficient evidence) they are likely to write that “must be LAME maintained” clause into the certificate.

What if there is a case that is right on the border line, what can an Authorised Person do?

It is possible for an Authorised Person to just not mention maintenance aspects at all, and then from there it is up to you to. Truthfully, nobody is going to stop you, but your maintenance would come under the microscope if there was an accident, and also aircraft insurance could be compromised. Whenever an amateur-built experimental is involved in some accident, CASA always makes some basic enquiries as to the owner and maintenance aspects. SAAA is not the maintenance police. We guide our members to do the right thing, but in the end, we have no true control over who does what. SAAA does not administer Experimental in Australia – CASA does. People generally only come under CASA scrutiny when "something" happens - be it dumb flying, an accident, or a report by somebody about something.