



**UNITED NATIONS/NIGERIA WORKSHOP ON
SPACE LAW**

**“Meeting International Responsibilities and Addressing
Domestic Needs”**

Hosted by the Government of Nigeria

**National Legislation and Policy
Selected Texts**

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ARGENTINA

NATIONAL DECREE No. 995/91, Creation of the National Commission on Space Activities

[UNOFFICIAL TRANSLATION]

Official Gazette (Boletín Oficial), 3 June 1991

Active Effect

National Decree No. 1,164/60

Passive Effect

National Decree No. 1,435/91

National Decree No. 2,239/91

Enactment: Law No. 11,672

National Decree No. 1,615/99

HAVING REGARD TO:

The Argentine National Commission on Space Activities: Creation—National Space Plan—science and technology—Office of the President of the Nation, and

WHEREAS

The progress of space sciences and technology is of great importance for the State because of the many and various public policy considerations raised by their practical applications;

The Argentine Republic maintains its right to technological and scientific development for peaceful purposes;

It is necessary to make practical use of the experience gained by Argentina in the field of space;

The technical complexity of space activities necessitates proper organization and coordination of all the national bodies concerned, whether private or public, in order to prevent the dissipation and duplication of efforts;

It is necessary to establish a national authority to centralize, organize, administer and implement a comprehensive policy on space matters;

The Argentine Republic rejects all offensive military use of space activities and acknowledges its intention to work in this field with a high ... [Sentence incomplete—translator].

Article 1

The National Commission on Space Activities (CONAE) is hereby created with the capacity to act as a public and private entity in the scientific, technical, industrial, commercial, administrative and financial spheres, with full administrative and financial autonomy, and accountable directly and exclusively to the President of the Nation.

Article 2

The National Commission on Space Activities shall be the only national State body competent to take charge of, formulate, implement, monitor, manage and administer projects and undertakings in the field of space, in which regard its functions shall be the following:

- (a) To propose the National Space Plan for the use and development of space sciences and technology for peaceful purposes, as well as arrangements for its funding, for approval by the executive branch of the National Government;
- (b) To centralize, organize, administer and implement the National Space Plan.

Article 3

The functions of the National Commission on Space Activities shall be to:

- (a) Conduct research aimed at the establishment of groups possessing the necessary disciplines and techniques for access to be gained to space technology and its applications;
- (b) Undertake development work in the area of advanced engineering, encompassing the fields necessary for the assimilation of appropriate national space technology;
- (c) Ensure and assist the integrated development of national space projects;
- (d) Provide for the basic and ongoing training of research, professional, technical and other appropriate personnel through courses, fellowships and reciprocal arrangements with universities, State authorities and other national or foreign institutions;
- (e) Assign space technology transfer to applications in agronomy, cartography, mineral prospecting, meteorology, geology, environmental science, medicine, communications, defence, industrial sectors and other areas, to government authorities and especially, under licence, to the private sector, providing technical assistance for the purpose of attaining the quality standards which it establishes;
- (f) Draw up agreements with other authorities or private entities in the country with a view to transfer or cooperation in the development of space activities;
- (g) Provide technical assistance to the State for the purposes of national representation at congresses, conventions, conferences and meetings and at events organized by international organizations concerned with outer space;
- (h) Coordinate all the activities of the National Space System, including all the public and private institutions engaged in space activities, whether directly or indirectly;
- (i) Obtain the financial resources necessary to perform its activities; and
- (j) Promote and implement cooperation agreements with public and private entities from other countries, in conformity with the foreign policy of the Argentine Republic and with due intervention by the Ministry of Foreign Affairs and Religion.

Article 4

Without prejudice to the provisions of the foregoing articles, the National Commission on Space Activities (CONAE), in the exercise of its public and private powers, may:

- (a) Appoint and relocate scientific, technical and administrative personnel, whether temporarily or permanently;
- (b) Issue its internal regulations and establish its organizational structure;
- (c) Formulate agreements with public or private entities and conclude the necessary contracts for the achievement of its aims;
- (d) Undertake commercial transactions on the basis of the contracts concluded, in line with the aims established in this Decree;
- (e) Take any legal steps necessary for its proper functioning;
- (f) Propose a control regime for all transfers abroad of space technology and equipment and for arms, in conformity with the criteria and standards of non-proliferation; such regime shall be subject to prior authorization by a committee to be established, which shall be composed of representatives of the Ministries of Defence, of the Economy and Public Works and of Foreign Affairs and Religion.

Article 5

The National Commission on Space Activities (CONAE) shall have the following organizational structure:

- (a) A Board of Directors composed of twelve (12) members, ten (10) with a political background and two (2) with an executive and technical background.

The Board of Directors will be composed as follows:

(i) Political:

A president, the incumbent of this office being the Minister for Foreign Affairs, International Trade and Religion. This official shall present to the President of the Nation an annual report on the activities undertaken by CONAE;

A vice-president, the incumbent of this office being the Secretary for External Relations and Latin American Affairs of the Ministry of Foreign Affairs, International Trade and Religion;

A representative appointed by the national executive at the proposal of each of the following departments of the national public service:

The Ministry of Foreign Affairs, International Trade and Religion;

The Ministry of Culture and Education;

The Ministry of Defence;

The Ministry of the Economy and Public Works and Services;

The Secretariat for Communications;

The Secretariat for Natural Resources and Sustainable Development;

The Secretariat for Science and Technology under the Ministry of Culture and Education;

A representative of the Province of La Pampa, appointed at the proposal of the provincial executive.

The said officials shall serve for a term of four (4) years, renewable in the case of half of the Board every two (2) years, members being re-electable in perpetuity;

(ii) Executive and technical:

[Text missing] by the members of the Board of Directors to discharge the functions of Executive and Technical Director and Scientific Director. The Executive and Technical Director and the Scientific Director may be removed from office with sufficiently strong grounds;

- (b) Idem as in Decree No. 1662/96;

- (c) Idem as in Decree No. 1662/96;

- (d) Idem as in Decree No. 1662/96.

Legislative reference: National Decree No. 1662/96

Article 6

The resources of the National Commission on Space Activities shall be the following:

- (a) The appropriations allocated to it in the national budget, whose parliamentary approval shall be administered through the national executive in conformity with the following procedure:

(I) Prior to each financial year, the Committee shall draw up an annual programme setting forth a detailed analysis of all the projects foreseen for that period, together with an annual report on its activities;

(II) The request seeking approval of the budgetary appropriations shall be formulated in respect of each of the specific projects and also in respect of the annual programme in general;

- (b) Income from the economic and commercial operation of patents, licences, consultation, advisory services, etc. deriving from the activities undertaken;
- (c) Assets deriving from assigned through the application of special laws;
- (d) Income allocated for the purpose of research and study projects;
- (e) Donations and legacies.

Article 7

The assets of the National Commission on Space Activities shall be constituted by the following:

- (a) The immovable property and installations belonging to the National Space Research Commission (CNIE), located at Avenida Dorrego 4010 of the province of Federal Capital, the industrial plant of Falda del Carmen in the province of Córdoba and the San Miguel Space Research Laboratory in the province of Buenos Aires, such property and installations to be transferred to CONAE as its administrative and technical headquarters;
- (b) Those assets which have to date been largely allocated by the Armed Forces and other State authorities for the purposes of space activities; to this end, the Ministry of Defence shall carry out within a period of thirty days a survey and corresponding inventory for their transfer;
- (c) All such shares, titles and obligations as may have been held by the National Space Research Commission (CNIE) in or in respect of the enterprises DEA, IASA, IFAT Corporation, Consultec, Desintec and Consen, and in respect of any other corporate entity, such shares, titles and obligations to be maintained and exercised to the extent that their purpose is compatible with the objective and aims of the National Commission on Space Activities (CONAE);
- (d) Any assets which it might acquire subsequently in conformity with the provisions of this Decree and other relevant legislation.

Article 8

Decree No. 1,164 of 28 January 1960 is hereby revoked and the National Space Research Commission (CNIE) hereby dissolved, it being provided that all elements, parts and components of the Condor II missile, in all its versions and stages of development existing to date, shall be deactivated, dismantled, reconverted and/or disabled in accordance with its possibilities for use for peaceful applications and purposes, in such a manner as to reliably and finally bring about the complete and irreversible termination of the project in question, its scientific staff, installations and equipment being transferred to the new National Commission on Space Activities (CONAE).

Article 9

To be communicated, published and submitted to the National Department of Official Registration, and filed.

NATIONAL DECREE No. 125/95, Establishment of the National Registry of Objects Launched into Outer Space

[UNOFFICIAL TRANSLATION]

Buenos Aires, 19 July 1995
Official Gazette, 25 July 1995

Whereas the Argentine Republic is a party to the Convention on Registration of Objects Launched into Outer Space,

Considering:

That, in accordance with article II of that international instrument, States shall register space objects launched into Earth orbit or beyond by means of entries in an appropriate register which they shall maintain for such purpose, and

That the present decree is issued in exercise of the powers conferred by article 99 (1) of the National Constitution:

- Article 1.** The National Registry of Objects Launched into Outer Space is hereby established under the authority of the National Commission on Space Activities.
- Article 2.** The registration of space objects shall be effected in the Registry by their owners and operators, together with particulars of any rights, resolutions, contracts and other legal acts or deeds relating thereto.
- Article 3.** The registration of space objects in the Registry shall be mandatory and shall, in conformity with the international regulations in force, confer national jurisdiction and control over the registered space object, wherever it may be located.
- Article 4.** Procedures conducted with the Registry shall be in writing. The National Commission on Space Activities shall, as the implementing authority, regulate the functioning of the Registry and the system of fees payable.
- Article 5.** The following information shall be entered in the Registry:
- (1) If the object has been launched jointly with one or more other launching States, the international conventions concluded with such State or States;
 - (2) An appropriate designator of the space object;
 - (3) Anticipated date and territory or location of launch;
 - (4) Anticipated basic orbital parameters, including:
 - (a) Nodal period,
 - (b) Inclination,
 - (c) Apogee and
 - (d) Perigee;
 - (5) Anticipated general function of the space object;
 - (6) Name and address of the owners and/or operators of the space object;
 - (7) Identification of the firms participating in the construction of the space object and of its launch vehicle;
 - (8) Identification of the launch service provider;
 - (9) Information on the insurances arranged;
 - (10) Identification of the party responsible for exercising control over the space object;
 - (11) Location and characteristics of the satellite tracking, telemetry and command (TTC) station and of the master or tracking station, if applicable;
 - (12) On-board transmission power and frequencies of the space station;
 - (13) Mass of the space object;
 - (14) Anticipated useful life of the space object;

(15) Precautions taken with regard to non-pollution of outer space, including celestial bodies, in particular whether mechanisms have been provided for placement in a transfer orbit at the end of the useful life of the space object;

(16) Anticipated date of disintegration, recovery or loss of contact with the space object;

(17) Identifying mark located on non-disintegrable parts.

Article 6. On completion of the space object's mission or at the end of its useful life or on the occurrence of any accident or incident which renders it unfit to meet its objective, the Registry shall be notified with a view to recording such events.

Article 7. The Registry shall furnish to the Secretary-General of the United Nations, through the Ministry of Foreign Affairs, International Trade and Religion, General Directorate for International Safety and Nuclear and Space Affairs, the information specified in article IV of the Convention on Registration of Objects Launched into Outer Space.

Article 8. The Registry shall be public. Any interested party may obtain a certified copy of the entries in the Register by submitting a request to that effect to the authority responsible for the Registry.

Article 9. The Ministry of Foreign Affairs, International Trade and Religion, General Directorate for International Safety and Nuclear and Space Affairs, shall inform the Secretary-General of the United Nations of the establishment of the Registry, in accordance with the provisions contained in article II of the Convention on Registration of Objects Launched into Outer Space.

Article 10. To be communicated, published, transmitted to the National Department of Official Registration and filed.

Signatories:

Menem — Di Tella

External Link: http://www.todoiure.com.ar/leyes/Decreto_125-95_Actividades_espaciales.htm

AUSTRALIA

SPACE ACTIVITIES ACT 1998

No. 123, 1998

An Act about space activities, and for related purposes

Contents

[...]

An Act about space activities, and for related purposes
[Assented to 21 December 1998]

The Parliament of Australia enacts:

Part 1—Introduction

1 Short title

This Act may be cited as the Space Activities Act 1998.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Objects of Act

The objects of this Act are:

- (a) to establish a system for the regulation of space activities carried on either from Australia or by Australian nationals outside Australia; and
- (b) to provide for the payment of adequate compensation for damage caused to persons or property as a result of space activities regulated by this Act; and
- (c) to implement certain of Australia's obligations under the UN Space Treaties.

Note: This Act does not limit the operation of other laws of the Commonwealth (except so far as the other laws are inconsistent with this Act): see section 105.

4 Simplified outline of Act

The following is a simplified outline of this Act:

- Certain space activities carried on in Australia must be covered by an approval under Part 3.
- An Australian national who carries on certain space activities outside Australia must also be covered by such an approval.
- Part 4 has rules about liability for damage that space activities cause.
- A Register of Space Objects is established under Part 5.
- Part 6 deals with civil penalties.
- Part 7 provides for investigating accidents and incidents.

5 Act binds the Crown

- (1) This Act binds the Crown in each of its capacities.

Note: Division 1 of Part 3 does not bind the Commonwealth: see section 16.

- (2) However, this Act does not make the Crown liable to be prosecuted for an offence.

6 External Territories

This Act extends to the external Territories.

7 Application of Criminal Code

The Criminal Code applies to all offences against this Act.

Part 2—Definitions

8 Definitions

In this Act, unless the contrary intention appears:

accident has the meaning given by section 85.

accident site has the meaning given by section 98.

accident site premises has the meaning given by section 98.

approved scientific or educational organisation means an educational institution, a scientific organisation or a non-profit body, in respect of which a declaration under section 8A is in force.

Australia, when used in a geographical sense, includes the external Territories.

Australian national means:

- (a) an Australian citizen; or
- (b) a body incorporated by or under a law of the Commonwealth, of a State or of a Territory; or
- (c) the Commonwealth, a State or a Territory.

civil penalty provision has the meaning given by section 80.

damage has the same meaning as in the Liability Convention.

exemption certificate means a certificate issued under section 46.

fault has the same meaning as in the Liability Convention.

gross negligence has the meaning given by the regulations. But if the regulations do not give the term a meaning, it has the same meaning as in the Liability Convention.

incident has the meaning given by section 86.

insured amount, for a launch permit, overseas launch certificate or section 43 authorization, means the amount for which the holder of the permit, certificate or authorization is required to be insured under Division 7 of Part 3 in respect of the launch or launches, and any return, covered by the permit, certificate or authorization. In determining this amount, disregard paragraph 47(2)(b) (which deals with direct financial responsibility).

Intergovernmental agreement with Russia means the Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Field of the exploration and Use of Outer Space for peaceful Purposes done at Canberra on 23 May 2001 the English text of which is set out in Schedule 6, and includes that Agreement as amended from time to time in relation to Australia.

Investigator means a person appointed under section 88.

launch a space object means launch the object into an area beyond the distance of 100km above mean sea level, or attempt to do so.

launch facility means a facility (whether fixed or mobile) or place specifically designed or constructed as a facility or place from which space objects can be launched, and includes all other facilities at the facility or place that are necessary to conduct a launch.

launching State has the same meaning as in the Liability Convention.

launch permit means a permit granted under section 26.

Launch Safety Officer, for a licensed launch facility, means the person appointed by the Minister under section 50 for the facility.

launch vehicle means a vehicle that can carry a payload into or back from an area beyond the distance of 100km above mean sea level.

Liability Convention means the Convention on International Liability for Damage Caused by Space Objects done at London, Moscow and Washington on 29 March 1972 and whose English text is set out in Schedule 1.

liability period means:

- (a) for the launch of a space object—the period of 30 days beginning when the launch takes place, or such other period as is specified in the regulations; and
- (b) for the return of a space object—the period beginning when the relevant re-entry manoeuvre is begun and ending when the object has come to rest on Earth, or such other period as is specified in the regulations.

licensed launch facility means a launch facility for which a person holds a space licence: see section 18.

occupier of premises includes a person present at the premises who apparently represents the occupier.

overseas launch certificate means a certificate granted under section 35.

payload includes a load to be carried for testing purposes or otherwise on a non-profit basis.

premises includes a place and a conveyance.

Register means the Register of Space Objects kept under section 76.

Registration Convention means the Convention on Registration of Objects Launched into Outer Space done at New York on 14 January 1975 and whose English text is set out in Schedule 2.

related party has the meaning given by section 9.

responsible party, for the launch or return of a space object, means:

- (a) in the case of a launch or return authorised by a launch permit—the holder of the permit; or
- (b) in the case of a return authorised by a permission under subsection 43(1)—the holder of the permission; or

- (c) in the case of a return authorised by an agreement between the Minister and another person under subsection 43(2)—that other person; or
- (d) in the case of a launch or return that:
 - (i) is not authorised as mentioned in paragraph (a), (b) or (c); but
 - (ii) is covered by an exemption certificate (see section 46);
 the holder of the exemption certificate; or
- (e) in the case of a launch authorised by an overseas launch certificate—the holder of the certificate; or
- (f) in any other case—each of the following persons:
 - (i) the person or persons who carried out the launch or return of the space object;
 - (ii) any person who, at any time during the liability period for the launch or return, owned all or some of any payload forming part of the space object concerned;
 - (iii) any other person specified in regulations made for the purposes of this definition.

But, in relation to a launch to which paragraph (f) applies, if the space object was launched from a launch facility outside Australia, a person is only a responsible party if the person is also an Australian national.

return a space object means return the space object from an area beyond the distance of 100km above mean sea level to Earth, or attempt to do so.

space licence means a licence granted under section 18.

space object means a thing consisting of:

- (a) a launch vehicle; and
- (b) a payload (if any) that the launch vehicle is to carry into or back from outer space; or any part of such a thing, even if:
- (c) the part is to go only some of the way towards or back from outer space; or
- (d) the part results from the separation of a payload or payloads from a launch vehicle after launch.

standard launch permit condition means a condition to which a launch permit is subject because of section 29.

third party, for the launch or return of a space object, means a person who is not a responsible party for the launch or return and who is not a related party (see section 9) of any responsible party for the launch or return.

UN space treaties means the following:

- (a) the Liability Convention;
- (b) the Registration Convention;
- (c) the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies done at London, Moscow and Washington on 27 January 1967 and whose English text is set out in Schedule 3;
- (d) the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies done at New York on 18 December 1979 and whose English text is set out in Schedule 4;
- (e) the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space done at London, Moscow and Washington on 22 April 1968 and whose English text is set out in Schedule 5.

8A Approved scientific or educational organisations The Minister may, by writing, declare an educational institution, a scientific organisation or a non-profit body to be an approved scientific or educational organisation for the purposes of the Act.

Note: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister may vary or revoke such a declaration.

8B Guidelines for making a declaration

- (1) The Minister must develop written guidelines that he or she must have regard to when deciding whether or not to make a declaration under section 8A.
- (2) The guidelines are to be made available for inspection on the Internet.
- (3) The guidelines are a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

8C Applying for a declaration

An application for a declaration under section 8A must be made in accordance with the regulations.

9 Related party

- (1) A person (the first person) is a related party of a responsible party for the launch or return of a space object if:
 - (a) the first person has a financial or ownership interest in all or part of the space object; or
 - (b) the first person was involved in preparing all or part of the space object for the launch or return; or
 - (c) the first person is a contractor, subcontractor or supplier involved in the launch or return or the preparation of all or part of the space object for the launch or return; or
 - (d) the first person is a director, officer, employee or agent of the responsible party.
- (2) However, the regulations may provide that specified persons are, or are not, related parties of a responsible party.

Part 3—Regulation of space activities

10 Simplified outline

The following is a simplified outline of this Part:

- Under Division 1, certain space activities are prohibited unless appropriate approvals are obtained.
- The various approvals are dealt with in Division 2 (space licences), Division 3 (launch permits), Division 4 (overseas launch certificates), Division 5 (return of overseas-launched space objects) and Division 6 (exemption certificates).
- Some of those approvals have insurance/financial requirements, which are set out in Division 7.
- The Minister is to appoint a Launch Safety Officer for each licensed launch facility: see Division 8.
- Division 9 has some rules about administration etc.

Division 1—Certain space activities require approvals etc.

11 Launch in Australia requires a launch permit or exemption certificate

If:

- (a) a person launches a space object from a launch facility located in Australia; and
- (b) the launch is not authorised by a launch permit held by any person; and
- (c) no exemption certificate (see section 46) covering the launch is held by any person; and
- (d) the launch is not conducted in accordance with any agreement of the kind mentioned in subsection 109(1);

the first-mentioned person is guilty of an offence punishable on conviction by:

- (e) in the case of a body corporate—a fine not exceeding 100,000 penalty units; or
- (f) in the case of an individual—imprisonment for a term not exceeding 10 years, or a fine not exceeding 600 penalty units, or both.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

12 Overseas launch requires an overseas launch certificate

If:

- (a) a space object is launched from a launch facility located outside Australia; and
- (b) the launch is not authorised by an overseas launch certificate held by any person; and
- (c) an Australian national is a responsible party for the launch;

the Australian national is guilty of an offence punishable on conviction by:

- (d) in the case of a body corporate—a fine not exceeding 100,000 penalty units; or
- (e) in the case of an individual—imprisonment for a term not exceeding 10 years, or a fine not exceeding 600 penalty units, or both.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

13 Return to Australia of Australian-launched space object requires a launch permit or exemption certificate

If:

- (a) a person returns a space object to a place anywhere in Australia; and
- (b) the object, or any part of it, was launched from a launch facility located in Australia; and
- (c) the return is not authorised by a launch permit held by any person; and
- (d) no exemption certificate (see section 46) covering the return is held by any person; and
- (e) the return is not conducted in accordance with any agreement of the kind mentioned in subsection 109(1);

the first-mentioned person is guilty of an offence punishable on conviction by:

- (f) in the case of a body corporate—a fine not exceeding 100,000 penalty units; or
- (g) in the case of an individual—imprisonment for a term not exceeding 10 years, or a fine not exceeding 600 penalty units, or both.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

14 Return to Australia of overseas-launched space object requires authorization

If:

- (a) a person returns a space object to a place anywhere in Australia; and
- (b) neither the object, nor any part of it, was launched from a launch facility located within Australia; and
- (c) the return of the object to that place is not authorised under section 43;

the person is guilty of an offence punishable on conviction by:

- (d) in the case of a body corporate—a fine not exceeding 100,000 penalty units; or
- (e) in the case of an individual—imprisonment for a term not exceeding 10 years, or a fine not exceeding 600 penalty units, or both.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

15 Space licence required to operate a launch facility in Australia

A person must not operate a launch facility in Australia, or do anything directly connected with operating a launch facility in Australia, using a particular kind of launch vehicle, unless:

- (a) the person holds a space licence (see Division 2) for the facility and the kind of launch vehicle; or
- (b) the person is a related party (see section 9), for any launches conducted from the facility, of a person who holds such a licence; or
- (c) the person is acting as an employee, contractor or agent of a person who holds such a licence; or
- (d) an exemption certificate (see section 46) covering:
 - (i) the operation of the facility, or the things connected with the operation; and
 - (ii) the kind of launch vehicle;

is held by any person; or

- (e) the operation of the facility, or the things connected with the operation, are done in accordance with an agreement of the kind mentioned in subsection 109(1).

Note: Contravening this section is not an offence. However, a person who contravenes this section is liable to a civil penalty under Part 6.

16 Commonwealth not bound

This Division does not apply to:

- (a) the Commonwealth; or
- (b) a person acting as an employee or agent of the Commonwealth or as a member of the Defence Force.

Example: The Commonwealth and a private company are to carry out a launch as joint venturers. The Commonwealth would not need a space licence or launch permit etc. to do so, but the private company would (unless the company were acting as an agent of the Commonwealth, in which case it too would be exempt from this Division).

17 Activities of international space organisations

- (1) If an agreement between Australia and another country or countries provides for the establishment of an international organisation whose sole or principal function is to carry on activities in outer space, this Division does not apply in relation to anything done in accordance with the agreement.
- (2) This section applies whether the agreement was made before or after the commencement of this Act.

Division 2—Space licences

18 Granting a space licence

The Minister may grant to a person a space licence covering a particular launch facility in Australia, a particular kind of launch vehicle and particular flight paths, if:

- (a) the Minister is satisfied that the person is competent to operate the launch facility and launch vehicles of that kind; and
- (aa) the person is a corporation to which paragraph 51(xx) of the Constitution applies; and
- (b) the Minister is satisfied that all necessary environmental approvals under Australian law have been obtained, and that an adequate environmental plan has been made, for the construction and operation of the launch facility; and
- (c) the Minister is satisfied that the person has sufficient funding to construct and operate the launch facility; and
- (d) the Minister is satisfied that the probability of the construction and operation of the launch facility causing substantial harm to public health or public safety or causing substantial damage to property is as low as is reasonably practicable; and
- (e) the Minister does not consider that, for reasons relevant to Australia's national security, foreign policy or international obligations, the space licence should not be granted; and
- (f) the criteria (if any) prescribed by the regulations are satisfied in relation to the launch facility; and
- (g) the criteria (if any) prescribed by the regulations are satisfied in relation to that kind of launch vehicle; and
- (h) the criteria (if any) prescribed by the regulations are satisfied in relation to each flight path specified in the application for the licence.

Example: For the purposes of paragraph (g), the regulations could prescribe criteria dealing with matters such as the design of the launch vehicle

Note: Under subsection 33(3) of the Acts Interpretation Act 1901, the Minister may vary or revoke a space licence.

19 Terms of space licence

A space licence:

- (a) must specify the day on which it comes into force; and
- (b) remains in force for the period specified in the licence, which must be no longer than 20 years; and
- (c) is granted subject to the standard space licence conditions in section 20 and any other conditions specified in the licence.

20 Standard space licence conditions

The following are conditions of each space licence granted to a person, except to the extent that the licence otherwise specifies:

- (a) the holder of the licence must give the Minister any information that the Minister asks for under section 60 about the licence;
- (b) the holder must:

- (i) allow the Launch Safety Officer for the facility (see Division 8) reasonable access to the facility and to any space object at the facility; and
- (ii) ensure that the Launch Safety Officer is given any information or assistance that the Launch Safety Officer reasonably requests for the proper performance of a function;
- (c) any other condition specified in the regulations.

21 Breaching a space licence condition

The holder of a space licence must not contravene a condition of the licence.

Note: Contravening this section is not an offence. However, a person who contravenes this section is liable to a civil penalty under Part 6.

22 Transfer of space licence

- (1) The Minister may, by written notice, transfer a space licence to another person if the Minister could grant the space licence to the other person under section 18.
- (2) The transfer takes effect at the time specified in the notice.
- (3) The licence continues to cover the same launch facility and the same kind of launch vehicle.
- (4) The licence has effect subject to the same conditions as the original licence (unless the Minister varies the conditions).
- (5) The period for which the licence remains in force continues to run despite the transfer.

23 Applying for the grant, variation or transfer of a space licence

An application for the grant, variation or transfer of a space licence must be made in accordance with the regulations.

24 Procedure etc.

- (1) If the Minister considers that there may be grounds to vary, revoke or transfer a space licence (other than at the licensee's request), the Minister must:
 - (a) give the licensee written notice of the Minister's opinion specifying the reasons for that opinion; and
 - (b) invite the licensee to make a written submission to the Minister about the matter within a reasonable period specified in the notice.
- (2) In deciding whether to vary, revoke or transfer a space licence, the Minister must consider the matters raised in any submission received within the period specified in the notice.
- (3) A space licence must not be varied in a way that changes the location of the licensed launch facility.
- (4) The regulations may prescribe other ways in which a space licence must not be varied.

25 Suspending a space licence

- (1) The Minister may, by written notice, suspend a space licence if:
 - (a) the holder of the licence contravenes a condition of the licence; or
 - (b) the Minister considers that, for reasons relevant to Australia's national security, foreign policy or international obligations, the licence should be suspended.

Note: Under subsection 33(3) of the Acts Interpretation Act 1901, the Minister may revoke a suspension.
- (2) A space licence has no effect while suspended, but the period for which it remains in force continues to run despite the suspension.
- (3) A space licence may be revoked or varied even while it is suspended.

25A Annual review of space licence

The Minister may conduct an annual review of a space licence:

- (a) for the purpose of monitoring compliance by the licence holder with this Act and the conditions of the licence; or

(b) for any other reason that the Minister considers appropriate.

Division 3—Launch permits

26 Granting a launch permit

- (1) The Minister may grant a launch permit to a person authorising:
- (a) the launch of a particular space object; or
 - (b) a particular series of launches of space objects that, in the Minister's opinion, having regard to the nature of any payloads to be carried, may appropriately be authorised by a single launch permit; from a specified launch facility in Australia using a specified kind of launch vehicle.

Note: Under subsection 33(3) of the Acts Interpretation Act 1901, the Minister may vary or revoke a launch permit granted under this section.

- (2) The launch permit may also authorise particular space objects to be returned, in connection with the launch or launches, to a specified place or area in Australia.

Note: A returning space object need not be the same as the space object launched. For example, a launch vehicle could carry a payload into an area beyond the distance of 100km above mean sea level and return without it, or even collect a different payload from an area beyond the distance of 100km above mean sea level and return that to Earth.

- (3) The Minister may grant the launch permit to the person only if all of the following criteria are satisfied:
- (a) the person holds a space licence (see Division 2) covering the launch facility and the kind of launch vehicle concerned;
 - (b) the person is a corporation to which paragraph 51(xx) of the Constitution applies;
 - (c) the Minister is satisfied that the person who is to carry out the launch or launches, and any connected return, is competent to do so;
 - (d) the Minister is satisfied that the insurance/financial requirements in Division 7 will be satisfied for the launch or launches, and any connected return;
 - (e) the Minister is satisfied that the probability of the launch or launches, or any connected return, causing substantial harm to public health or public safety or causing substantial damage to property is as low as reasonably practicable;
 - (f) the space object or objects concerned are not and do not contain a nuclear weapon or a weapon of mass destruction of any other kind;
 - (g) the Minister does not consider that, for reasons relevant to Australia's national security, foreign policy or international obligations, the launch permit should not be granted;
 - (h) any other criteria prescribed by the regulations.
- (4) If a country other than Australia is also a launching State for the space object or any of the space objects, the Minister may, in deciding whether to grant the launch permit, have regard to:
- (a) whether there is an agreement between Australia and that other country under which that country assumes any liability, and indemnifies Australia, for any damage that the space object or objects may cause; and
 - (b) the terms of that agreement.

Note: This subsection does not, by implication, limit the matters to which the Minister may have regard.

27 Australian launches: continuing requirement for space licence

If the launch facility specified in a launch permit is in Australia, the permit has no effect during any period when the holder of the permit does not also hold a space licence (see Division 2) covering the facility and the kind of launch vehicle concerned.

28 Terms of launch permit

- (1) A launch permit authorising the launch of a space object or objects, and any connected return:
- (a) must specify the day on which it comes into force and the period for which it remains in force; and

- (b) is granted subject to the standard launch permit conditions in section 29 and any other conditions specified in the regulations or in the launch permit.
- (2) A launch permit may specify that the period during which it remains in force ends on the occurrence of a particular event (rather than at a specified time). For this purpose, the regulations may set out how to determine when events of a particular kind occur.
Example: A launch permit might specify that it expires when the relevant launch has been (successfully or unsuccessfully) completed. The regulations could set out how to determine when this is.
- (3) At any time when a launch permit is in force, the Minister may, by written notice, extend or further extend the period for which the permit remains in force.

29 Standard launch permit conditions

The following are conditions of each launch permit (called standard launch permit conditions), except to the extent that the permit otherwise specifies:

- (a) the launch or launches, and any connected return, must not be conducted in a way that is likely to cause substantial harm to public health or public safety or to cause substantial damage to property;
- (b) the space object or objects must not be or contain a nuclear weapon or a weapon of mass destruction of any other kind;
- (c) the space object or objects must not contain any fissionable material unless the Minister's written approval has first been obtained;
- (d) the holder of the permit must satisfy the insurance/financial requirements in Division 7 for each launch, and each return, conducted under the permit.

30 Breaching a launch permit condition

- (1) The holder of a launch permit must not contravene a condition of the launch permit (whether or not the condition is a standard launch permit condition).
Note: Contravening this subsection is not an offence. However, a person who contravenes this subsection is liable to a civil penalty under Part 6.

- (2) If the holder of a launch permit:
- (a) by any intentional act or omission, contravenes a standard launch permit condition (see section 29) of the permit; and
- (b) is reckless as to whether the act or omission contravenes the condition;

the holder is guilty of an offence punishable on conviction by:

- (c) in the case of a body corporate—a fine not exceeding 100,000 penalty units; or
- (d) in the case of an individual—imprisonment for a term not exceeding 10 years, or a fine not exceeding 600 penalty units, or both.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

- (3) The Minister may take civil proceedings under Part 6 against a person who is alleged to have breached a standard launch permit condition of a launch permit, as an alternative to prosecution for an offence against subsection (2).

31 Transfer of launch permit

- (1) The Minister may, by written notice, transfer a launch permit to another person if the Minister could grant the launch permit to the other person under section 26.
- (2) The transfer takes effect at the time specified in the notice.
- (3) The permit continues to cover the same launch facility, the same kind of launch vehicle and the same space object or objects.
- (4) The permit has effect subject to the same conditions as the original permit (unless the Minister varies the conditions).
- (5) The period for which the permit remains in force continues to run despite the transfer.

32 Applying for the grant, variation or transfer of a launch permit

An application for the grant, variation or transfer of a launch permit must be made in accordance with the regulations.

33 Procedure etc.

- (1) If the Minister considers that there may be grounds to vary, revoke or transfer a launch permit (other than at the permit holder's request), the Minister must:
 - (a) give the holder of the permit written notice of the Minister's opinion specifying the reasons for that opinion; and
 - (b) invite the holder to make a written submission to the Minister about the matter within a reasonable period specified in the notice.
- (2) In deciding whether to vary, revoke or transfer the permit, the Minister must consider the matters raised in any submission received within the period specified in the notice.
- (3) A launch permit must not be varied in a way that changes the location of the relevant launch facility.
- (4) The regulations may prescribe other ways in which a launch permit must not be varied.

34 Suspending a launch permit

- (1) The Minister may, by written notice, suspend a launch permit if:
 - (a) the holder of the permit contravenes a condition of the permit; or
 - (b) the Minister considers that, for reasons relevant to Australia's national security, foreign policy or international obligations, the permit should be suspended; or
 - (c) an incident involving a space object covered by the permit occurs during the liability period for the launch or return of the object.

Note: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister may revoke a suspension.

- (2) A launch permit has no effect while suspended, but the period for which it remains in force continues to run despite the suspension.
- (3) A launch permit may be revoked or varied even while it is suspended.

Division 4—Overseas launch certificates

35 Granting an overseas launch certificate

- (1) The Minister may grant an overseas launch certificate to a person authorising:
 - (a) the launch of a particular space object; or
 - (b) a particular series of launches of space objects that, in the Minister's opinion, having regard to the nature of any payloads to be carried, may appropriately be authorised by a single overseas launch certificate;

from a specified launch facility outside Australia using a specified kind of launch vehicle.

Note 1: Overseas launch certificates are only required if an Australian national would be a responsible party for the launch—see section 12.

Note 2: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister may vary or revoke an overseas launch certificate granted under this section.

- (2) The Minister may grant the overseas launch certificate to the person only if all of the following criteria are satisfied:
 - (a) the Minister is satisfied either:
 - (i) that the insurance/financial requirements in Division 7 will be satisfied for each launch to be conducted under the certificate; or
 - (ii) that, having regard to the nature and purpose of the space object or space objects concerned, it is not necessary to insist that those insurance/financial requirements be satisfied;
 - (b) the Minister is satisfied that the probability of the launch or launches causing substantial harm to public health or public safety or causing substantial damage to property is sufficiently low;

- (c) the Minister does not consider that, for reasons relevant to Australia's national security, foreign policy or international obligations, the overseas launch certificate should not be granted;
 - (d) any other criteria prescribed by the regulations.
- (3) The Minister may, in deciding whether to grant the overseas launch certificate, have regard to:
- (a) whether there is an agreement or arrangement between Australia and the other launching State, or any of the other launching States, under which that State or those States assume liability, and indemnify Australia, for any damage that the space object or objects may cause; and
 - (b) the terms of that agreement or arrangement.

Note: This subsection does not, by implication, limit the matters to which the Minister may have regard.

36 Terms of overseas launch certificate

- (1) An overseas launch certificate authorising the launch of a space object or objects:
 - (a) must specify the day on which it comes into force and the period for which it remains in force; and
 - (b) is granted subject to any conditions specified in the certificate.
- (2) An overseas launch certificate may specify that the period during which it remains in force ends on the occurrence of a particular event (rather than at a specified time). For this purpose, the regulations may set out how to determine when events of a particular kind occur.
Example: An overseas launch certificate might specify that its period expires when the relevant launch has been (successfully or unsuccessfully) completed. The regulations could set out how to determine when this is.
- (3) At any time when an overseas launch certificate is in force, the Minister may, by written notice, extend or further extend the period for which the certificate remains in force.

37 Breaching a condition

The holder of an overseas launch certificate must not contravene a condition of the certificate.

Note: Contravening this section is not an offence. However, a person who contravenes this section is liable to a civil penalty under Part 6.

38 Transfer of overseas launch certificate

- (1) The Minister may, by written notice, transfer an overseas launch certificate to another person if the Minister would have power to grant the overseas launch certificate to the other person under section 35.
- (2) The transfer takes effect at the time specified in the notice.
- (3) The certificate continues to cover the same launch facility, the same kind of launch vehicle and the same space object or objects.
- (4) The certificate has effect subject to the same conditions as the original certificate (unless the Minister varies the conditions).
- (5) The period for which the certificate remains in force continues to run despite the transfer.

39 Applying for the grant, variation or transfer of an overseas launch certificate

An application for the grant, variation or transfer of an overseas launch certificate must be made in accordance with the regulations.

40 Procedure etc.

- (1) If the Minister considers that there may be grounds to vary, revoke or transfer an overseas launch certificate (other than at the certificate holder's request), the Minister must:
 - (a) give the holder of the certificate written notice of the Minister's opinion specifying the reasons for that opinion; and
 - (b) invite the holder to make a written submission to the Minister about the matter within a reasonable period specified in the notice.
- (2) In deciding whether to vary, revoke or transfer the certificate, the Minister must consider the matters raised in any submission received within the period specified in the notice.

- (3) An overseas launch certificate must not be varied in a way that changes the location of the relevant launch facility.

41 Suspending an overseas launch certificate

- (1) The Minister may, by written notice, suspend an overseas launch certificate if:
- (a) the holder of the certificate contravenes a condition of the certificate; or
 - (b) in a subparagraph 35(2)(a)(i) case—the Minister is satisfied that the insurance/financial requirements in Division 7 are not satisfied for a launch to be conducted under the certificate; or
 - (c) the Minister considers that, for reasons relevant to Australia’s national security, foreign policy or international obligations, the certificate should be suspended.

Note: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister may revoke a suspension.

- (2) An overseas launch certificate has no effect while suspended, but the period for which it remains in force continues to run despite the suspension.
- (3) An overseas launch certificate may be revoked or varied even while it is suspended.

Division 5—Authorization of return of overseas-launched space objects

42 Scope of Division

This Division applies if:

- (a) a space object is launched, or is proposed to be launched, from a launch facility outside Australia; and
- (b) in connection with that launch, a space object is proposed to be returned to an area or place within Australia.

Note: The returning space object need not be the same as the space object launched. For example, a launch vehicle could carry a payload into an area beyond the distance of 100km above mean sea level and return without it, or even collect a different payload from outer space and return that to Earth

43 Returns may be authorised by permission or by agreement

- (1) The Minister may give a person written permission authorising:
- (a) the return of the space object concerned to a specified place or area in Australia; or
 - (b) a particular series of such returns that, in the Minister’s opinion, having regard to the nature of the space objects to be returned, may appropriately be authorised by a single permission.

Note: Under subsection 33(1) of the *Acts Interpretation Act 1901*, the Minister may vary or revoke an authorization granted under this section.

- (2) Alternatively, the Minister may, on behalf of the Commonwealth, enter into an agreement with a person under which such a return or such a series of returns is authorised.

- (3) The return or returns may be authorised under this section only if all of the following criteria are satisfied:

- (a) the Minister is satisfied that the person who is to carry out the return or returns is competent to do so;
- (b) the Minister is satisfied that the insurance/financial requirements in Division 7 will be satisfied for the return or returns;
- (c) the Minister is satisfied that the probability of the return or returns causing substantial harm to public health or public safety or causing substantial damage to property is as low as reasonably practicable;
- (d) the space object or objects concerned are not and do not contain a nuclear weapon or a weapon of mass destruction of any other kind;
- (e) the Minister does not consider that, for reasons relevant to Australia’s national security, foreign policy or international obligations, the authorization should not be given;
- (f) any other criteria prescribed by the regulations.

- (4) The Minister may, in deciding whether to give an authorization under this section, have regard to:

- (a) whether there is an agreement or arrangement between Australia and any country that is a launching State for any space object concerned under which that country assumes any liability, and indemnifies Australia, for any damage that the space object may cause; and
- (b) the terms of that agreement or arrangement.

Note: This subsection does not, by implication, limit the matters to which the Minister may have regard.

(5) An authorization under this section may be given subject to any conditions that the Minister determines.

44 Offences relating to returns

- (1) If a person returns a space object purportedly in accordance with an authorization of the kind mentioned in section 43 and:
 - (a) the return is conducted in a way that is likely to cause substantial harm to public health or public safety or to cause substantial damage to property; or
 - (b) the space object is or contains a nuclear weapon or a weapon of mass destruction of any other kind; or
 - (c) the space object contains any fissionable material and the Minister's written approval for this has not first been obtained; or
 - (d) the insurance/financial requirements in Division 7 are not satisfied for the return;the person is guilty of an offence punishable on conviction by:
 - (e) in the case of a body corporate—a fine not exceeding 100,000 penalty units; or
 - (f) in the case of an individual—imprisonment for a term not exceeding 10 years, or a fine not exceeding 600 penalty units, or both.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

- (2) The Minister may take civil proceedings under Part 6 against a person who is alleged to have committed an offence against subsection (1), as an alternative to prosecution.

45 Breaching a condition

A person who is authorised under section 43 to return a space object must not contravene a condition of the authorization.

Note: Contravening this section is not an offence. However, a person who contravenes this section is liable to a civil penalty under Part 6.

45A Applying for an authorization or for the variation of an authorization

An application for an authorization under section 43, or for the variation of such an authorization, must be made in accordance with the regulations.

45B Procedure etc.

- (1) If the Minister considers that there may be grounds to vary or revoke an authorization under section 43 (other than at the authorization holder's request), the Minister must:
 - (a) give the holder of the authorization written notice of the Minister's opinion specifying the reasons for that opinion; and
 - (b) invite the holder to make a written submission to the Minister about the matter within a reasonable period specified in the notice.
- (2) In deciding whether to vary or revoke the authorization, the Minister must consider the matters raised in any submission received within the period specified in the notice.

45C Suspending an authorization under section 43

- (1) The Minister may, by written notice, suspend an authorization under section 43 if:
 - (a) the holder of the authorization contravenes a condition of the authorization; or
 - (b) the Minister considers that, for reasons relevant to Australia's national security, foreign policy or international obligations, the authorization should be suspended; or

(c) an incident involving a space object covered by the authorization occurs during the liability period for the return of the object.

Note: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister may revoke a suspension.

(2) An authorization under section 43 has no effect while suspended.

(3) An authorization under section 43 may be varied or revoked even while it is suspended.

Division 6—Exemption certificates

46 Exemption certificates

(1) The Minister may issue to any person an exemption certificate covering specified conduct that might otherwise be prohibited under section 11, 13 or 15.

Note 1: Under subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister may vary or revoke an exemption certificate.

Note 2: Under subsection 33(3A) of the *Acts Interpretation Act 1901*, conduct may be specified by reference to a particular class or classes of conduct.

(2) The regulations may set out matters to which the Minister must have regard in deciding whether to issue an exemption certificate.

Example: The regulations might set out criteria such as whether a launch would be in the national interest or would confer a significant national benefit, whether there is a risk that a launch might cause substantial harm to public health or public safety or damage to property or whether there is a risk that a launch might expose the Commonwealth to liability for damage caused.

Note: This subsection does not, by implication, limit the matters to which the Minister may have regard.

(3) Within 7 sitting days of issuing an exemption certificate under this section, the Minister must cause a copy of the exemption certificate to be tabled in each House of the Parliament.

46A Terms of exemption certificate

(1) An exemption certificate:

(a) comes into force on a specified day or when a specified event happens; and

(b) remains in force for a specified period (which may be a period that ends on occurrence of a specified event).

(2) For the purposes of subsection (1), the regulations may set out how to determine when events of a particular kind occur.

(3) At any time when an exemption certificate is in force, the Minister may, by written notice, extend or further extend the period for which the certificate remains in force.

(4) An exemption certificate is granted subject to any conditions specified in the certificate.

46B Breaching a condition

The holder of an exemption certificate must not contravene a condition of the certificate.

Note: Contravening this section is not an offence. However, a person who contravenes this section is liable to a civil penalty under Part 6.

Division 7—Insurance/financial requirements

47 Satisfying the insurance/financial requirements

(1) This Division sets out the *insurance/financial requirements* mentioned in Divisions 3, 4 and 5.

(2) The holder of a launch permit, overseas launch certificate or section 43 authorization, covering a launch or return, satisfies the *insurance/financial requirements* for the launch or return if:

(a) throughout the liability period for the launch or return, the insurance requirements in section 48 are satisfied; or

(b) the holder has, in accordance with the regulations, shown direct financial responsibility for the launch or return for an amount not less than the amount that would otherwise have been applicable under subsection 48(3) for the launch or return.

48 Insurance requirements

(1) The insurance requirements are satisfied for:

- (a) a launch or return authorised by a launch permit; or
- (b) a return authorised under section 43;

if:

- (c) the holder of the permit or authorization is insured (to the extent required by subsection (3)) against any liability that the holder might incur under this Act to pay compensation for any damage to third parties that the launch or return causes; and
- (d) the Commonwealth is insured (to the extent required by subsection (3)) against any liability that the Commonwealth might incur, under the Liability Convention or otherwise under international law, to pay compensation for such damage.

Note 1: The insurance cover mentioned in paragraphs (c) and (d) may be provided by separate policies. Alternatively, the holder of the permit or authorization could take out a single policy that insures both the holder and the Commonwealth.

Note 2: The Commonwealth is under no duty to take out any insurance cover under this subsection—the onus is on the holder of the permit or authorization to ensure that the insurance/financial requirements are satisfied.

(2) The insurance requirements are satisfied for a launch authorised by an overseas launch certificate if the Commonwealth is insured (to the extent required by subsection (3)) against any liability of the Commonwealth, under the Liability Convention or otherwise under international law, to pay compensation for any damage to third parties that the launch causes.

Note 1: The holder of the certificate could take out a single policy that insures both the holder and the Commonwealth.

Note 2: The Commonwealth is under no duty to take out any insurance cover under this subsection—the onus is on the holder of the certificate to ensure that the insurance/financial requirements are satisfied.

(3) The total insurance, for each launch or return concerned, must be for an amount not less than the lesser of the amount of \$750 million (as indexed from time to time in accordance with the regulations) and:

- (a) the amount of the maximum probable loss that may be incurred in respect of damage to third parties caused by the launch or return, as determined using the method set out in the regulations; or
- (b) if the regulations set out a different method of determining a minimum amount for the purposes of this subsection—the amount determined using that method.

49 Additional insurance not precluded

Nothing in this Act prevents any person from taking out any additional insurance.

Division 8—Launch Safety Officer

50 Launch Safety Officer

For each licensed launch facility, the Minister must, by writing, appoint a Launch Safety Officer. The same person may be Launch Safety Officer for more than one facility.

51 Functions of Launch Safety Officer

The functions of the Launch Safety Officer for a licensed launch facility are:

- (a) to ensure that notice is given, in accordance with the regulations, of launches conducted at the facility; and
- (aa) to ensure that notice is given, in accordance with the regulations, of returns of space objects that were launched from the facility; and

- (b) to ensure that no person or property is endangered by any launch conducted at the facility, until the space object is safely in Earth orbit or beyond; and
- (ba) to ensure that no person or property is endangered by any return of a space object that was launched from the facility; and
- (c) to monitor the compliance by persons who hold a space licence or launch permit relating to the facility with this Act and with the conditions of the licence or permit.

52 Powers of Launch Safety Officer

- (1) The Launch Safety Officer for a licensed launch facility may do all things that are reasonably necessary or convenient to be done for the performance of his or her functions.
- (2) In particular, the Launch Safety Officer for a licensed launch facility may:
 - (a) with the consent of the holder of the relevant space licence, or of any person authorised by the holder to give that consent:
 - (i) enter and inspect the facility and any space object at the facility; and
 - (ii) inspect and test any other equipment at the facility; and
 - (b) ask the holder, or any employee, agent or contractor of the holder, to give him or her any information or assistance, for which he or she reasonably asks, to assist in the proper performance of his or her functions; and
 - (c) give any directions about the launch of a space object carried out, or proposed to be carried out, at the facility that he or she considers necessary to avoid any danger to public health or to persons or property, including directions to stop the launch or destroy the space object (whether before or after it is launched); and
 - (d) give any directions about the return of a space object that was launched from the facility that he or she considers necessary to avoid any danger to public health or to persons or property, including directions to stop the return or destroy the space object.
- (3) The Launch Safety Officer's powers under this section do not entitle him or her to enter a licensed launch facility without the consent of the holder of the relevant space licence or of a person authorised by the holder to give that consent.
- (4) The Launch Safety Officer for a licensed launch facility is not entitled to exercise any powers under this section at or on the facility if:
 - (a) the holder of the relevant space licence, or an employee or agent of the holder, has required the Launch Safety Officer to show identification; and
 - (b) the Launch Safety Officer fails to comply with the requirement.
- (5) The Launch Safety Officer's functions and powers do not entitle him or her to be involved in the normal business operations of the holder of a space licence or launch permit.

53 Offence of failing to comply with directions

A person who fails to comply with a direction that the Launch Safety Officer for a licensed launch facility gives under paragraph 52(2)(c) or (d) is guilty of an offence. Maximum penalty: 100 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

54 Procedure for giving and complying with directions

- (1) The regulations may prescribe the procedure to be followed by:
 - (a) the Launch Safety Officer for a licensed launch facility in giving directions under paragraph 52(2)(c); and
 - (b) any person to whom the Launch Safety Officer gives such a direction.
- (2) The regulations may prescribe penalties not exceeding 100 penalty units for contravening regulations made for the purposes of paragraph (1)(b) of this section.

55 Launch Safety Officer to comply with Minister's instructions

- (1) In performing a function or exercising a power under this Act, the Launch Safety Officer for a licensed launch facility must comply with any instructions the Minister gives the Launch Safety Officer.
- (2) The Minister may give different instructions for different licensed launch facilities.
- (3) Within 15 sitting days of giving an instruction to a Launch Safety Officer the Minister must cause a copy of the instruction to be tabled in each House of the Parliament.

56 Seizures in emergency situations

- (1) If, while exercising powers at or on a licensed launch facility, the Launch Safety Officer for the facility suspects, on reasonable grounds, that:
 - (a) a thing relevant to an offence against this Act is at or on the facility; and
 - (b) because the circumstances are so serious and urgent, it is necessary to:
 - (i) search the facility, and any receptacle at or on the facility, for the thing; or
 - (ii) seize the thing;to stop the thing from being concealed, lost or destroyed; the Launch Safety Officer may do so.
- (2) The Launch Safety Officer's functions and powers do not entitle him or her to seize anything otherwise than in accordance with this section.

57 Launch Safety Officer may obtain assistance

The Launch Safety Officer for a licensed launch facility may arrange for other persons to assist him or her in the performance of his or her functions for the facility.

58 Identity cards

- (1) The Minister must issue the Launch Safety Officer for a licensed launch facility with an identity card.
- (2) An identity card must include a recent photograph of the person.
- (3) As soon as practicable after a person ceases to be the Launch Safety Officer for a licensed launch facility, the person must return his or her identity card to the Minister.
- (4) A person who fails to do so is guilty of an offence.

Maximum penalty: 1 penalty unit.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Division 9—Administration etc.

59 Fees

- (1) The applicant for a launch permit, or for a transfer or variation of a launch permit, must pay the Commonwealth any fee the regulations set in respect of the application.
- (2) The applicant for an overseas launch certificate, or for a transfer or variation of an overseas launch certificate, must pay the Commonwealth any fee the regulations set in respect of the application.
- (2A) The applicant for an authorization under section 43, or for the variation of such an authorization, must pay the Commonwealth any fee the regulations set in respect of the application.
- (3) The applicant for a space licence or for a transfer or variation of a space licence must pay the Commonwealth any fee the regulations set in respect of the application.
- (3A) The holder of a space licence must pay the Commonwealth any annual licence fee the regulations set in respect of the licence.
- (4) The applicant for an exemption certificate must pay the Commonwealth any fee the regulations set in respect of the application.
- (5) A person who inspects the Register must pay the Commonwealth any fee the regulations set in respect of the inspection.

- (6) The regulations may set a fee mentioned in this section by setting the amount of the fee or a way of working out the fee.
- (6A) The regulations may make provision for approved scientific or educational organisations to be charged different fees under this section than other persons.
- (7) A fee must not be such as to amount to taxation.
- (8) The regulations may specify the time for payment of a fee.
- (9) The regulations may prescribe the circumstances in which the Minister may wholly or partly waive fees that would otherwise be payable under this section.

59 Request for information

The Minister may, by written notice, ask:

- (a) an applicant for, or the holder of, a space licence; or
- (b) an applicant for, or the holder of, a launch permit; or
- (c) an applicant for, or the holder of, an overseas launch certificate; or
- (d) an applicant for, or the holder of, an authorization under section 43; to give the Minister, within the period specified in the notice, any information the Minister requires for the purposes of performing functions or exercising powers under this Act in relation to the licence, permit, certificate or authorization.

60 Review of decisions

An application may be made to the Administrative Appeals Tribunal for review of any decision of the Minister:

- (a) refusing to grant, vary or transfer a space licence; or
- (b) varying, revoking, suspending or transferring a space licence; or
- (c) refusing to grant, vary or transfer a launch permit or overseas launch certificate; or
- (d) varying, revoking, suspending or transferring a launch permit or overseas launch certificate; or
- (e) refusing to extend, or further extend, the period for which a launch permit or overseas launch certificate remains in force; or
- (f) refusing to give or vary an authorization under section 43; or
- (g) varying, revoking or suspending an authorization under section 43; or
- (h) refusing to grant or vary an exemption certificate; or
- (i) varying or revoking an exemption certificate; or
- (ia) refusing to extend, or further extend, the period for which an exemption certificate remains in force; or
- (j) imposing a particular condition or conditions on a space licence, launch permit, overseas launch certificate, authorization under section 43 or exemption certificate;
- (k) refusing to make a declaration under section 8A; or
- (l) varying or revoking a declaration under section 8A.

62 Notice of decisions

If the Minister varies, revokes, suspends, reinstates or transfers a space licence, launch permit, overseas launch certificate, exemption certificate or authorization under section 43, the Minister must publish in the Gazette a notice that this has happened.

Part 4—Liability for damage by space objects

Division 1—Scope of Part

63 Damage covered

- (1) This Part applies to damage a space object causes if:
- (a) either:
 - (i) the object is launched from a launch facility in Australia; or
 - (ii) Australia is a launching State in relation to the object; and

- (b) the damage is caused during the liability period for the launch.
- (2) This Part also applies to damage a space object causes if:
 - (a) the object is returned to a place in Australia; and
 - (b) the damage is caused during the liability period for the return.
- (2A) This Part also applies to damage a space object causes if:
 - (a) either:
 - (i) the object is launched from a launch facility in Australia; or
 - (ii) Australia is a launching State in relation to the object; and
 - (b) the object is returned to a place outside Australia; and
 - (c) the damage is caused during the liability period for the return.
- (3) This Part applies to damage mentioned in subsection (1), (2) or (2A):
 - (a) whether the damage happens on Earth, in the air or in space; and
 - (b) whether the damage happens in Australia or outside it; and
 - (c) whether or not the launch or return was authorised under this Act; and
 - (d) whether or not the launch or return was covered by an exemption certificate.

64 Compensation for third party damage by space objects to be determined solely under this Part

- (1) Compensation for damage to which this Part applies caused to third parties is only payable in accordance with this Part.
 - (2) However, this section does not prevent Australia from complying with any obligation to pay compensation under the Liability Convention, or otherwise under international law, for such damage.
- Note: This section does not affect the rights of persons who are not third parties (for example, employees of a responsible party) from seeking compensation outside of this Act for damage to which this Part applies. However, see also section 65 (which allows the regulations to make provision in relation to the waiver of such rights).

65 Regulations about waivers

The regulations may make provision in relation to the waiver of some or all of the rights of persons connected with a launch or return, and of their employees, contractors and subcontractors, to seek compensation for damage to which this Part applies.

Division 2—Liability for third party damage

Subdivision A—Rules for damage caused by launches and most returns

66 Scope of Subdivision

This Subdivision applies to all damage to which this Part applies, except for damage a space object causes in connection with the return of the space object where:

- (a) neither the object, nor any part of it, was launched from a launch facility located within Australia; and
- (b) the responsible party for the return is not an Australian national.

Note: Subdivision B deals with that other kind of damage.

67 Damage on Earth or in the air

- (1) The responsible party for the launch or return of a space object is liable to pay compensation for any damage the space object causes to a third party:
 - (a) on Earth; or
 - (b) as a result of damage to aircraft in flight.
- (2) However, the responsible party is not liable to the extent that the responsible party establishes that the damage resulted from:
 - (a) the gross negligence of the third party; or

(b) any conduct (whether by act or omission) that the third party engaged in with intent to cause the damage.

68 Damage to other space objects

The responsible party for the launch or return of a space object is liable to pay compensation for any damage the space object causes, otherwise than on Earth or as a result of damage to aircraft in flight:

- (a) to a space object launched or operated by a third party; or
 - (b) to a third party, or the property of a third party, on board such a space object;
- to the extent that the damage is due to the fault of the responsible party or of a related party.

69 Limit on amount of permit or certificate holder's liability

(1) This section applies if:

- (a) the launch or return of a space object that causes damage covered by this Subdivision was authorised by a launch permit; and
- (b) the damage did not result from a breach of any of the conditions of the permit or of the relevant space licence, from any conduct (whether by act or omission) that the responsible party or a related party engaged in with intent to cause the damage or from the gross negligence of the responsible party or a related party.

(2) This section also applies if:

- (a) the launch of a space object that causes damage covered by this Subdivision was authorised by an overseas launch certificate; and
- (b) the damage did not result from a breach of any of the conditions of the certificate, any conduct (whether by act or omission) that the responsible party or a related party engaged in with intent to cause the damage or from the gross negligence of the responsible party or a related party.

(3) The responsible party is not liable to pay compensation for the damage to the extent that the amount of the compensation would exceed the insured amount for the launch permit or overseas launch certificate.

(4) If:

- (a) the responsible party has paid compensation for the damage of an amount equal to the insured amount for the launch permit or overseas launch certificate; and
- (b) apart from this section, the responsible party would be liable to pay further compensation to Australian nationals for the damage of an amount (the *excess amount*) in excess of the insured amount for the launch permit or overseas launch certificate; then the Commonwealth is liable to pay compensation to the Australian nationals for the damage of an amount equal to so much of the excess amount as does not exceed \$3 billion.

(4) The Consolidated Revenue Fund is appropriated for the purposes of payments by the Commonwealth under subsection (4).

Subdivision B—Rules for certain returns conducted by overseas nationals

70 Scope of Subdivision

This Subdivision applies to damage to which this Part applies that a space object causes in connection with the return of the space object where:

- (a) neither the object, nor any part of it, was launched from a launch facility located within Australia; and
- (b) the responsible party for the return is not an Australian national.

Note: Subdivision A deals with the other kinds of damage to which this Part applies.

71 Liability

The responsible party for the return is liable to pay compensation for any damage the space object causes to a third party.

Division 3—Procedure etc.

72 Federal Court has jurisdiction

The Federal Court has jurisdiction to hear and determine actions for compensation for damage to which this Part applies.

73 Action for compensation

- (1) An action for compensation for damage to which this Part applies may only be brought:
 - (a) within one year after the day on which the damage occurred; or
 - (b) if, when the damage occurred, the person bringing the action did not know that it had occurred—within one year after the day on which the person:
 - (i) became aware of the damage; or
 - (ii) would have become aware of the damage, if the person had exercised due diligence.
- (2) If, in accordance with the Liability Convention or otherwise under international law:
 - (a) a foreign country has presented a claim against Australia for compensation for damage caused by a space object to which a launch permit, overseas launch certificate, section 43 authorization or exemption certificate relates; or
 - (b) such a claim made by a foreign country has been settled;

a person who has suffered damage covered by the claim may not commence an action, against the responsible party, seeking compensation for that damage.

Division 4—Compensation claims by foreign countries

74 Responsible party's liability to the Commonwealth

- (1) his section applies if, in accordance with the Liability Convention or otherwise under international law:
 - (a) a foreign country has presented a claim against Australia for compensation for damage covered by this Part; and
 - (b) Australia becomes liable to any extent to pay compensation for the damage.
- (2) the responsible party for the relevant launch or return is liable to pay the Commonwealth an amount equal to the lesser of the following amounts:
 - (a) the amount of that compensation;
 - (b) if the launch or return of the space object concerned was authorised by a launch permit or overseas launch certificate, and section 69 applies—the insured amount for the permit or certificate.

Note: A foreign country could not present a claim against Australia under the Liability Convention if proceedings under this Part were already in progress in respect of the same damage: see Article XI.2 of the Convention.

75 Claims Commission

If, in accordance with the Liability Convention, it is necessary to establish a Claims Commission to settle a claim presented to the Commonwealth, the Commonwealth may do anything that it is required to do under the Convention to establish the Commission and enable it to give a decision or award as provided under the Convention.

Part 5—Register of space objects

76 Minister to keep Register

- (1) The Minister must keep a Register of Space Objects.
- (2) The Minister must enter in the Register the following particulars for a space object that is launched into Earth orbit or beyond under an authorization provided under this Act:
 - (a) the registration number given to the space object under section 77;

- (b) the launch facility;
 - (c) the date of the launch;
 - (d) the space object's basic orbital parameters, including:
 - (i) the nodal period; and
 - (ii) its inclination; and
 - (iii) its apogee and perigee;
 - (e) the space object's general functions;
 - (f) if a country other than Australia is also a launching State for the space object—the name of that country;
 - (g) any other prescribed particulars.
- (3) In keeping the Register, the Minister must have regard to the Registration Convention and any other international agreement or arrangement relating to the registration of space objects to which Australia is a party.
- (4) The Minister may vary or remove an entry on the register as needed.

77 Registration number

- (1) When the Minister grants a launch permit authorising the launch of a space object from a launch facility, the Minister must allocate to the space object a registration number by which it can be identified.
- (2) The Minister may allocate a registration number to a space object at any other time.

78 Register may be kept on computer

The Minister may keep the Register in whole or in part by using a computer.

79 Inspection of Register

- (1) The Minister must make the Register available for any person to inspect it at the times and places published in the Gazette.
- (2) The Minister may do so by allowing a person who wants to inspect the Register reasonable access to a computer terminal from which he or she can read on a screen, or get a printed copy of, an entry in the Register.

Part 5A—Implementation of space co-operation agreements

79A Implementation of intergovernmental agreement with Russia

- (1) Regulations may be made for and in relation to giving effect to one or more provisions of the intergovernmental agreement with Russia.
- (2) Regulations under subsection (1) must not come into operation on a day earlier than the day on which the agreement enters into force in Australia.

79B Regulations may amend Schedule

Regulations may be made to amend Schedule 6 for the purposes of ensuring that Schedule 6 correctly sets out the English text of the intergovernmental agreement with Russia as in force from time to time.

Part 6—Civil penalties

80 Civil penalty provisions

This Part applies to a contravention of any of the following provisions (called *civil penalty provisions*):

- (a) section 15 (space licence required to operate launch facility);
- (b) section 21 (breaching a space licence condition);
- (c) subsection 30(1) and 30(2) (breaching a launch permit condition);

- (d) section 37 (breaching a condition of an overseas launch certificate);
- (e) section 44 (offences relating to returns);
- (f) section 45 (breaching a condition of a section 43 authorization);
- (fa) section 46B (breaching a condition of an exemption certificate);
- (g) subsection 109(3) (pre-existing agreements).

81 Fines for contravening civil penalty provisions

- (1) If the Federal Court is satisfied, on the balance of probabilities, that a person has contravened a civil penalty provision, the Court may order the person to pay the Commonwealth such fine, by way of civil penalty, in respect of the contravention as the Court determines to be appropriate.
- (2) In determining the civil penalty, the Court must have regard to the following matters:
 - (a) the nature and extent of the contravention;
 - (b) the nature and extent of any loss or damage suffered as a result of the contravention;
 - (c) the circumstances in which the contravention took place;
 - (d) whether, in proceedings under this Act, the person has previously been found to have engaged in similar conduct.

The Court may also have regard to any other matters it considers relevant.
- (3) The civil penalty payable under subsection (1) must not exceed:
 - (a) in the case of a body corporate—5,000 penalty units; or
 - (b) in the case of an individual—500 penalty units.

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.
- (4) The Federal Court may make such declarations or orders as it considers appropriate in relation to the proceedings, including:
 - (a) a declaration that the person did not contravene a civil penalty provision; and
 - (b) an order as to costs.

82 Procedure

- (1) The Minister may, by application, take proceedings in the Federal Court for the payment of a civil penalty mentioned in section 81.
- (2) The proceedings must be commenced within 6 years after the contravention.
- (3) In hearing and determining the proceedings, the Federal Court is to apply the rules of evidence and procedure that it applies in hearing and determining civil matters.

83 Not an offence to contravene civil penalty provision

A person is not guilty of an offence merely because the person has contravened a civil penalty provision.

Part 7—Investigation of accidents

Division 1—Scope of Part

84 Scope of Part

This Part applies if an accident (see section 85) or an incident (see section 86) involving a space object occurs during:

- (a) the liability period for the launch of the space object from a launch facility located in Australia; or
- (b) the liability period for the return of the space object to a place in Australia.

85 Meaning of accident

An *accident* involving a space object occurs if:

- (a) a person dies or suffers serious injury as a result of the operation of the space object; or
- (b) the space object is destroyed or seriously damaged or causes damage to property (other than in the circumstances prescribed by the regulations).

86 Meaning of incident

An incident is an occurrence associated with the operation of a space object that affects or could affect the safety of the operation of the space object or that involves circumstances indicating that an accident nearly occurred.

Division 2—Investigations

87 Object of Division

- (1) The object of this Division is, by establishing a system of investigating the circumstances surrounding any accident or incident, to prevent other accidents and incidents occurring.
- (2) It is not the object of this Division:
 - (a) to provide a way of apportioning blame for an accident or incident; or
 - (b) to provide a way of determining the liability of any person in respect of an accident or incident.

88 Appointing an Investigator

- (1) If an accident occurs, the Minister must appoint a person as the Investigator of the accident.
- (2) If an incident occurs, the Minister may appoint a person as the Investigator of the incident.
- (3) Before appointing a person under this section, the Minister must be satisfied that the person has suitable qualifications and experience to be an Investigator.

89 Investigator to investigate accident or incident

- (1) An Investigator appointed under section 88 must investigate the circumstances surrounding the relevant accident or incident.
- (2) In particular, the Minister may determine the terms of reference of the investigation.

90 Investigator may invite assistance

- (1) An Investigator may invite other persons to assist him or her in performing any or all of his or her functions under this Division.
- (2) A person who gives such assistance is entitled to be paid fees and allowances for expenses, as determined under the regulations.

91 Investigator's powers to gather information

- (1) In conducting an investigation under this Division, the Investigator may, by written notice:
 - (a) require a person to attend before the Investigator and answer questions about matters relevant to the investigation; and
 - (b) require the person to give the Investigator a specified document or record, a specified part or component of a space object or any other thing relevant to the investigation.
- (2) A notice under subsection (1) must be signed by the Investigator and must specify the time and place at which the person is required to attend or to give the relevant thing.
- (3) The Investigator may require the person to answer questions mentioned in paragraph (1)(a) on oath or affirmation. For that purpose, the Investigator may administer an oath or affirmation to the person.
- (4) The Investigator may:
 - (a) retain a thing given in accordance with a requirement under subsection (1) for as long as is reasonably necessary for the purposes of the investigation; and
 - (b) if the thing is a document or record—make copies of, or take extracts from, the document or record.
- (5) If a person answers a question in accordance with subsection (1), the answer, and any information or thing obtained directly or indirectly as a result, is not admissible in evidence against the person in any proceeding (other than a proceeding in respect of the falsity of the answer).

- (6) If a person gives a thing in accordance with subsection (1), the thing, and any information or thing obtained directly or indirectly as a result, is not admissible in evidence against the person in a criminal proceeding or in a proceeding for the recovery of a penalty.
- (7) A person who attends before the Investigator under this section is entitled to be paid fees and allowances for expenses, as determined under the regulations.

92 Offences relating to section 91 requirements

- (1) A person to whom a requirement under subsection 91(1) is given and who:
 - (a) fails to attend before the Investigator in accordance with the requirement; or
 - (b) refuses to take an oath or make an affirmation when required by the Investigator to do so; or
 - (c) refuses or fails to answer a question lawfully put to the person by the Investigator; or
 - (d) fails to give the Investigator a thing in accordance with the requirement, if it would have been reasonably practicable to have done so;
 is guilty of an offence.
 Maximum penalty: 30 penalty units.
 Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
 Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.
- (2) However, a person is not required to answer a question or give a thing if doing so might tend to incriminate the person or expose the person to a penalty.
- (3) A person to whom a requirement under subsection 91(1) is given and who:
 - (a) gives information to the Investigator in answering a question lawfully put to the person by the Investigator; and
 - (b) does so knowing that the information is false or misleading in a material particular;
 is guilty of an offence.
 Maximum penalty: Imprisonment for 12 months.
 Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
- (4) A person to whom a requirement under subsection 91(1) is given and who:
 - (a) gives a document or record to the Investigator in accordance with the requirement; and
 - (b) does so knowing that the document or record is false or misleading in a material particular;
 is guilty of an offence.
 Maximum penalty: Imprisonment for 12 months.
 Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
- (5) Subsection (4) does not apply if, when the person gave the document or record to the Investigator, the person informed the Investigator that it was false or misleading in a material particular and specified in what respect it was false or misleading.

93 Report of investigation

- (1) When an investigation is completed, the Investigator must give the Minister a written report of the investigation and, if the Minister requires, any relevant documents, records or other things.
- (2) Subject to subsection (3), no part of a report or other document given to the Minister under this section may be published without the Minister's written approval.
- (3) The Minister may cause to be published any information contained in a report or document given to the Minister under this section if he or she considers that publishing the information is desirable in the interest of promoting safety in the space industry.

94 Custody of space object etc.

- (1) If an accident occurs, the space object or the space object wreckage concerned and any thing in the space object or wreckage is taken to be in the Minister's custody until an Investigator is appointed for the accident. The things are then taken to be in the Investigator's custody.
- (2) When it is no longer necessary to retain any such thing for the purposes of the investigation, the Investigator must release custody of the thing to its owner or to a person the owner authorises to receive it.

- (3) A person who removes or otherwise interferes with a thing that is in the custody of the Minister or Investigator under subsection (1), except:
- (a) with the permission of the Minister or Investigator; or
 - (b) as mentioned in subsection (4);
- is guilty of an offence.
Maximum penalty: Imprisonment for 6 months.
Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
- (4) Subsection (3) does not prevent any action necessary for all or any of the following:
- (a) extracting persons (including deceased persons) from the wreckage of a space object;
 - (b) protecting the wreckage from being destroyed by fire or other cause;
 - (c) preventing immediate danger to the safety of persons or property;
 - (d) moving the space object or the wreckage and its contents to a safe place when the object crashes on water or is wrecked on water.

95 Automatic suspension of launch permit etc. after accident

- (1) Immediately after an accident occurs, the launch permit, exemption certificate or section 43 authorization under which the relevant launch or return was carried out is taken to be suspended, until the Minister revokes the suspension.
- (2) The permit, certificate or authorization has no effect while suspended, but the period for which it remains in force continues to run despite the suspension.
- (3) The permit, certificate or authorization may be revoked or varied even while it is suspended.

96 Disclosure of safety records

- (1) An investigation officer (see subsection (9)) must not, except for the purposes of this Part, directly or indirectly:
 - (a) disclose a safety record (see subsection (9)) to any person or a court; or
 - (b) give a safety record to any person or a court.
- (2) A person who contravenes subsection (1) is guilty of an offence.
Maximum penalty: 30 penalty units.
Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.
- (3) Subsection (1) does not apply to criminal proceedings, investigations relating to a criminal offence or a proceeding relating to bail.
- (4) Subsection (1) does not apply to the disclosure of a safety record to the Minister under section 93.
- (5) Subsection (1) does not prohibit an investigation officer from disclosing or giving a safety record to a court if an order is made under subsection (7).
- (6) A person may apply to a court for an order that a safety record must be disclosed or given to the court.
- (7) If the court is satisfied that the disclosure or production of the safety record is in the public interest, having regard to:
 - (a) the adverse impact disclosure or production may have on the investigation to which the record relates or to any future investigations; and
 - (b) any other relevant matter;
 the court must order the disclosure or production.
- (8) If the court makes such an order, then the court must also make an order that restricts access to the safety record to:
 - (a) the person or persons constituting the court; and
 - (b) the parties to the proceeding (including any interveners); and
 - (c) the parties' legal representatives; and
 - (d) specified witnesses for the purposes of the proceeding;
 unless the court is satisfied that such an order would not be in the interests of justice or would not be desirable in the interests of the court performing its functions.
- (9) In this section:
investigation officer means a person who is or has been:

- (a) the Minister; or
- (b) an Investigator; or
- (c) any other person who performs functions or provides services in relation to an investigation under this Part.

safety record means all or any of the following:

- (a) all statements (whether oral or written) an Investigator takes from persons in the course of an investigation under this Part, including any record of such a statement;
- (b) all communications between persons involved in operating a space object that is involved in an accident or incident;
- (c) medical or personal information about persons (including deceased persons) involved in an accident or incident;

or any part of such a thing.

97 Relationship with other powers

The powers and functions of a Commonwealth agency or a person (other than a member of the Australian Federal Police) under another law of the Commonwealth that would allow the agency or person to investigate any matters relating to an accident or incident must be exercised and performed subject to this Part.

Division 3—Accident site powers

98 Accident sites and accident site premises

In this Division:

Accident site means:

- (a) a site where an accident has occurred; or
- (b) a site on which there is an impact point caused by a space object that has been involved in an accident; or
- (c) a site on which there is a space object that has been involved in an accident; together with such area around the site as the Investigator of the accident determines to be reasonably necessary to facilitate the investigation of the accident and securing of the site.

Accident site premises means:

- (a) premises on which there is an accident site; or
- (b) premises that it is necessary to enter to get to premises on which there is an accident site.

99 Power of entry to accident site

- (1) An Investigator may:
 - (a) with the consent of the occupier of accident site premises; or
 - (b) subject to this Division, without the consent of the occupier of accident site premises; enter the premises and do any or all of the following for the purposes of investigating a particular accident:
 - (c) leave and re-enter the accident site premises at any time during the access period (see subsection (2));
 - (d) take control of and secure the accident site during the access period;
 - (e) search the accident site;
 - (f) take photographs, video recordings or sketches of the accident site or the space object or any other thing on or in the site;
 - (g) inspect or examine a thing;
 - (h) take samples of a thing;
 - (i) measure a thing;
 - (j) take equipment to the accident site and operate the equipment;
 - (k) remove the space object, the space object wreckage or any other thing from the accident site premises and exercise any of the powers mentioned in paragraphs (g), (h) and (i), take photographs or video recordings or subject the thing to testing.

- (2) In this section, the access period is the period beginning when the Investigator first enters the accident site premises and ending on the day that the Investigator specifies in a written determination as the last day of the access period.
- (3) That day must be no later than is reasonably necessary for investigating the accident and in any case no later than 28 days after the day on which the access period begins.
- (4) However, the Minister may, by written determination, extend or further extend the access period beyond that 28 day limit, if the Minister considers it is reasonably necessary for investigating the accident.

100 Procedure before entry

- (1) Before an Investigator or a person authorised to assist the Investigator under section 102 enters accident site premises, the Investigator must:
 - (a) announce that this Division authorises him or her to enter the premises; and
 - (b) give any occupier at the premises an opportunity to allow entry.
- (2) When requesting an occupier's consent, the Investigator must tell the person that the Investigator has powers of entry and search under this Division even if the occupier refuses to give his or her consent.

101 Identity cards

- (1) The Minister must issue an Investigator a card identifying the holder as an Investigator.
- (2) An identity card must include a recent photograph of the holder.
- (3) An Investigator or is not entitled to exercise any powers under this Part if:
 - (a) the occupier of the relevant premises has required the Investigator to show his or her identity card; and
 - (b) the Investigator fails to comply with the requirement.
- (4) As soon as practicable after a person ceases to be an Investigator, the person must return his or her identity card to the Minister.
- (5) A person who fails to do so is guilty of an offence.

Maximum penalty: 1 penalty unit.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

102 Availability of assistance and use of force in entering accident site premises

In entering accident site premises without the consent of the occupier of the premises:

- (a) an Investigator may get such assistance as is necessary and reasonable; and
- (b) the Investigator or a person assisting may use such force against the occupier and things as is necessary and reasonable.

103 Offence of entering etc. an accident site without permission

If:

- (a) an accident site has been secured under subsection 99(1); and
- (b) a person enters or remains on the site without the Investigator's permission;

the person is guilty of an offence.

Maximum penalty: 10 penalty units.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Part 8—Miscellaneous

104 Delegation

The Minister may, by signed writing, delegate to another person any or all of his or her powers under this Act, if the Minister considers that the person is suitably qualified to exercise the powers concerned.

105 Operation of other laws

Nothing in this Act limits or excludes the operation of other laws of the Commonwealth, except to the extent (if any) that they are inconsistent with this Act.

106 Immunity

A person is not subject to any liability to any person in respect of anything done, or omitted to be done, in good faith in connection with the exercise or performance of powers, functions or duties under this Act.

107 Compensation—constitutional safety net

- (1) If:
 - (a) apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms; and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;the Commonwealth is liable to pay compensation of a reasonable amount to the person in respect of the acquisition.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may take proceedings in the Federal Court for the recovery from the Commonwealth of such reasonable amount of compensation as the Court determines.
- (3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.
just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

108 Severability: additional effect of Act

- (1) Without limiting its effect apart from this section, this Act also has effect as provided by this section.
- (2) This Act also has the effect it would have if its operation were expressly confined to:
 - (a) giving effect to the UN Space Treaties; and
 - (aa) giving effect to specified space cooperation agreements; and
 - (b) matters external to Australia; and
 - (c) matters of international concern.
- (3) This Act also has the effect it would have if:
 - (a) the operation of Part 3 were expressly confined to acts or omissions of corporations to which paragraph 51(xx) of the Constitution applies; and
 - (b) the operation of Part 4 were expressly confined to cases in which the responsible party, for the launch or return of a space object, is such a corporation.
- (4) This Act also has the effect it would have if its operation were expressly confined to acts or omissions taking place in the course of, or in relation to, trade or commerce:
 - (a) between Australia and places outside Australia; or
 - (b) among the States; or
 - (c) within a Territory, between a State and a Territory or between 2 Territories.
- (5) This Act also has the effect it would have if its operation were expressly confined to acts or omissions taking place in a Territory.
- (6) This Act also has the effect it would have if its operation were expressly confined to acts or omissions taking place in a place acquired by the Commonwealth for public purposes.

109 Application of Act: pre-existing agreement

- (1) Subject to this section, this Act does not apply in relation to:
 - (a) launches or returns, or activities related to launches or returns; or
 - (b) the operation of a launch facility or the doing of anything directly connected with the operation of a launch facility;in accordance with any agreement made between the Commonwealth and another person before 11 November 1998.

- (2) However:
 - (a) any term or condition of such an agreement that relates to the launch or return of a space object is taken, for the purposes of this Act, to be a condition (but not a standard launch permit condition) of a launch permit held by the person; and
 - (b) any other term or condition of such an agreement is taken, for the purposes of this Act, to be a condition of a space licence held by the person.
- (3) If a person launches or returns a space object purportedly in accordance with an agreement mentioned in subsection (1) and:
 - (a) the launch or return is conducted in a way that is likely to cause substantial harm to public health or public safety or to cause substantial damage to property; or
 - (b) the space object is or contains a nuclear weapon or a weapon of mass destruction of any other kind; or
 - (c) the space object contains any fissionable material and the Minister's written approval for this has not first been obtained; or
 - (d) the launch or return does not comply with a term or condition of the agreement that requires insurance cover to be obtained in connection with the launch or return;
 the person is guilty of an offence punishable on conviction by:
 - (e) in the case of a body corporate—a fine not exceeding 100,000 penalty units; or
 - (f) in the case of an individual—imprisonment for a term not exceeding 10 years, or a fine not exceeding 600 penalty units, or both.

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

- (4) The Minister may take civil proceedings under Part 6 against a person who is alleged to have committed an offence against subsection (3), as an alternative to prosecution.
- (5) An application may be made to the Administrative Appeals Tribunal for review of any decision made under an agreement mentioned in subsection (1) (including a decision made before this Act commenced):
 - (a) refusing to authorise activities covered by paragraph (1)(a) or (b); or
 - (b) varying, revoking or suspending such an authorization; or
 - (c) imposing a particular condition or conditions on the conduct of such activities.

For this purpose, the decision is treated as though it had been made in the exercise of a power conferred by this Act.

- (6) Subsection (1) does not apply to Part 5 (which deals with the Register of Space Objects) or to Part 7 (which deals with investigating accidents and incidents).

110 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient for carrying out or giving effect to this Act.
- (3) The regulations may make provision for or in relation to a matter by applying, adopting or incorporating (with or without modification) any matter contained in a written instrument or other document, as in force at a particular time or as in force from time to time.

Schedule 1—Convention on International Liability for Damage Caused by Space Objects

Note: This is the copy of the Convention referred to in the definition of Liability Convention in section 8 of this Act.

[...]

Schedule 2—Convention on Registration of Objects Launched into Outer Space

Note: This is the copy of the Convention referred to in the definition of Registration Convention in section 8 of this Act.

[...]

Schedule 3—Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies

Note: This is the copy of the Treaty referred to in paragraph (c) of the definition of UN Space Treaties in section 8 of this Act.

[...]

Schedule 4—Agreement Governing the Activities of States on the Moon and other Celestial Bodies

Note: This is the copy of the Agreement referred to in paragraph (d) of the definition of *UN Space Treaties* in section 8 of this Act.

[...]

Schedule 5—Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space

Note: This is the copy of the Agreement referred to in paragraph (e) of the definition of UN Space Treaties in section 8 of this Act.

[...]

Schedule 6—Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the field of the Exploration and Use of Outer Space for Peaceful Purposes

Note: This is the copy of the Agreement referred to in the definition of *intergovernmental agreement with Russia* in section 8 of this Act.

[Minister's second reading speech made in—
Senate on 12 November 1998
House of Representatives on 3 December 1998]

External Link: <http://scaleplus.law.gov.au/html/comact/10/5911/top.htm>

**SPACE ACTIVITIES AMENDMENT (BILATERAL AGREEMENT) ACT 2001
NO. 101, 2001 - SCHEDULE 1**

Amendment of the Space Activities Act 1998

1 At the end of paragraph 3(c)

Add:

; and (d) to implement certain of Australia's obligations under specified space cooperation agreements.

2 Section 4 (simplified outline)

After:

* A Register of Space Objects is established under Part 5.

insert:

* Part 5A provides a framework for implementation of specified space cooperation agreements.

3 Section 8

Insert:

"Intergovernmental agreement with Russia" means the Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Field of the Exploration and Use Of Outer Space for Peaceful Purposes done at Canberra on 23 May 2001 the English text of which is set out in Schedule 6, and includes that Agreement as amended from time to time in relation to Australia.

4 After Part 5

Insert:

Part 5A—Implementation of space cooperation agreements

79A Implementation of intergovernmental agreement with Russia

(1) Regulations may be made for and in relation to giving effect to one or more provisions of the intergovernmental agreement with Russia.

(2) Regulations under subsection (1) must not come into operation on a day earlier than the day on which the agreement enters into force in Australia.

79B Regulations may amend Schedule

Regulations may be made to amend Schedule 6 for the purposes of ensuring that Schedule 6 correctly sets out the English text of the intergovernmental agreement with Russia as in force from time to time.

5 After paragraph 108(2)(a)

Insert:

(aa) giving effect to specified space cooperation agreements; and

6 At the end of the Act

Add:

Schedule 6—Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Field of the Exploration and Use of Outer Space for Peaceful Purposes

Note: This is the copy of the Agreement referred to in the definition of *intergovernmental agreement with Russia* in section 8 of this Act.

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION, hereafter referred to as the Parties,

EXPRESSING a common desire for the development of long term cooperation in the exploration of outer space and the application of space equipment and technologies for the benefit of the peoples of both countries,

CONSIDERING that the expansion of such cooperation gives rise to new practical requirements for the organizational and legal regulation of relations between its participants

RECOGNISING the significant potential mutual benefits from encouragement and development of cooperation in commercial space activities,

ACCORDING due significance to the elaboration of coordinated measures aimed at facilitating future forms of industrial, economic and commercial activities and business partnerships in the space field, including fair and mutually beneficial trade practices and procurement methods,

REAFFIRMING their commitment to enhancing the peaceful use of outer space through regional and global cooperation,

TAKING into consideration the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, of 27 January 1967, as well as other

multilateral treaties regulating the use of outer space in which both Australia and the Russian Federation participate.

HAVE AGREED on the following:

Article 1

Purpose

The purpose of this Agreement is to promote creation of an adequate organizational and legal basis for mutually beneficial cooperation in specific areas of joint activity relating to the exploration and use of outer space and the practical application of space equipment and technology for peaceful purposes, particularly by:

- a) creating a framework for commercial and other activities related to the launching of space apparatus;
- b) encouraging scientific research and cooperation, and joint activities in design, development, production, testing and operation of space equipment;
- c) promoting mutual exchanges of relevant technologies, expertise, equipment and material resources; and
- d) providing conditions for the conclusion of subsequent agreements and arrangements relating to activities pursuant to this Agreement.

Article 2

Applicable Law

Cooperation pursuant to this Agreement shall be carried out in accordance with the domestic law and regulations of the States of the Parties, in observance of generally recognised norms and principles of international law and without prejudice to the fulfillment by the Parties of obligations under other agreements in which they participate.

Article 3

Cooperating Agencies and Organizations

1. The Competent Agencies responsible for the development and coordination of cooperation pursuant to this Agreement shall be: the Department of Industry, Science and Resources on behalf of the Government of Australia, and the Russian Aviation and Space Agency on behalf of the Government of the Russian Federation. Where necessary, either of the Parties may, upon agreement of the other Party by means of written notification through diplomatic channels, appoint another department or agency as the Competent Agency.

2. In accordance with the domestic law and regulations of their States, the Parties may, upon mutual agreement, authorize other departments and agencies to carry out specialized activities within the framework of this Agreement. Competent Agencies may, within their authority and upon mutual agreement, appoint or involve relevant organizations in such specialized activities.

Article 4

Areas of Cooperation

Cooperation pursuant to this Agreement may be carried out in such areas as:

- a) the scientific exploration of outer space, including the physics of solar and terrestrial links, radio astronomy, high energy astrophysics and the study of the planets;
- b) remote sensing and monitoring of the Earth from space;
- c) materials processing in space;
- d) space medicine and biology;
- e) space communications and information technologies;

- f) satellite navigation systems and technologies;
- g) research, development and design, manufacturing and operational works related to automated apparatus and manned systems, as well as to the corresponding ground equipment;
- h) industrial and commercial applications of spin-off results of the use of space equipment and technology;
- i) research on matters relating to the protection of the outer space environment; and
- j) as a long term aim, the creation on the territory of Australia of an international cosmodrome for the launch of payloads into outer space using Russian launch vehicles.

Additional areas of cooperation and joint activity shall be determined by mutual agreement between the Parties or their Competent Agencies, as the need arises.

Article 5

Forms of Cooperation

1. Organizational, financial, legal and technical conditions for the accomplishment of specific programs and projects of cooperation shall be the subject of separate agreements between the Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement or, when necessary, and taking into consideration the international obligations of both Parties, of direct agreements between the Parties, particularly with respect to the regulation of joint activity relating to the conduct of commercial operations and outer space launches.
2. The Parties, their Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement shall, in pertinent cases, on the basis of separate agreements, facilitate the establishment and development of cooperation in the areas provided for in this Agreement with the participation of other specialized state or private organizations, including those of third countries as well as international organizations.
3. Cooperation pursuant to this Agreement may be carried out in such forms as:
 - a) planning and implementation of joint projects using scientific, experimental and industrial bases;
 - b) mutual provision of scientific and technological information, expertise, experimental data, results of experimental design works, materials and equipment in various fields of space science, equipment and technology;
 - c) development and manufacturing of space apparatus and instruments;
 - d) use of ground objects and systems for securing launches and control of space apparatus, including the collection and exchange of telemetric information;
 - e) organization of programs for the training of personnel and the exchange of scientists, technical and other specialists;
 - f) conducting joint symposia and conferences;
 - g) development of various forms of partnership and joint activity in the international market for space technology and services, including activity associated with commercial space launches;
 - h) provision of technical assistance in the field of joint space research; and
 - i) mutual facilitation of access to government programs for the practical application of technological innovations and for the promotion of industrial and economic development, as well as to corresponding international programs aimed at the development of an outer space infrastructure.

Additional forms of cooperation and joint activity shall be determined by mutual agreement between the Parties or their Competent Agencies, as the need arises.

4. The Parties or Competent Agencies may, if necessary, establish working groups by mutual arrangement for the purposes of implementing programs and specific activities, as well as elaboration of organizational methods and legal means of development of cooperation pursuant to this Agreement.

Article 6

Financing

1. The financing of joint activity conducted pursuant to this Agreement within government policy in the field of exploration and use of outer space shall be done by the Parties in accordance with the norms and rules in force in their States as regards budget regulation and, if not otherwise provided for in separate contracts, subject to the availability of funds allocated for that purpose.
2. The Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement shall be responsible for funding those works and types of activities within the framework of this Agreement that were assigned to each of them by mutual agreement between the Parties or direct arrangements between these departments, agencies and organizations
3. The financing of joint activity falling outside budgetary allocations and/or governmental programs shall be the responsibility of the relevant participants to such activity and may be set out in the separate agreements referred to in Article 5.1 of this Agreement.

Article 7

Intellectual Property

1. The Parties shall ensure protection of intellectual property, created or provided within the framework of this Agreement, in accordance with their respective international obligations, and the domestic law and regulations of their States.
2. The Parties, their Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement shall define, in separate agreements referred to in Article 5.1 of this Agreement, the conditions and principles to be observed with regard to intellectual property used in and/or resulting from joint activity pursuant to this Agreement, guided by the norms and principles set out in the Attachment to this Agreement, which is an integral part thereof.
3. In the absence of separate agreements as defined in paragraph 2 of this Article, the Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement shall apply the norms and principles set out in the Attachment to this Agreement.

Article 8

Exchange of Information

1. Scientific and technical data and information obtained in the course of conducting joint activities shall be accessible to both Parties, their Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement and be transmitted as soon as practicable.
2. The Parties through their Competent Agencies shall facilitate the mutual exchange of information relating to joint activities pursuant to this Agreement and to the basic directions of their national space programs, subject to the principles contained in the Attachment to this Agreement in the case of exchange of confidential information.
3. No information requiring protection in the national security interests of the States of the Parties and classified in accordance with the domestic law and regulations of the States of the Parties, shall be transmitted under this Agreement.

Article 9

Protection of Property

Each Party shall ensure the observance of the interests of the other Party, its Competent Agency, and departments, agencies and organizations referred to in Article 3.2 of this Agreement pertaining to the legal protection of their property located on the territory of its State pursuant to activity conducted within the framework of this Agreement including, in relevant cases, and when agreed to by the Parties, immunity of mutually specified categories of goods from any seizure or executive action .

Article 10

Liability

1. In the interests of encouraging the development of joint activities pursuant to this Agreement, without prejudice to separate agreements which may be entered into by the Parties to take into account the particular needs and specific circumstances of pursuing certain programs and projects of cooperation, and without prejudice to the international obligations of the Parties, including under the Convention on International Liability for Damage Caused by Space Objects of 29 March 1972 (Liability Convention), the obligations of the Parties to each other in relation to liability and indemnity shall be in accordance with this Article.

2. The Parties may agree on additional or alternative principles regarding liability in separate agreements as between themselves, which may include, but not be limited to, apportionment of liability and indemnity for damage, to be applied generally or in relation to specific types of joint activity. Such agreements may include, amongst others, descriptions of relevant equipment, procedures of investigation and submission of claims.

3. For the purposes of this Article:

a) "protected activity" shall mean any activity within the framework of this Agreement which, by mutual written agreement between the Parties and with the consent of their Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement is performed in accordance with the principle of cross-waiver of liability;

b) "damage" means:

- (1) bodily injury to, or any other impairment of the health of, or death of, any person;
- (2) damage to, loss of, or loss of use of any property;
- (3) loss of revenue or profits; or
- (4) other direct or indirect damage;

c) "Party" means either of the Parties and includes, in this Article, their Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement;

d) "related entity" means:

- (1) a contractor or subcontractor of a Party at any tier;
- (2) a user or customer of a Party at any tier; or
- (3) a contractor or subcontractor of a user or customer of a Party at any tier.

The term "related entity" may, subject to appropriate arrangements, also include organizations or institutions of a third State, when such organizations or institutions have the same relations with the Parties as described in "d(1)", "d(2)", or "d(3)" above, or are otherwise involved in the protected activity. The terms "contractors" and "subcontractors" may include suppliers of any kind.

4. In respect to a protected activity, each Party agrees to a cross-waiver of liability and, accordingly, each Party waives any claims for damages against the other Party, related entities of the other Party and employees of the other Party or employees of related entities of the other Party, whatever the legal basis for such claims, including, amongst others, claims under the Liability Convention or other claims under international law or claims in contract.

5. This cross-waiver of liability shall apply only if the Party, related entities, employees or property causing the damage and the Party, related entities, employees or property suffering the damage, are participating or being used, respectively, in a protected activity.

6. Each Party shall extend the application of the principle of cross-waiver of liability to its related entities through contract or other means.

7. Notwithstanding paragraphs 4, 5 and 6 of this Article, this cross-waiver of liability shall not be applicable to:

- a) claims between a Party and its own related entities or claims between its own related entities;
- b) claims made by a natural person not falling within the definition of a related entity, his/her estate, survivors, or subrogees in connection with indemnifying damage for bodily injury or any other damage to such natural person or his/her death;
- c) claims for damage caused by wilful misconduct;
- d) intellectual property claims.

8. Nothing in this Article shall be construed to create the basis for claims or suits where none would otherwise exist.

9. The Parties shall consult promptly on any potential liability under international law, including the Liability Convention, on the apportionment of liability, and in the event of claims arising, on the defence of claims, and shall cooperate fully with a view to establishing the facts in the investigation of any accident, in particular through the exchange of experts and information.

Article 11

Customs Regulation

1. For the purposes of this Article "goods" shall mean spacecraft, space transportation systems, their elements, instruments, control, testing and other types of equipment required, in particular for a launch, as well as technologies in the form of information and data recorded on material media. The technology and information identified above include:

- a) computer software and databases;
- b) inventions;
- c) design and engineering developments;
- d) trade secrets and know-how, including manufacturing documentation and technical specifications;
- and
- e) data on research, experimental, design and engineering development activities.

2. The movement of goods specified in paragraph 1 of this Article and especially intended for the purposes of cooperation within the framework and upon the terms of this Agreement, across the customs borders of the States of the Parties, shall be free of customs duties.

3. Where the domestic law and regulations of the States of the Parties do not provide for direct exemption from other taxes on goods for the purposes of cooperation under this Agreement, and such taxes are collected by customs authorities, such an exemption shall be applied on the basis of this Agreement subject to the domestic law and regulations of the States of the Parties.

Article 12

Export Control

1. Technology transfer for the purposes of any joint activity pursuant to this Agreement shall be undertaken by the Parties subject to the observation of the domestic law and regulations of their States, including the requirements of the Missile Technology Control Regime (MTCR). The Parties shall act in accordance with the domestic law and regulations of their States, on export control in relation to those goods and services included in the national lists and enumerations of export controls.

2. This Article extends to any form of cooperation, the exchange of information, technical data and items of all types, including joint industrial production and intellectual property, where they are regulated by the MTCR, on the territory of the exporter, importer or third countries.

Article 13

Assistance to the Activities of Personnel

Each Party, in accordance with the domestic law and regulations of its State, shall assist the entry to the territory of its State of personnel assigned on a mission by the other Party, its Competent Agency, and departments, agencies and organizations referred to in Article 3.2 of this Agreement as regards the procedure of appropriate visa processing.

Article 14

Economic and Industrial Types of Activity

In accordance with the domestic law and regulations of their States, the Parties will strive to encourage activity by organizations, enterprises and firms of their countries, directed at the support of joint programs of cooperation in the field of exploration and use of outer space and the practical application of space equipment and technology. For these purposes, the Parties will strive to implement, by mutual arrangement, measures to facilitate corresponding entrepreneurial activities, trade and economic transactions.

Article 15

Settlement of Disputes

1. The Parties, if necessary, shall hold consultations on matters pertaining to the interpretation and implementation of this Agreement. The Parties shall seek to resolve any dispute between them concerning the interpretation and implementation of this Agreement through prompt and amicable negotiations and consultations, including through diplomatic channels.

2. Disputes between Competent Agencies or between departments, agencies and organizations referred to in Article 3.2 of this Agreement shall be referred, for joint consideration, to the senior executives of respectively, Competent Agencies, and these departments, agencies and organizations or their plenipotentiaries, who should make all efforts to resolve the dispute by consensus. Within the framework of the procedure provided for in this paragraph, disputes may be referred to settlement through conciliation with the purpose of achieving agreement or drafting findings or recommendations on all matters of facts and law pertaining to the issue.

3. If a dispute has not been settled by means of procedures envisaged in paragraph 1 of this Article within six months after one of the Parties forwards a written request to hold such negotiations or consultations, it shall, upon request of either Party, be submitted to an Arbitral Tribunal which shall be established in accordance with the provisions of this Article.

4. An Arbitral Tribunal shall be constituted for each individual case in the following way:

a) within two months of the receipt of the request for consideration of the dispute by arbitration, each Party shall appoint an arbitrator. Those two arbitrators shall then select a national of a third country who, on approval by the two Parties, shall be appointed Chairman of the Arbitral Tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two arbitrators;

b) in case an arbitrator appointed as provided for in this Article shall resign or become unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator.

5. If, within the period specified in paragraph 4 of this Article, the necessary appointments have not been made, either Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make all necessary appointments. If the President is a national of the State of either Party or is unable to discharge the said function, the next most senior Member of the Court who is not disqualified on such a ground shall make the necessary appointments.

6. The Arbitral Tribunal shall decide all questions relating to its competence and shall, subject to the agreement between the Parties, determine its own procedure. The Arbitral Tribunal shall reach its award by majority vote taking into account the provisions of this Agreement, the international treaties both Parties have concluded and the generally recognised norms and principles of international law. It may render an award on the default of a Party. Any award shall be rendered in writing and shall state its legal basis. An award shall be final and binding on the Parties, if the Parties have not agreed in advance on the procedure of appeal.

7. Each Party shall bear the costs of its arbitrator. The costs of the Chairman of the Arbitral Tribunal and other expenses associated with the conduct of the arbitration shall be borne in equal parts by both Parties. The Arbitral Tribunal may decide, however, that a higher proportion of costs shall be borne by one of the Parties.

Article 16

Final Provisions

1. This Agreement shall enter into force from the date of the latter written notification through diplomatic channels on completion by the Parties of domestic procedures necessary for its entry into force.

2. This Agreement is concluded for a period of ten years. Its effect shall be automatically extended for a subsequent ten-year period if neither of the Parties notifies the other Party through diplomatic channels of its intention to terminate it twelve months before the expiry of the initial ten-year period. This Agreement may be terminated by either Party in the period following its automatic extension by twelve months written notice to the other Party through diplomatic channels.

3. Additional extension of this Agreement shall be the subject of consultations between the Parties, which shall commence no later than twelve months before the expiry of the period of its automatic extension.

4. This Agreement may be amended and supplemented by the agreement of the Parties in written form.

5. In the event of the termination of this Agreement, its provisions shall continue to apply to all unfinished activities if the Parties do not agree otherwise. The termination of this Agreement shall not serve as the basis for the revision or termination of obligations of a financial or other contractual nature still in force and shall not affect the rights and obligations of legal and natural persons, which have arisen before its termination.

6. From the date of the entry into force of this Agreement, the Agreement between the Government of Australia and the Government of the Union of Soviet Socialist Republics on Co-operation in Space Research and the Use of Space for Peaceful Purposes of 1 December 1987 shall cease to have effect as between Australia and the Russian Federation.

Done at Canberra on 23 May 2001 in duplicate, each in the English and Russian languages, both texts having equal validity.

FOR THE GOVERNMENT OF AUSTRALIA AND FOR THE GOVERNMENT OF THE RUSSIAN
FEDERATION

[Signatures Omitted]

ATTACHMENT

INTELLECTUAL PROPERTY

The Parties shall use their best endeavors to ensure the effective protection of results obtained within the framework of cooperation, which is a subject of this Agreement and separate agreements referred to in Article 5 of this Agreement.

The Competent Agencies, and departments, agencies and organizations referred to in Article 3.2 of this Agreement, hereinafter described as "cooperating organizations", shall in good time inform each other about all results of joint activity subject to protection as intellectual property and promptly cooperate to obtain registration or carry out other procedures for protection.

1. Sphere of Application

1. This Attachment applies to all types of joint activity performed pursuant to the cooperation under this Agreement, with the exception of those cases when the Parties or cooperating organizations agree on any special provisions within the framework of separate agreements referred to in Article 5 of this Agreement.

2. For the purposes of this Agreement, the term "intellectual property" has the meaning provided for in Article 2 of the Convention establishing the World Intellectual Property Organization done at Stockholm on 14 July 1967.

3. This Attachment shall regulate the allocation of intellectual property rights between the Parties or cooperating organizations in relation to a joint activity. Each Party shall act in such a way that the

cooperating organizations of the other Party can acquire the rights to intellectual property belonging to them in accordance with this Attachment.

4. This Attachment does not change the Parties' legal regulation of intellectual property rights determined by the legislation of their States and the internal regulations of cooperating organizations taking into account provisions envisaged in section 2, paragraph 6 of this Attachment. In the same way, this Attachment does not alter the relations between the cooperating organizations of each Party and relations between the Parties and these organizations. Furthermore it will not prejudice the international obligations of the Parties.

5. Carrying out of joint works does not affect the intellectual property rights of the cooperating organisations acquired earlier or resulting from independent research (background intellectual property).

6. The termination of this Agreement does not affect rights or obligations having arisen on the basis of this Attachment, if they were accepted before such termination.

2. Grant of Rights

1. In relation to intellectual property created in the course of a joint activity, the Parties or cooperating organisations shall strive to jointly elaborate a plan for the assessment and use of technology either before the beginning of their cooperation or within a reasonable time from the moment when a cooperating organisation creates an object of intellectual property. In this plan for the assessment and use of technology, they shall take into account the corresponding contributions of the Parties and their cooperating organisations to the activity under consideration, including background intellectual property transferred in the framework of cooperation, define types and scope of use of the intellectual property, terms and procedures of the realisation of rights on it on the territory of the States of the Parties, as well as on the territory of other countries, recognizing that the minimal scope is the right of each cooperating organisation to use created intellectual property for its own needs. For the purposes of granting intellectual property rights, an activity is considered to be a joint activity from the moment when it is defined as such in separate agreements referred to in Article 5 of this Agreement. The grant of rights to the objects of intellectual property created as a result of an activity, which is not a joint activity, shall be carried out according to the provisions of paragraph 3 of this section. The Parties or cooperating organisations shall decide by mutual arrangement whether the results of work jointly carried out should be either patented or registered or kept secret.

2. If such a plan for the assessment and use of technology is not established within four months from the moment of the creation of the object of intellectual property which is a result of a joint activity, each of the Parties or cooperating organisations may receive all rights and benefits from such intellectual property on its State's territory. Cooperating organisations shall in relation to a joint activity negotiate regarding the allocation of intellectual property rights, as well as the expenses related to the protection of intellectual property rights under mutually agreed conditions, taking into account the corresponding contributions of each of them.

3. In cases, which are not joint activities, the terms for the implementation of a procedure for the acquisition and use of intellectual property rights shall be determined in separate agreements and contracts.

4. The Parties shall on the initiative of either of them, without delay, consult for the purposes of securing protection and distribution of intellectual property rights on protected objects of intellectual property in third countries applying the provisions of paragraphs 1 and 2 of this section.

5. The rules for the internal regulation of host organisations or institutions as regards intellectual property rights as well as possible remuneration and disbursements related to these rights as they are determined by the internal regulations of each of the host organisations extend to researchers and scientists of one of the Parties enlisted in the service of any organisation or institution of the other Party. Each researcher or scientist, designated as an inventor is entitled in accordance with his contribution to a share of remuneration to be earned by the host organisation or institution for licensing this intellectual property.

6. Copyright extends to publications. Each Party and its cooperating organisations shall be entitled to non-exclusive, irrevocable and free licences for non-commercial purposes for the translation, reproduction and public distribution in all countries of scientific and technical articles, lectures (reports), books and other copyright products, which are the direct result of a joint activity. The forms of implementation of these rights shall be determined in separate agreements and contracts. All copies of publications should show the author's name unless he expressly refuses to give his name or wishes to appear under a pseudonym.

7. The totality of intellectual property rights, but not including moral rights, to computer programs

elaborated within the framework of cooperation shall be allocated between the cooperating organisations taking into account their contribution to its elaboration and financing. In cases of joint elaboration or joint financing of computer programs by both Parties or cooperating organisations a regime to be applied in relation to these programs, including the allocation of remuneration in the case of commercial use, shall be determined by separate agreements or contracts. In the absence of separate agreements or contracts the provisions of paragraphs 1 and 2 of this section related to the allocation of rights in connection with a joint activity shall apply.

8. Confidential information shall be designated as such in an appropriate manner. The responsibility for such a designation shall rest with the Party or cooperating organisation, which demands such confidentiality. Each Party or cooperating organisation shall protect such information in accordance with applicable laws and regulations of its State. The term "confidential information" means any know-how, data or information, in particular technical, commercial or financial, independent of the form in which it is passed on for the purposes of carrying out activity pursuant to this Agreement and which corresponds to the following conditions:

- a) the possession of this information may ensure gains, in particular ones of an economic, scientific or technical character or give an advantage in competition with persons who do not possess it;
- b) this information is not generally known or widely available from other sources;
- c) this information was not earlier passed on by its possessor to a third person without the obligation to maintain its confidentiality;
- d) this information is not already at the disposal of the recipient without the obligation to maintain its confidentiality.

The Parties or cooperating organisations may transfer confidential information to their own employees, unless otherwise provided in separate agreements referred to in Article 5 of this Agreement. Such information may be passed on to the basic performers of the work and subcontractors within the framework of the sphere of application of separate contracts with them. Information given in this way may be used only within the limits of the sphere of application of those contracts, which would envisage the conditions and time limits of application of such provisions on confidentiality.

The Parties and cooperating organisations undertake to adopt all necessary measures in relation to their employees, basic performers of work and subcontractors for the observance of the obligations on protecting confidentiality determined above.

9. The grant of the results of joint research and elaboration to third persons shall be the subject of written agreements between the Parties or cooperating organisations. Without prejudice to the implementation of rights in accordance with paragraph 6 of this section, such agreements will determine the procedure for the distribution of the referred results. (95/01)

SPACE ACTIVITIES AMENDMENT ACT 2002 NO. 100, 2002 - SCHEDULE 1

Amendments

Space Activities Act 1998

1 Section 8

Insert:

approved scientific or educational organisation means an educational institution, a scientific organisation or a non-profit body, in respect of which a declaration under section 8A is in force.

2 Section 8 (definition of launch)

Omit "**outer space**", substitute "an area beyond the distance of 100 km above mean sea level".

3 Section 8 (definition of launch vehicle)

Omit "outer space", substitute "an area beyond the distance of 100 km above mean sea level".

4 Section 8 (definition of return)

Omit "outer space", substitute "an area beyond the distance of 100 km above mean sea level".

5 Section 8 (definition of space object)

Omit "outer space" (wherever occurring), substitute "an area beyond the distance of 100 km above mean sea level".

6 After section 8

Insert:

8A Approved scientific or educational organisations

The Minister may, by writing, declare an educational institution, a scientific organisation or a non-profit body to be an approved scientific or educational organisation for the purposes of this Act.

Note: Under subsection 33(3) of the Acts Interpretation Act 1901, the Minister may vary or revoke such a declaration.

8B Guidelines for making a declaration

(1) The Minister must develop written guidelines that he or she must have regard to when deciding whether or not to make a declaration under section 8A.

(2) The guidelines are to be made available for inspection on the Internet.

(3) The guidelines are a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

8C Applying for a declaration

An application for a declaration under section 8A must be made in accordance with the regulations.

7 Section 18

Omit "and a particular kind of launch vehicle,", substitute "a particular kind of launch vehicle and particular flight paths,".

8 After paragraph 18(a)

Insert:

(aa) the person is a corporation to which paragraph 51(xx) of the Constitution applies; and

9 Paragraph 18(d)

Omit "sufficiently low", substitute "as low as is reasonably practicable".

10 At the end of section 18

Add (before the example):

; and (h) the criteria (if any) prescribed by the regulations are satisfied in relation to each flight path specified in the application for the licence.

11 Section 23

Omit "grant or transfer", substitute "grant, variation or transfer".

Note: The heading to section 23 is altered by omitting " **grant or transfer** " and substituting " **grant, variation or transfer** ".

12 At the end of section 24

Add:

- (4) The regulations may prescribe other ways in which a space licence must not be varied.

13 At the end of Division 2 of Part 3

Add:

25A Annual review of space licence

The Minister may conduct an annual review of a space licence:

- (a) for the purpose of monitoring compliance by the licence holder with this Act and with the conditions of the licence; or
(b) for any other reason that the Minister considers appropriate.

14 Subsection 26(2) (note)

Omit "outer space" (wherever occurring), substitute "an area beyond the distance of 100 km above mean sea level".

15 Paragraph 26(3)(e)

Omit "sufficiently low", substitute "as low as is reasonably practicable".

16 Subsection 31(3)

Omit "same launch facility and the same kind of launch vehicle", substitute "same launch facility, the same kind of launch vehicle and the same space object or objects".

17 Section 32

Omit "grant or transfer", substitute "grant, variation or transfer".

Note: The heading to section 32 is altered by omitting " **grant or transfer** " and substituting " **grant, variation or transfer** ".

18 At the end of section 33

Add:

- (4) The regulations may prescribe other ways in which a launch permit must not be varied.

19 At the end of subsection 34(1)

Add (before the note):

- ; or (c) an incident involving a space object covered by the permit occurs during the liability period for the launch or return of the object.

20 Subsection 35(3)

After "agreement" (wherever occurring), insert "or arrangement".

21 Subsection 38(3)

Omit "same launch facility and the same kind of launch vehicle", substitute "same launch facility, the same kind of launch vehicle and the same space object or objects".

22 Section 39

Omit "grant or transfer", substitute "grant, variation or transfer".

Note: The heading to section 39 is altered by omitting " **grant or transfer** " and substituting " **grant, variation or transfer** ".

23 At the end of section 40

Add:

(4) The regulations may prescribe other ways in which an overseas launch certificate must not be varied.

24 Section 42 (note)

Omit "**outer space**" (wherever occurring), substitute "an area beyond the distance of 100 km above mean sea level".

25 At the end of subsection 43(1)

Add:

Note: Under [subsection 33\(3\)](#) of the [Acts Interpretation Act 1901](#) , the Minister may vary or revoke an authorization granted under this section.

26 Paragraph 43(3)(c)

Omit "sufficiently low", substitute "as low as is reasonably practicable".

27 Subsection 43(4)

After "agreement" (wherever occurring), insert "or arrangement".

28 At the end of Division 5 of Part 3

Add:

45A Applying for an authorization or for the variation of an authorization

An application for an authorization under section 43, or for the variation of such an authorization, must be made in accordance with the regulations.

45B Procedure etc.

(1) If the Minister considers that there may be grounds to vary or revoke an authorization under section 43 (other than at the authorization holder's request), the Minister must:

- (a) give the holder of the authorization written notice of the Minister's opinion specifying the reasons for that opinion; and
- (b) invite the holder to make a written submission to the Minister about the matter within a reasonable period specified in the notice.

(2) In deciding whether to vary or revoke the authorization, the Minister must consider the matters raised in any submission received within the period specified in the notice.

45C Suspending an authorization under section 43

(1) The Minister may, by written notice, suspend an authorization under section 43 if:

- (a) the holder of the authorization contravenes a condition of the authorization; or

- (b) the Minister considers that, for reasons relevant to Australia's national security, foreign policy or international obligations, the authorization should be suspended; or
- (c) an incident involving a space object covered by the authorization occurs during the liability period for the return of the object.

Note: Under [subsection 33\(3\)](#) of the [Acts Interpretation Act 1901](#), the Minister may revoke a suspension.

- (2) An authorization under section 43 has no effect while suspended.
- (3) An authorization under section 43 may be varied or revoked even while it is suspended.

29 At the end of Division 6 of Part 3

Add:

45A Terms of exemption certificate

- (1) An exemption certificate:
 - (a) comes into force on a specified day or when a specified event happens; and
 - (b) remains in force for a specified period (which may be a period that ends on the occurrence of a specified event).
- (2) For the purposes of subsection (1), the regulations may set out how to determine when events of a particular kind occur.
- (3) At any time when an exemption certificate is in force, the Minister may, by written notice, extend or further extend the period for which the certificate remains in force.
- (4) An exemption certificate is granted subject to any conditions specified in the certificate.

46B Breaching a condition

The holder of an exemption certificate must not contravene a condition of the certificate.

Note: Contravening this section is not an offence. However, a person who contravenes this section is liable to a civil penalty under Part 6.

30 At the end of paragraph 47(2)(b)

Add "for an amount not less than the amount that would otherwise have been applicable under [subsection 48\(3\)](#) for the launch or return".

31 Subsection 48(3)

After "not less than", insert "the lesser of the amount of \$750 million (as indexed from time to time in accordance with the regulations) and".

32 After paragraph 51(a)

Insert:

- (aa) to ensure that notice is given, in accordance with the regulations, of returns of space objects that were launched from the facility; and

33 After paragraph 51(b)

Insert:

- (ba) to ensure that no person or property is endangered by any return of a space object that was launched from the facility; and

34 At the end of subsection 52(2)

Add:

; and (d) give any directions about the return of a space object that was launched from the facility that he or she considers necessary to avoid any danger to public health or to persons or property, including directions to stop the return or destroy the space object.

35 Section 53

After "paragraph 52(2)(c)", insert "or (d)".

36 Paragraph 54(1)(a)

After "paragraph 52(2)(c)", insert "or (d)".

37 Subsection 59(1)

Repeal the subsection, substitute:

- (1) The applicant for a launch permit, or for a transfer or variation of a launch permit, must pay the Commonwealth any fee the regulations set in respect of the application.

38 Subsection 59(2)

After "certificate", insert ", or for a transfer or variation of an overseas launch certificate,".

39 After subsection 59(2)

Insert:

(2A) The applicant for an authorization under section 43, or for the variation of such an authorization, must pay the Commonwealth any fee the regulations set in respect of the application.

40 Subsection 59(3)

After "licence", insert ", or for a transfer or variation of a space licence,".

41 After subsection 59(3)

Insert:

(3A) The holder of a space licence must pay the Commonwealth any annual licence fee the regulations set in respect of the licence.

42 After subsection 59(6)

Insert:

(6A) The regulations may make provision for approved scientific or educational organisations to be charged different fees under this section than other persons.

43 At the end of section 59

Add:

(9) The regulations may prescribe the circumstances in which the Minister may wholly or partly waive fees that would otherwise be payable under this section.

44 After paragraph 60(b)

Insert:

; or (c) an applicant for, or the holder of, an overseas launch certificate; or
(d) an applicant for, or the holder of, an authorization under section 43;

45 Section 60

Omit "licence or permit", substitute "licence, permit, certificate or authorization".

46 Paragraph 61(g)

Omit "varying or revoking", substitute "varying, revoking or suspending".

47 After paragraph 61(i)

Insert:

(ia) refusing to extend, or further extend, the period for which an exemption certificate remains in force; or

48 Paragraph 61(j)

Omit "overseas launch certificate or authorization under section 43", substitute "overseas launch certificate, authorization under section 43 or exemption certificate".

49 At the end of section 61

Add:

- ; or (k) refusing to make a declaration under [section 8A](#); or
- (l) varying or revoking a declaration under [section 8A](#).

50 After subsection 63(2)

Insert:

- (2A) This Part also applies to damage a space object causes if:
 - (a) either:
 - (i) the object is launched from a launch facility in Australia; or
 - (ii) Australia is a launching State in relation to the object; and
 - (b) the object is returned to a place outside Australia; and
 - (c) the damage is caused during the liability period for the return.

51 Subsection 63(3)

Omit "subsection (1) or (2)", substitute "subsection (1), (2) or (2A)".

52 At the end of section 64

Add:

Note: This section does not affect the rights of persons who are not third parties (for example, employees of a responsible party) from seeking compensation outside of [this Act](#) for damage to which this Part applies. However, see also section 65 (which allows the regulations to make provision in relation to the waiver of such rights).

53 At the end of section 69

Add:

- (4) If:
 - (a) the responsible party has paid compensation for the damage of an amount equal to the insured amount for the launch permit or overseas launch certificate; and
 - (b) apart from this section, the responsible party would be liable to pay further compensation to Australian nationals for the damage of an amount (the *excess amount*) in excess of the insured amount for the launch permit or overseas launch certificate;then the Commonwealth is liable to pay compensation to the Australian nationals for the damage of an amount equal to so much of the excess amount as does not exceed \$3 billion.
- (5) The Consolidated Revenue Fund is appropriated for the purposes of payments by the Commonwealth under subsection (4).

54 Paragraph 80(c)

Omit "subsection 30(2)", substitute "subsections 30(1) and (2)".

55 After paragraph 80(f)

Insert:

(fa)

section 46B (breaching a condition of an exemption certificate);

56 Section 85 (at the end of paragraph (b) of the definition of accident)

Add "(other than in the circumstances prescribed by the regulations)".

57 Section 106

Repeal the section, substitute:

A person is not subject to any liability to any person in respect of anything done, or omitted to be done, in good faith in connection with the exercise or performance of powers, functions or duties under this Act.

58 At the end of section 110

Add:

(2) The regulations may make provision for or in relation to a matter by applying, adopting or incorporating (with or without modification) any matter contained in a written instrument or other document, as in force at a particular time or as in force from time to time.

59 Paragraph 4 of Article XIX of Schedule 1

Omit "pubic", substitute "public".

60 Schedule 4

Repeal the Schedule, substitute:

Schedule 4—Agreement Governing the Activities of States on the Moon and other Celestial Bodies

Note: This is the copy of the Agreement referred to in paragraph (d) of the definition of *UN Space Treaties* in section 8 of this Act.

THE STATES PARTIES TO THIS AGREEMENT,

NOTING the achievements of States in the exploration and use of the moon and other celestial bodies, RECOGNIZING that the moon, as a natural satellite of the earth, has an important role to play in the exploration of **outer space**,

DETERMINED to promote on the basis of equality the further development of co-operation among States in the exploration and use of the moon and other celestial bodies,

DESIRING to prevent the moon from becoming an area of international conflict,

BEARING IN MIND the benefits which may be derived from the exploitation of the natural resources of the moon and other celestial bodies,

RECALLING the Treaty on Principles Governing the Activities of States in the Exploration and Use of **Outer Space**, including the Moon and Other Celestial Bodies, the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into **Outer Space**, the Convention on International Liability for Damage Caused by Space Objects, and the Convention on Registration of Objects Launched into **Outer Space**,

TAKING INTO ACCOUNT the need to define and develop the provisions of these international instruments in relation to the moon and other celestial bodies, having regard to further progress in the exploration and use of **outer space**,

Have agreed on the following:

Article 1

1. The provisions of this Agreement relating to the moon shall also apply to other celestial bodies within the solar system, other than the earth, except in so far as specific legal norms enter into force with respect to any of these celestial bodies.
2. For the purposes of this Agreement reference to the moon shall include orbits around or other trajectories to or around it.
3. This Agreement does not apply to extraterrestrial materials, which reach the surface of the earth by natural means.

Article 2

All activities on the moon, including its exploration and use, shall be carried out in accordance with international law, in particular the Charter of the United Nations, and taking into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding, and with due regard to the corresponding interests of all other States Parties.

Article 3

1. The moon shall be used by all States Parties exclusively for peaceful purposes.
2. Any threat or use of force or any other hostile act or threat of hostile act on the moon is prohibited. It is likewise prohibited to use the moon in order to commit any such act or to engage in any such threat in relation to the earth, the moon, spacecraft, the personnel of spacecraft or man-made space objects.
3. States Parties shall not place in orbit around or other trajectory to or around the moon objects carrying nuclear weapons or any other kinds of weapons of mass destruction or place or use such weapons on or in the moon.
4. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military manoeuvres on the moon shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration and use of the moon shall also not be prohibited.

Article 4

1. The exploration and use of the moon shall be the province of all mankind and shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development. Due regard shall be paid to the interests of present and future generations as well as to the need to promote higher standards of living and conditions of economic and social progress and development in accordance with the Charter of the United Nations.
2. States Parties shall be guided by the principle of co-operation and mutual assistance in all their activities concerning the exploration and use of the moon. International co-operation in pursuance of this Agreement should be as wide as possible and may take place on a multilateral basis, on a bilateral basis or through international intergovernmental organizations.

Article 5

1. States Parties shall inform the Secretary-General of the United Nations as well as the public and the international scientific community, to the greatest extent feasible and practicable, of their activities concerned with the exploration and use of the moon. Information on the time, purposes, locations, orbital parameters and duration shall be given in respect of each mission to the moon as soon as possible after

launching, while information on the results of each mission, including scientific results, shall be furnished upon completion of the mission. In the case of a mission lasting more than sixty days, information on conduct of the mission, including any scientific results, shall be given periodically at thirty days' intervals. For missions lasting more than six months, only significant additions to such information need be reported thereafter.

2. If a State Party becomes aware that another State Party plans to operate simultaneously in the same area of or in the same orbit around or trajectory to or around the moon, it shall promptly inform the other State of the timing of and plans for its own operations.

3. In carrying out activities under this Agreement, States Parties shall promptly inform the Secretary-General, as well as the public and the international scientific community, of any phenomena they discover in **outer space**, including the moon, which could endanger human life or health, as well as of any indication of organic life.

Article 6

1. There shall be freedom of scientific investigation on the moon by all States Parties without discrimination of any kind, on the basis of equality and in accordance with international law.

2. In carrying out scientific investigations and in furtherance of the provisions of this Agreement, the States Parties shall have the right to collect on and remove from the moon samples of its mineral and other substances. Such samples shall remain at the disposal of those States Parties which caused them to be collected and may be used by them for scientific purposes. States Parties shall have regard to the desirability of making a portion of such samples available to other interested States Parties and the international scientific community for scientific investigation. States Parties may in the course of scientific investigations also use mineral and other substances of the moon in quantities appropriate for the support of their missions.

3. States Parties agree on the desirability of exchanging scientific and other personnel on expeditions to or installations on the moon to the greatest extent feasible and practicable.

Article 7

1. In exploring and using the moon, States Parties shall take measures to prevent the disruption of the existing balance of its environment whether by introducing adverse changes in that environment, by its harmful contamination through the introduction of extra-environmental matter or otherwise. States Parties shall also take measures to avoid harmfully affecting the environment of the earth through the introduction of extraterrestrial matter or otherwise.

2. States Parties shall inform the Secretary-General of the United Nations of the measures being adopted by them in accordance with paragraph 1 of this article and shall also, to the maximum extent feasible, notify him in advance of all placements by them of radio-active materials on the moon and of the purposes of such placements.

3. States Parties shall report to other States Parties and to the Secretary-General concerning areas of the moon having special scientific interest in order that, without prejudice to the rights of other States Parties, consideration may be given to the designation of such areas as international scientific preserves for which special protective arrangements are to be agreed upon in consultation with the competent bodies of the United Nations.

Article 8

1. States Parties may pursue their activities in the exploration and use of the moon anywhere on or below its surface, subject to the provisions of this Agreement.

2. For these purposes States Parties may, in particular:

(a) Land their space objects on the moon and launch them from the moon;

(b) Place their personnel, space vehicles, equipment, facilities, stations and installations anywhere on or below the surface of the moon.

Personnel, space vehicles, equipment, facilities, stations and installations may move or be moved freely over or below the surface of the moon.

3. Activities of States Parties in accordance with paragraphs 1 and 2 of this article shall not interfere with the activities of other States Parties on the moon. Where such interference may occur, the States Parties concerned shall undertake consultations in accordance with article 15, paragraphs 2 and 3 of this Agreement.

Article 9

1. States Parties may establish manned and unmanned stations on the moon. A State Party establishing a station shall use only that area which is required for the needs of the station and shall immediately inform the Secretary-General of the United Nations of the location and purposes of that station. Subsequently, at annual intervals that State shall likewise inform the Secretary-General whether the station continues in use and whether its purposes have changed.

2. Stations shall be installed in such a manner that they do not impede the free access to all areas of the moon by personnel, vehicles and equipment of other States Parties conducting activities on the moon in accordance with the provisions of this Agreement or of article I of the Treaty on Principles Governing the Activities of States in the Exploration and Use of **Outer Space** including the Moon and Other Celestial Bodies.

Article 10

1. States Parties shall adopt all practicable measures to safeguard the life and health of persons on the moon. For this purpose they shall regard any person on the moon as an astronaut within the meaning of article V of the Treaty on Principles Governing the Activities of States in the Exploration and Use of **Outer Space** including the Moon and Other Celestial Bodies and as part of the personnel of a spacecraft within the meaning of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into **Outer Space**

2. States Parties shall offer shelter in their stations, installations, vehicles and other facilities to persons in distress on the moon.

Article 11

1. The moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement and in particular in paragraph 5 of this article.

2. The moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means.

3. Neither the surface nor the subsurface of the moon, nor any part thereof or natural resources in place, shall become the property of any State, international intergovernmental or non-governmental organization, national organization or non-governmental entity or of any natural person. The placement of personnel, space vehicles, equipment, facilities, stations and installations on or below the surface of the moon, including structures connected with its surface or subsurface, shall not create a right of ownership over the surface or the subsurface of the moon or any areas thereof. The foregoing provisions are without prejudice to the international regime referred to in paragraph 5 of this article.

4. States Parties have the right to exploration and use of the moon without discrimination of any kind, on the basis of equality and in accordance with international law and the terms of this Agreement.

5. States Parties to this Agreement hereby undertake to establish an international regime, including appropriate procedures, to govern the exploitation of the natural resources of the moon as such exploitation is about to become feasible. This provision shall be implemented in accordance with article 18 of this Agreement.

6. In order to facilitate the establishment of the international regime referred to in paragraph 5 of this article, States Parties shall inform the Secretary-General of the United Nations as well as the public and the international scientific community, to the greatest extent feasible and practicable, of any natural resources they may discover on the moon.

7. The main purposes of the international regime to be established shall include:

- (a) The orderly and safe development of the natural resources of the moon;
- (b) The rational management of those resources;
- (c) The expansion of opportunities in the use of those resources;
- (d) An equitable sharing by all States Parties in the benefits derived from those resources, whereby

the interests and needs of the developing countries, as well as the efforts of those countries which have contributed either directly or indirectly to the exploration of the moon, shall be given special consideration.

8. All the activities with respect to the natural resources of the moon shall be carried out in a manner compatible with the purposes specified in paragraph 7 of this article and the provisions of article 6, paragraph 2, of this Agreement.

Article 12

1. States Parties shall retain jurisdiction and control over their personnel, vehicles, equipment, facilities, stations and installations on the moon. The ownership of space vehicles, equipment, facilities, stations and installations shall not be affected by their presence on the moon.

2. Vehicles, installations and equipment or their component parts found in places other than their intended location shall be dealt with in accordance with article 5 of the Agreement on Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into **Outer Space**.

3. In the event of an emergency involving a threat to human life, States Parties may use the equipment, vehicles, installations, facilities or supplies of other States Parties on the moon. Prompt notification of such use shall be made to the Secretary-General of the United Nations or the State Party concerned.

Article 13

A State Party which learns of the crash landing, forced landing or other unintended landing on the moon of a space object, or its component parts, that were not launched by it, shall promptly inform the launching State Party and the Secretary-General of the United Nations.

Article 14

1. States Parties to this Agreement shall bear international responsibility for national activities on the moon, whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions set forth in this Agreement. States Parties shall ensure that non-governmental entities under their jurisdiction shall engage in activities on the moon only under the authority and continuing supervision of the appropriate State Party.

2. States Parties recognize that detailed arrangements concerning liability for damage caused on the moon, in addition to the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of **Outer Space**, including the Moon and Other Celestial Bodies and the Convention on International Liability for Damage Caused by Space Objects, may become necessary as a result of more extensive activities on the moon. Any such arrangements shall be elaborated in accordance with the procedure provided for in article 18 of this Agreement.

Article 15

1. Each State Party may assure itself that the activities of other States Parties in the exploration and use of the moon are compatible with the provisions of this Agreement. To this end, all space vehicles, equipment, facilities, stations and installations on the moon shall be open to other States Parties. Such States Parties shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited. In pursuance of this article, any State Party may act on its own behalf or with the full or partial assistance of any other State Party or through appropriate international procedures within the framework of the United Nations and in accordance with the Charter.

2. A State Party which has reason to believe that another State Party is not fulfilling the obligations incumbent upon it pursuant to this Agreement or that another State Party is interfering with the rights which the former State has under this Agreement may request consultations with that State Party. A State Party receiving such a request shall enter into such consultations without delay. Any other State Party which requests to do so shall be entitled to take part in the consultations. Each State Party participating in such consultations shall seek a mutually acceptable resolution of any controversy and shall bear in mind the rights and interests of all States Parties. The Secretary-General of the United Nations shall be informed of the

results of the consultations and shall transmit the information received to all States Parties concerned.

3. If the consultations do not lead to a mutually acceptable settlement which has due regard for the rights and interests of all States Parties, the parties concerned shall take all measures to settle the dispute by other peaceful means of their choice appropriate to the circumstances and the nature of the dispute. If difficulties arise in connection with the opening of consultations or if consultations do not lead to a mutually acceptable settlement, any State Party may seek the assistance of the Secretary-General, without seeking the consent of any other State Party concerned, in order to resolve the controversy. A State Party which does not maintain diplomatic relations with another State Party concerned shall participate in such consultations, at its choice, either itself or through another State Party or the Secretary-General as intermediary.

Article 16

With the exception of articles 17 to 21, references in this Agreement to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Agreement and if a majority of the States members of the organization are States Parties to this Agreement and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of **Outer Space**, including the Moon and Other Celestial Bodies. States members of any such organization which are States Parties to this Agreement shall take all appropriate steps to ensure that the organization makes a declaration in accordance with the foregoing.

Article 17

Any State Party to this Agreement may propose amendments to the Agreement. Amendments shall enter into force for each State Party to the Agreement accepting the amendments upon their acceptance by a majority of the States Parties to the Agreement and thereafter for each remaining State Party to the Agreement on the date of acceptance by it.

Article 18

Ten years after the entry into force of this Agreement, the question of the review of the Agreement shall be included in the provisional agenda of the General Assembly of the United Nations in order to consider, in the light of past application of the Agreement, whether it requires revision. However, at any time after the Agreement has been in force for five years, the Secretary-General of the United Nations, as depository, shall, at the request of one third of the States Parties to the Agreement and with the concurrence of the majority of the States Parties, convene a conference of the States Parties to review this Agreement. A review conference shall also consider the question of the implementation of the provisions of article 11, paragraph 5, on the basis of the principle referred to in paragraph 1 of that article and taking into account in particular any relevant technological developments.

Article 19

1. This Agreement shall be open for signature by all States at United Nations Headquarters in New York.
2. This agreement shall be subject to ratification by signatory States. Any State which does not sign this Agreement before its entry into force in accordance with paragraph 3 of this article may accede to it at any time. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. This Agreement shall enter into force on the thirtieth day following the date of deposit of the fifth instrument of ratification.
4. For each State depositing its instrument of ratification or accession after the entry into force of this Agreement, it shall enter into force on the thirtieth day following the date of deposit of any such instrument.
5. The Secretary-General shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession to this Agreement, the date of its entry into force and other notices.

Article 20

Any State Party to this Agreement may give notice of its withdrawal from the Agreement one year after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of this notification.

Article 21

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all signatory and acceding States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement, opened for signature at New York on 18 December 1979.
[Signatures omitted]

61 Before Article 1 of Schedule 5

Omit "rendering of a", substitute "rendering of all".

62 Article 3 of Schedule 5

Omit "if necessary", substitute "if necessary,".

SPACE ACTIVITIES REGULATIONS 2001

Statutory Rules No. 186

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Space Activities Act 1998.

Dated 28 June 2001

WILLIAM DEANE
Governor-General

By His Excellency's Command
NICK MINCHIN
Minister for Industry, Science and Resources

Contents

[...]

Part 1 Preliminary

1.01 Name of Regulations

These Regulations are the Space Activities Regulations 2001.

1.02 Commencement

These Regulations commence on gazettal.

1.03 Definitions

In these Regulations:

accredited translator, of a document that is not in English, means a person who:

- (a) is accredited, by the National Accreditation Authority for Translators and Interpreters, Australia, as a translator in English and the language in which the document is written; or
- (b) is accredited, or otherwise recognised, as a translator in those languages by the competent authority of another country that is responsible for the accreditation or recognition of translators in that country.

Act means the Space Activities Act 1998.

auditor means an independent auditor registered under the Corporations Law.

Flight Safety Code means the document called 'Flight Safety Code', published by the Department, as in force on 26

June 2001.

parent body of a body corporate (the subsidiary) means a body corporate that:

- (a) is incorporated by or under a law of the Commonwealth or of a State or Territory or is a foreign corporation; and
- (b) is a holding company, directly or indirectly, of the subsidiary; and
- (c) is not a subsidiary of another body corporate.

Part 2 Space licences

Division 2.1 General

2.01 Definitions for this Part

In this Part:

ground system, in relation to a launch facility, means the part of the launch facility consisting of the fuel farm, the refuelling facility, the payload preparation facilities, the flight launch pad, the control centre, and the vehicle handling systems.

relevant launch facility means:

- (a) in relation to an application for the grant of a space licence, the launch facility that is proposed to be covered by the licence; and
- (b) in relation to an application for the transfer of a space licence, the launch facility that is covered by the licence.

relevant launch vehicle means:

- (a) in relation to an application for the grant of a space licence, a launch vehicle of the kind that is proposed to be covered by the licence; and
- (b) in relation to an application for the transfer of a space licence, a launch vehicle of the kind that is covered by the licence.

Division 2.2 Criteria for launch facility

2.02 Criteria for launch facility

- (1) For paragraph 18 (f) of the Act, the criterion set out in subregulation (2) is prescribed.
- (2) The launch facility must be as effective and safe for its intended purpose as is reasonably possible having regard to its design, its construction or proposed construction and that purpose.

Division 2.3 Criteria for kind of launch vehicle

2.03 Criteria for kind of launch vehicle

- (1) For paragraph 18 (g) of the Act, the criterion set out in subregulation (2) is prescribed.

- (2) The kind of launch vehicle must be as effective and safe for its intended purpose as is reasonably possible having regard to its design and that purpose.

Division 2.4 Space licence conditions

2.04 Standard space licence conditions

- (1) In this regulation:
- deemed employee** means an individual who, although not employed by the holder of a space licence:
- (a) performs a service for the holder; or
 - (b) is an employee of a person who performs such a service.
- personnel record**, of an individual who is employed by the holder of a space licence or who performs a service for the holder, means a record of information about the individual that includes the following:
- (a) the individual's name, residential address, qualifications and duties and functions;
 - (b) the date when the individual's employment or service began;
 - (c) the individual's usual place of residence (or each of them, if more than one), and employment history, for the 10 years immediately preceding the making of the record.
- (2) For paragraph 20 (c) of the Act, the following conditions are specified:
- (a) the holder of the licence must ensure that the launch facility and launch vehicles of the kind covered by the licence are operated, and any construction associated with the launch facility is done, in accordance with a program management plan that:
 - (i) is in accordance with regulation 2.11; and
 - (ii) is approved by the Minister;
 - (b) if subregulation (3) applies to the holder, the holder must ensure that any test flight of a launch vehicle, or a launch vehicle of a kind, referred to in that subregulation that is conducted at the launch facility is conducted, and the results of the test flight are recorded and reported, in accordance with a flight test plan that:
 - (i) is in accordance with regulation 2.12; and
 - (ii) is approved by the Minister;
 - (c) the holder must ensure that the launch facility and launch vehicles are operated in accordance with a technology security plan that:
 - (i) is in accordance with regulation 2.13; and
 - (ii) is approved by the Minister;
 - (d) the holder must comply with an emergency plan that is in accordance with regulation 2.14:
 - (i) in the event of an accident or incident or any other emergency of a kind referred to in that regulation; or
 - (ii) in conducting exercises to test the plan and reporting in relation to those exercises;
 - (e) the holder must ensure that the launch facility is constructed and operated in accordance with:
 - (i) if another Australian law requires the holder to have an environmental plan approved for the construction or operation of the launch facility — that plan; and
 - (ii) in any other case — an environmental plan, containing the arrangements and procedures mentioned in regulation 2.17, that is approved by the Minister;
 - (f) the holder must give to the Minister, if the holder has not already done so under the Act or these Regulations, a copy of each approval or authorization referred to in paragraph 2.16 (a);
 - (g) the holder must take all reasonably practical steps to amend, as necessary, the plans referred to in paragraphs (a), (c) and (d), the plan referred to in paragraph (b) (if applicable) and whichever is applicable of the plans referred to in paragraph (e) so that each plan is kept up-to-date;
 - (h) the holder must comply with any directions given from time to time to the holder under subregulation (6);
 - (i) the holder must ensure that copies of all amendments of the program management plan, the technology security plan and, if applicable, the flight test plan and the environmental plan referred to in subparagraph (e) (ii), are given to the Minister;
 - (j) for each of the holder's employees, or deemed employees, referred to in subregulation (5), the holder must, if the holder has not already done so under paragraph 2.10 (1) (e), notify the Minister in writing of:

- (i) the employee's or deemed employee's name, qualifications and duties or functions; and
 - (ii) the employee's or deemed employee's usual place of residence (or each of them, if more than one), and employment history, for the 10 years immediately preceding the date of the notice; and
 - (iii) if, for any reason, an employee changes his or her duties or functions within the holder's organisation, the changed duties or functions;
- (k) the holder must keep a personnel record for each individual who is employed by the holder or who performs a service for the holder:
- (i) at the launch facility; or
 - (ii) doing anything, in the course of his or her duties or functions, directly connected with operating the launch facility or operating the launch vehicles;
- (l) the holder must retain each personnel record for 7 years after the last entry in it was made.
- (3) This subregulation applies to the holder of a licence if:
- (a) the kind of launch vehicle covered by the licence is a new kind and no launch vehicles of that kind have been flight tested; or
 - (b) a launch vehicle of the kind covered by the licence that the holder intends to use at the launch facility has had a major modification made to it.
- (4) For subregulation (3), a launch vehicle or a kind of launch vehicle has had a major modification made to it if:
- (a) a change has been made to the design of the kind of launch vehicle that involves any change to the type of engine, navigation system, flight control system or flight termination system specified in the design, or involves the use of strap-on boosters; or
 - (b) it is modified in any other way that might affect, to a significant extent, any characteristic affecting its operation or performance.
- (5) For paragraph (2) (j), the following are the employees or deemed employees:
- (a) an employee or deemed employee who is employed at the launch facility;
 - (b) any other employee or deemed employee doing anything, in the course of his or her duties or functions, directly connected with operating the launch facility or operating the launch vehicles.
- (6) For the purposes of performing functions or exercising powers under the Act, the Minister may give to the holder a written direction in relation to the revision of any or all of the following plans:
- (a) the program management plan;
 - (b) if subregulation (3) applies to the holder, the flight test plan;
 - (c) the technology security plan;
 - (i) if subparagraph (2) (e) (ii) applies to the holder, the environmental plan referred to in that subparagraph.
 - (d)

Division 2.5 Applications for grant of space licences

2.05 Applications for grant of space licences (Act s 23)

An application for the grant of a space licence must be made in the way set out in this Division.

2.06 Form of application

- (1) The application:
- (a) must be in writing; and
 - (b) must state:
 - (i) the applicant's name and address; or
 - (ii) if the applicant is incorporated by or under a law of the Commonwealth or of a State or Territory, the applicant's name, registered address and ACN and the names and addresses of the people responsible for its management and control; and
 - (c) must describe the relevant launch facility and specify its location; and
 - (d) must state when the applicant proposes to commence operating and, if construction of the launch facility has not yet commenced, constructing the launch facility; and
 - (e) must specify the kind of launch vehicle proposed to be covered by the space licence; and

- (f) if the applicant proposes to conduct a test flight or flights of a relevant launch vehicle at the launch facility, must state the date of the proposed flight or flights; and
- (g) must give:
 - (i) the name of an individual within the applicant's organisation who is able to deal with all matters in relation to the application; and
 - (ii) the telephone number at which the individual may be contacted at all times, the telephone number (if any) to which a facsimile message for the individual may be transmitted and the individual's e-mail address (if any); and
- (h) must be accompanied by the documents referred to in subregulation (4).
- (2) The application, and any documents required to accompany the application under this regulation, must be lodged with the Department.
- (3) If a document is not in English, the document must have with it a translation of it into English and a related certificate of verification by an accredited translator.
- (4) For paragraph (1) (h), the following are the documents:
 - (a) documents, in accordance with paragraphs 2.10 (1) (a) to (d), relating to the applicant's organisational structure and financial standing;
 - (b) documents, in accordance with paragraph 2.10 (1) (e), relating to particular persons who would, if the space licence were granted to the applicant, have duties or functions connected with the operation of the relevant launch facility or relevant launch vehicles using the launch facility;
 - (c) a copy of the program management plan, in accordance with regulation 2.11, under which the applicant proposes to operate the launch facility and launch vehicles and do any construction associated with the launch facility;
 - (d) a copy of the design and engineering plans and specifications for the launch facility;
 - (e) if subregulation (6) applies to the applicant, a copy of the flight test plan, in accordance with regulation 2.12, that the applicant proposes to use in relation to any test flight of a launch vehicle, or launch vehicle of a kind, mentioned in that subregulation that is conducted at the launch facility;
 - (f) a copy of the technology security plan, in accordance with regulation 2.13, that the applicant proposes to use in operating the launch facility and the relevant launch vehicles;
 - (g) a copy of the emergency plan, in accordance with regulation 2.14, that the applicant proposes to use in relation to an accident, incident, or any other emergency referred to in that regulation;
 - (h) evidence of any necessary approval (however described) that the applicant is required to have by or under any Australian law for any of the arrangements or procedures in the emergency plan, from the ambulance, fire, police and other emergency services operating in the State or Territory where the launch facility is, or is proposed to be, located;
 - (i) evidence to show that all necessary environmental approvals under Australian law have been obtained for the construction and operation of the relevant launch facility (including, if for any reason a particular environmental approval is not necessary, evidence to that effect);
 - (j) if no other Australian law requires the applicant to have an environmental plan approved for the construction and operation of the launch facility:
 - (i) a copy of an environmental plan containing the arrangements and procedures mentioned in regulation 2.17; and
 - (ii) a written assessment, by an independent person having suitable qualifications and experience, of the adequacy of the arrangements and procedures set out in the plan;
 - (k) in relation to the kind of launch vehicle:
 - (i) the documents mentioned in regulation 2.15; or
 - (ii) if there is a technical recognition agreement that covers the kind of launch vehicle or a relevant launch vehicle, a written statement to that effect and copies of all documents and information in connection with, or incidental to, the kind of launch vehicle or relevant launch vehicle, referred to in the technical recognition agreement;
 - (l) a copy of an outstanding acquittals plan, in accordance with regulation 2.16.
- (5) The flight test plan may be included as part of the applicant's program management plan or may be a separate document.
- (6) This sub-regulation applies to the applicant if:
 - (a) the kind of launch vehicle proposed to be covered by the space licence is a new kind and no launch vehicles of that kind have been flight tested; or

- (b) a relevant launch vehicle that the applicant intends to use at the launch facility has had a major modification made to it.
- (7) For sub-regulation (6), a launch vehicle or a kind of launch vehicle has had a major modification made to it if:
 - (a) a change has been made to the design of the kind of launch vehicle that involves any change to the type of engine, navigation system, flight control system or flight termination system specified in the design, or involves the use of strap-on boosters; or
 - (b) it is modified in any other way that might affect, to a significant extent, any characteristic affecting its operation or performance.
- (8) In this regulation:

technical recognition agreement means an agreement (however described) between Australia and another country that:

 - (a) is in force; and
 - (b) recognises the other country's licensing or certification for a particular launch vehicle or kind of launch vehicle for the purpose of showing that the launch vehicle or kind of launch vehicle can reasonably be expected to be as effective and safe as possible for its intended purpose having regard to its design and that purpose.

Division 2.6 Applications for transfer of space licences

2.07 Applications for transfer of space licences (Act s 23)

An application for a transfer of a space licence must be made in the way set out in this Division.

2.08 Form of application

- (1) The application:
 - (a) must be in writing; and
 - (b) must state the reference number of the relevant space licence; and
 - (c) must state:
 - (i) the proposed transferee's name and address; or
 - (ii) if the proposed transferee is incorporated by or under a law of the Commonwealth or of a State or Territory, the transferee's name, registered address and ACN and the names and addresses of the people responsible for its management and control; and
 - (d) must state when the transferee proposes to commence operating and, if construction of the relevant launch facility has not yet commenced, constructing the launch facility; and
 - (e) if the transferee proposes to conduct a test flight or flights of a relevant launch vehicle at the launch facility, must state the date of the proposed flight or flights; and
 - (f) must give:
 - (i) the name of an individual within the transferee's organisation who is able to deal with all matters in relation to the application; and
 - (ii) the telephone number at which the individual may be contacted at all times, the telephone number (if any) to which a facsimile message for the individual may be transmitted and the individual's e-mail address (if any); and
 - (g) must be signed by the proposed transferor and transferee; and
 - (h) must be accompanied by the documents referred to in subregulation (4).
- (2) The application, and any documents required to accompany the application under this regulation, must be lodged with the Department.
- (3) If a document is not in English, the document must have with it a translation of it into English and a related certificate of verification by an accredited translator.
- (4) For paragraph (1) (h), the following are the documents:
 - (a) documents, in accordance with paragraphs 2.10 (1) (a) to (d), relating to the transferee's organisational structure and financial standing;
 - (b) documents, in accordance with paragraph 2.10 (1) (e), relating to particular persons who would, if the space licence were transferred to the transferee, have duties or functions connected with the operation of the relevant launch facility or relevant launch vehicles using the launch facility;

- (c) a copy of the program management plan, in accordance with regulation 2.11, under which the transferee proposes to operate the launch facility and launch vehicles and do any construction associated with the launch facility;
 - (d) if the construction of the launch facility has not commenced or is not completed or the transferee proposes to modify the launch facility, a copy of the design and engineering plans and specifications for the construction or modification;
 - (e) if subregulation (7) applies to the transferee, a copy of the flight test plan, in accordance with regulation 2.12, that the transferee proposes to use in relation to any test flight of a launch vehicle, or launch vehicle of a kind, mentioned in that subregulation that is conducted at the launch facility;
 - (f) a copy of the technology security plan, in accordance with regulation 2.13, that the transferee proposes to use in operating the launch facility and the relevant launch vehicles;
 - (g) a copy of the emergency plan, in accordance with regulation 2.14, that the transferee proposes to use in relation to an accident, incident, or any other emergency referred to in that regulation;
 - (h) evidence of any necessary approval (however described) that the transferee is required to have by or under any Australian law for the arrangements and procedures set out in the emergency plan, from the ambulance, fire, police and other emergency services operating in the State or Territory where the launch facility is, or is proposed to be, located;
 - (i) evidence to show that all necessary environmental approvals that the transferee is required to have by or under any Australian law have been obtained for the construction and operation of the launch facility (including, if for any reason a particular environmental approval is not necessary, evidence to that effect);
 - (j) if no other Australian law requires the transferee to have an environmental plan approved for the construction and operation of the launch facility:
 - (i) a copy of an environmental plan containing the arrangements and procedures mentioned in regulation 2.17; and
 - (ii) a written assessment, by an independent person having suitable qualifications and experience, of the adequacy of the arrangements and procedures set out in the plan;
 - (k) a copy of an outstanding acquittals plan, in accordance with regulation 2.16.
- (5) The flight test plan may be included as part of the transferee's program management plan or may be a separate document.
- (6) However, the application need not be accompanied by the program management plan, the flight test plan (if applicable), the technology security plan, the emergency plan, the outstanding acquittals plan or, if applicable, the environmental plan and accompanying assessment if:
- (a) the plan that the transferee proposes to use, or under which the transferee proposes to operate, is the same as the plan that the transferor uses, or under which the transferor operates, in complying with these Regulations; and
 - (b) the transferee includes a written statement to that effect in the application.
- (7) This subregulation applies to the transferee if:
- (a) the kind of launch vehicle covered by the space licence is a new kind and no launch vehicles of that kind have been flight tested; or
 - (b) a relevant launch vehicle that the applicant intends to use at the launch facility has had a major modification made to it.
- (8) For subregulation (7), a launch vehicle or a kind of launch vehicle has had a major modification made to it if:
- (a) a change has been made to the design of the kind of launch vehicle that involves any change to the type of engine, navigation system, flight control system or flight termination system specified in the design, or involves the use of strap-on boosters; or
 - (b) it is modified in any other way that might affect, to a significant extent, any characteristic affecting its operation or performance.

Division 2.7 Documents relevant to conditions and applications under this Part

2.09 Definitions for this Division

In this Division:

applicant, in relation to an application for the transfer of a space licence, means the proposed transferee.

2.10 Applicant's organisational structure and financial standing

- (1) For paragraphs 2.06 (4) (a) and (b) or paragraphs 2.08 (4) (a) and (b), the documents must consist of:
 - (a) a written description of the applicant's organisational structure, including:
 - (i) the chain of command within the structure; and
 - (ii) duties and responsibilities of each position in the chain of command; and
 - (b) evidence of the applicant's financial standing and financial ability to construct and operate the relevant launch facility, together with an auditor's report verifying the applicant's financial viability; and
 - (c) a written description of the applicant's system for financial management, including the methods that the applicant uses to ensure sound financial management; and
 - (d) a written assessment, by an independent person having suitable qualifications and experience, of the soundness and adequacy of the applicant's system for financial management; and
 - (e) for each individual referred to in subregulation (2), a statement setting out the individual's name, qualifications, experience, and usual place of residence (or each of them, if more than one), and employment history, for the 10 years immediately preceding the date of the application.
- (2) For paragraph (1) (e), the following are the individuals:
 - (a) if the applicant is incorporated by or under a law of the Commonwealth or of a State or Territory, each director of the applicant;
 - (b) the person holding, or performing the duties of, the position of chief executive officer (however described) within the applicant's organisation;
 - (c) a manager within the structure who, subject to any direction by a person mentioned in paragraph (b), would, if the space licence were granted or transferred to the applicant, have authority to direct:
 - (i) the operation, or any part of the operation, of the relevant launch facility; or
 - (ii) the operation, or any part of the operation, of a relevant launch vehicle using the launch facility;
 - (d) a person (whether or not employed by the applicant) whose functions or duties would, if the space licence were granted or transferred to the applicant, include responsibility for:
 - (i) the operation, maintenance, or both, of the ground system of the launch facility; or
 - (ii) the quality assurance of the launch vehicles and their payloads;
 - (e) a person (whether or not employed by the applicant) whose functions or duties include anything directly connected with preparing, or would, if the space licence were granted or transferred to the applicant, include anything directly connected with implementing or monitoring, the technology security plan referred to in regulation 2.13.

2.11 Program management plan for launch facility and launch vehicles

For this Part, a program management plan must include at least the following:

- (a) a description of the holder's or applicant's strategies for operating the relevant launch facility and relevant launch vehicles using the launch facility;
- (b) a description of the holder's or applicant's practices and procedures to control the operation of the launch facility and the launch vehicles and a description of the arrangements for reporting on their operation;
- (c) a description of the quality assurance plan or plans covering the operation of the launch facility and the launch vehicles and, if the launch facility is not yet constructed, the construction of the launch facility;
- (d) a description of the system for maintaining documents and records relating to the operation of the launch facility and the launch vehicles;
- (e) a description of the arrangements for the maintenance and servicing of the launch facility and the launch vehicles, including:
 - (i) a description of the system for recording scheduled and unscheduled maintenance that is carried out on the launch facility and the launch vehicles; and
 - (ii) the procedures for reporting on failures, malfunctions or defects in the launch facility and the launch vehicles;

- (f) a description of how the holder or applicant conducts, or proposes to conduct, the launch activities:
 - (i) so as to reduce risks to third parties to a level that is as low as is reasonably possible; and
 - (ii) so as to satisfy the launch safety standards set out in the Flight Safety Code;
- (g) a description of any additional arrangements of the holder or applicant to enhance the safety of the launch activities.

2.12 Flight test plan for conducting test flights

For this Part, a flight test plan for conducting a test flight:

- (a) must set out the purpose of the test flight; and
- (b) must show the configuration of the launch vehicle or vehicles to be tested; and
- (c) must give details of the flight tracking system for the launch vehicle or vehicles; and
- (d) must set out the procedures for the launch or launches; and
- (e) must set out the procedures for terminating the test flight; and
- (f) must make provision for recording the results of the test flight; and
- (g) must set out the arrangements for reporting those results to the Minister.

2.13 Technology security plan for launch facility and launch vehicles

- (1) For this Part, a technology security plan:
 - (a) must cover the arrangements and procedures to be followed by the holder or applicant for safeguarding the technology that is or will be used in operating the relevant launch facility and relevant launch vehicles using the launch facility; and
 - (b) if there is in force an agreement (however described) between Australia and another country or countries that provides for the safeguarding of all or part of that technology, must be appropriate to ensure that Australia gives effect to its obligations under that agreement.
- (2) The procedures referred to in paragraph (1) (a) must include the procedures to be followed by the holder or applicant for preventing unauthorised people from having access to the technology.

2.14 Emergency plan for launch facility and launch vehicles

For this Part, an emergency plan must include at least the following:

- (a) a description of the actions to be taken by the persons who are responsible, or, if the space licence were granted or transferred to the applicant, would be responsible, for responding to an accident or incident involving a relevant launch vehicle that is launched, or attempted to be launched, from the relevant launch facility;
- (b) a description of the actions to be taken by the persons who are responsible, or, if the space licence were granted or transferred to the applicant, would be responsible, for responding to any other kind of emergency:
 - (i) involving a relevant launch vehicle that is launched, or attempted to be launched, from the launch facility; or
 - (ii) occurring at or near the launch facility that interrupts, or might interrupt, its operation or may endanger public health or public safety or cause substantial damage to property; or
 - (iii) occurring on the site of the launch facility during its construction that may endanger public health or public safety or cause substantial damage to property;
- (c) a list of the authorities or persons that are to be notified by the holder or applicant in relation to the accident, incident or emergency;
- (d) a description of the arrangements for coordinating, with those authorities or persons, any action to be taken in relation to the accident, incident or emergency;
- (e) the details of appropriate evacuation procedures for any kind of accident, incident or emergency:
 - (i) involving a relevant launch vehicle that is launched, or attempted to be launched, from the relevant launch facility; or
 - (ii) at or near the launch facility or on the site of the launch facility during its construction;

