

Space Activities Amendment Regulations 2004 (No. 1) 2004 No. 79

EXPLANATORY STATEMENT

Statutory Rules 2004 No. 79

Issued by the authority of the Minister for Industry, Tourism and Resources

Subject: *Space Activities Act 1998*

Space Activities Amendment Regulations 2004 (No. 1)

The *Space Activities Act 1998* (the Act) establishes a system for the regulation of space activities carried on either from Australia or by Australian nationals outside Australia. The Act also implements certain obligations Australia has under five United Nations treaties on space matters, which are incorporated as Schedules 1 to 5 of the Act. Amendments were made to the Act in November 2002. These amendments to the Act included provisions for:

- a less onerous application and assessment process for scientific and educational organisations;
- a lower fee regime for scientific and educational organisations; and
- a number of minor administrative and technical amendments, including defining the point at which the Act becomes effective, clarifying the fee regime, and making provisions for an annual review of a space licence.

Subsection 110(1) of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient for carrying out or giving effect to the Act.

The purpose of the *Space Activities Amendment Regulations 2004 (No. 1)* (Amendment Regulations) is to amend the *Space Activities Regulations 2001* (the Principal Regulations) in order to give effect to the amendments made to the Act in November 2002. The result is tailored conditions, fees and forms of application for approved scientific or educational organisations. The Amendment Regulations also provide for a single process for assessing an applicant's risk hazard analysis methodology and implement some other minor technical changes.

Consultations with stakeholders were undertaken in 2003 following the circulation of a discussion paper by the Space Licensing and Safety Office about the implementation of the amendments made to the Act in November 2002. Feedback from stakeholders was taken into consideration in the development of both the Amendment Regulations and the *Space Activities (Scientific or Educational Organisations) Guidelines 2004* which were tabled in the House of Representatives and the Senate on the 11th of February 2004.

The Amendment Regulations achieve the following:

- provide criteria to be met in relation to each proposed flight path specified in the application for a space licence;
- prescribe circumstances where an event will not be an "accident" for the purposes of section 85(b) of the Act;

- determine fees for approved scientific or educational organisations for applications for launch permits, overseas launch permits, space licences and exemption certificates;
- determine fees for the authorisation of the return of overseas launched space objects to a place in Australia for all categories of applicants;
- determine annual licence fees for all licence holders;
- provide a process for an educational institution, a scientific organisation or a non-profit body to apply to the Minister for a declaration to be an approved scientific or educational organisation for the purposes of the Act;
- provide for alternative licence conditions and forms of application for approved scientific or educational organisations;
- allow applicants to submit an Australian Business Number (ABN), if they have one, in addition to an Australian Company Number (ACN), as part of their application for a space licence or other instruments under the Act; and
- provide for a single process for assessing an applicant's risk hazard analysis methodology.

The Amendment Regulations also establish two distinct categories of applicants for approvals under the Act. This has a flow on effect on the structure and layout of the Principal Regulations for both conditions and forms of application for approvals under the Act.

The amendments to the Principal Regulation which introduce approved scientific or educational organisations as a distinct category of applicants for approvals under the Act reflect the public good aspect of the activities conducted by these organisations. Furthermore, these activities are usually conducted on a one-off basis and do not involve the construction of major infrastructure.

A more detailed explanation of the Amendment Regulations is provided in [Attachment A](#).

The Act specifies no conditions that need to be met before the power to make the Amendment Regulations may be exercised.

The Amendment Regulations commence on the date of their notification in the Gazette.

ATTACHMENT A

DETAILS OF THE *SPACE ACTIVITIES AMENDMENT REGULATIONS 2004 (No. 1)*

Amendments to Part 1 Preliminary

1 Name of Regulations

This regulation sets out the name of the Amendment Regulations as the *Space Activities Amendment Regulations 2004 (No. 1)*.

2 Commencement

This regulation provides for the Amendment Regulations to commence on the date of their notification in the *Gazette*.

3 Amendment of *Space Activities Regulations 2001*

This regulation provides that Schedule 1 of the Amendment Regulations amends the *Space Activities Regulations 2001* (the Principal Regulations).

Schedule 1 Amendments

Item 1 Insert in regulation 1.03, after definition of *Flight Safety Code*

This item inserts the definitions of "launch permit holder" and "licence holder" to improve the clarity of the terms used in the Principal Regulations.

Item 2 Insert in regulation 1.03, after definition of *List of Designated and Protected Assets*

This item inserts the definition of the new term "origin, of a payload" into the Principal Regulations. This definition seeks to ensure that the origin of a payload is determined by reference to the following:

- the person that paid or will pay for the payload;
- the person that provided or will provide the payload; and
- the country in which the payload was manufactured or will be manufactured.

Item 3 Insert in regulation 1.03, after definition of *parent body*

This item inserts the definition of a new term "related entity" into the Principal Regulations as a result of the inclusion of the term in other provisions in the Amendment Regulations. The term "related entity" has the same meaning in the Amendment Regulations as it is given in section 9 of the *Corporations Act 2001*.

Item 4 Insert after regulation 1.03,

Regulation 1.04: Application for declaration - approved scientific or educational organisation.

Section 8C of the *Space Activities Act 1998* (the Act) specifies that an application for a declaration to be an approved scientific or educational organisation under section 8A of the Act must be made in accordance with the Principal Regulations.

This item sets out the details of the requirements for an application for a declaration under section 8A of the Act to ensure that the Minister receives the necessary information in order to make a determination as to whether an applicant is a bona fide scientific or educational organisation proposing to undertake bona fide scientific or educational space activities.

Subregulation 1.04(1) specifies the information required in an application for a declaration under section 8A of the Act. The application is required to be in writing and include the following information:

- applicant's address details and ABN or ACN;
- the basis of the applicant's claim to be an educational institution, a non-profit body or a scientific organisation;
- details of the applicant's corporate status;
- details of the applicant's organisational structure;
- the applicant's principal function and activities;
- the purpose and the manner in which the applicant was established;
- details of whether the applicant carries on business for profit or gain for its members;
- the terms of the applicant body's constitution in relation to asset distribution;
- a description of the applicant's proposed space activities;
- the purpose of the activity;
- details about the nature, origin and function of the payload;
- details of proposed use of the results, data, intellectual property and other products resulting from the activity;
- details of the nature and source of the funding for the activity;
- details of any current or future agreements, memoranda of understanding or arrangements entered into by the applicant;
- when the activity is intended to be conducted;
- details of related parties or related entities in relation to the applicant and their financial or ownership interest in the applicant and the extent of Australian participation in the activity;
- name and contact details of an individual within the applicant organisation who is able to deal with all matters in relation to the application;

- signature of the chief executive officer or an equivalent of the applicant organisation; and
- evidence supporting the claims made in the application.

Subregulation 1.04(2) specifies that if at the time of the application the applicant does not have an ABN or ACN, they must notify the Minister of their ABN or ACN as soon as practicable after the ABN or ACN is obtained.

Item 5 After Division 2.3 insert Division 2.3A and substitute Division 2.4

Division 2.3A Criteria for flight paths

Regulation 2.03A specifies the criteria to be satisfied in relation to each flight path specified in an application for a space licence.

Subregulation 2.03A(2) specifies that the flight path must be as effective and safe as is reasonably practicable having regard to the following:

- the purpose of the flight path;
- design of the launch vehicle; and
- the launch safety standards set out in the Flight Safety Code.

Division 2.4 Space licence conditions

Prior to the November 2002 amendments to the Act, there was only one category of licence holder envisioned both under the Act and the Principal Regulations. The 2002 amendments to the Act paved the way for a distinction to be drawn between a licence holder that is an approved scientific or educational organisation and a licence holder that is not an approved scientific or educational organisation. Under the Amendment Regulations, this division of the Principal Regulations has been reformatted and expanded to specify the space licence conditions for the different categories of licence holders.

In order to ensure that space licence conditions for approved scientific or educational organisations are proportionate to the scale, risk and nature of the activities to be undertaken by representatives from this sector, amendments have been made to the space licence conditions. These amendments have been made in acknowledgement of the fact that activities undertaken by scientific or educational organisations are usually carried out on a one-off basis and are not expected to involve the establishment, management, and ongoing operation of a spaceport, or modifications to major infrastructure.

The space licence conditions are set out in such a way that conditions that must be satisfied by all categories of licence holders appear first. This is followed by the licence conditions that must be satisfied by a licence holder that is not an approved scientific or educational organisation. Additional conditions that must be satisfied by a licence holder that is an approved scientific or educational organisation follow thereafter.

Regulation 2.04 Definitions for Division 2.4

This regulation specifies that the definitions of the terms "deemed employee" and "personnel record" are to extend to the entire Division in the Amendment Regulations. Furthermore, the definition of "personnel record" has been reformatted with a view to improving its clarity.

Regulation 2.04A Standard space licence conditions

This regulation identifies the regulations relating to licence conditions applicable to the different categories of licence holders, in addition to those conditions specified in section 20 of the Act.

Paragraph 2.04A(a) specifies regulation 2.04B as the regulation which relates to licence conditions common to all licence holders.

Paragraph 2.04A(b) specifies regulation 2.04C as the regulation which relates to licence conditions applicable to an organisation that is not an approved scientific or educational organisation.

Paragraph 2.04A(c) specifies regulation 2.04D as the regulation which relates to licence conditions applicable to an approved scientific or educational organisation.

Regulation 2.04B Standard space licence conditions - all licence holders

This regulation sets out extra conditions that apply to all categories of licence holders.

The conditions set out in the regulation require the holder of the space licence to:

- give to the Minister copies of all approvals and authorisations mentioned in paragraph 2.16(1)(a) of the Principal Regulations or not previously provided as required under the Act or another provision of the Principal Regulations;
- provide details of a range of personnel within the licence holder's organisations and/or who will work at the facility or in conjunction with a launch (paragraph 2.04B(1)(b)); and
- maintain a personnel record for each employee or deemed employee or person who performs services for the licence holder, for a period of 7 years (paragraphs 2.04B(1)(c) and (d)).

Subregulation 2.04B(2) specifies which individuals may be considered employees or deemed employees for the purposes of providing details under paragraphs 2.04B(1)(b) and (c).

Regulation 2.04C Additional standard space licence conditions - licence holders that are not approved scientific or educational organisations

This regulation sets out the extra conditions that apply to a licence holder that is not an approved scientific or educational organisation. The conditions require the space licence holder organisation that is not an approved scientific or educational organisation to:

- comply with a program management plan which accords with regulation 2.11 and is approved by the Minister;
- comply with a flight test plan which accords with regulation 2.12 and is approved by the Minister;
- comply with a technology security plan which accords with regulation 2.13 and is approved by the Minister;
- comply with an emergency plan which accords with regulation 2.14 and is approved by the Minister;

- conduct a hazard analysis which accords with regulation 2.16A and is approved by the Minister;
- comply with information about each flight path which accords with regulation 2.16B and is approved by the Minister;
- comply with an environmental plan that is required under any other Australian law or that accords with regulation 2.17 and is approved by the Minister;
- amend, to keep in an up-to-date condition, any plans approved by the Minister in support of the application;
- revise certain plans according to any directions given by the Minister in accordance with subregulation 2.04C(4); and
- provide copies of any amended plans to the Minister.

Subregulation 2.04C (2) specifies the circumstances under which a flight test plan will be required, namely, where a launch vehicle is of a new kind and no launch vehicles of that kind have been flight tested, or where the launch vehicle has undergone a major modification.

Subregulation 2.04C(3) specifies the types of modifications which may be considered to be major modifications to a launch vehicle for the purposes of subregulation 2.04C(2).

Subregulation 2.04C(4) provides for the Minister to give the licence holder a written direction to revise any of the following documents: the program management plan, the flight test plan, the technology security plan, the risk hazard analysis methodology and the environmental plan.

Regulation 2.04D Additional standard space licence conditions - licence holders that are approved scientific or educational organisations

This regulation sets out the extra conditions that apply to a licence holder that is an approved scientific or educational organisation.

The first condition specified in paragraph 2.04D(1)(a) requires that the activity undertaken under the space licence must be in accordance with the information provided in the application for the declaration for an approved scientific or educational organisation status. The subject matter of the subsequent conditions mirrors those for an organisation that is not an approved scientific or educational organisation, namely the requirement for the submission of a number of documents such as the program management plan and the risk hazard analysis methodology. The differences in the conditions for the two categories of licence holders relates to the content requirements for each of these documents.

For approved scientific or educational organisations, the Amendment Regulations do not specify the content requirements for each of these documents. This allows for the specific content requirements associated with these documents to be tailored to the scale, risk and nature of the space activity to be undertaken by the licence holder.

Approved scientific or educational organisations will need to have regard to the conditions and content requirements for documents for an organisation that is not an approved scientific or educational organisation. Given the intention to deal flexibly with approved scientific or educational organisations, it is anticipated that expectations of the content requirements for documents will be established by the regulator following contact with the applicant.

The conditions set out in the regulation require the holder of the space licence to:

- comply with the information about the activity given by the licence holder under regulation 1.04;
- comply with a program management plan which has been approved by the Minister;
- comply with a flight test plan which has been approved by the Minister;
- comply with a technology security plan which has been approved by the Minister;
- comply with an emergency plan which has been approved by the Minister;
- conduct a hazard analysis in accordance with a risk hazard analysis methodology which has been approved by the Minister;
- comply with information about each flight path which has been approved by the Minister;
- comply with an environmental plan that is required under another Australian law or a plan which has been approved by the Minister;
- amend, to keep in an up-to-date condition, any plans approved by the Minister in support of the application;
- revise certain plans according to any directions given by the Minister in accordance with subregulation 2.04D(4); and
- provide copies of any amended plans to the Minister.

Subregulation 2.04D (2) specifies the circumstances under which a flight test plan will be required, namely, where a launch vehicle is of a new kind and no launch vehicles of that kind have been flight tested, or where the launch vehicle has undergone a major modification.

Subregulation 2.04D(3) specifies the types of modifications which may be considered to be major modifications to a launch vehicle for the purposes of subregulation 2.04D(2).

Subregulation 2.04D(4) provides for the Minister to give the licence holder a written direction to revise any of the following documents: the program management plan, the flight test plan, the technology security plan, the risk hazard analysis methodology and the environmental plan.

Item 6 Substitute paragraph 2.06(1)(b)

This paragraph has been amended to allow all applicants for a space licence to submit an Australian Business Number (ABN), if they have one, in addition to an Australian Company Number (ACN). Applicants are also required to provide evidence of their corporate status.

Item 7 Insert new paragraph 2.06(1)(ea)

This item inserts another paragraph to ensure that the applicant for a space licence must specify each flight path proposed to be covered by the space licence.

Item 8 Substitute paragraphs 2.06(1)(h) and (i), insert new paragraph (j)

This regulation identifies the regulations which set out the requirements for the form of application for the grant of a space licence applicable to the different categories of applicants.

Paragraph 2.06(1)(h) specifies subregulation 2.06(4) as the subregulation setting out the requirements for the form of application for the grant of a space licence common to all categories of applicants.

Paragraph 2.06(1)(i) specifies subregulation 2.06(4B) as the subregulation setting out the requirements for the form of application for the grant of a space licence for an applicant that is not an approved scientific or educational organisation.

Paragraph 2.06(1)(j) specifies subregulation 2.06(4C) as the subregulation setting out the requirements for the form of application for the grant of a space licence for an approved scientific or educational organisation.

Item 9 Substitute subregulations 2.06(4) and (4A), insert new subregulations 2.06(4B) and (4C)

Subregulation 2.06(4) specifies the requirements for the form of application for a space licence for all applicants under paragraph 2.06(1)(h). The subregulation specifies that the application must include:

- documents providing details of the applicant's organisational structure, financial standing and key personnel connected with the operation of the launch facility and launch vehicles;
- where a technical recognition instrument exists in relation to a launch facility or part of a launch facility, the applicant must obtain the Minister's approval to submit documents specified in the technical recognition instrument (and other relevant documents) in substitution for a copy of the design and engineering plans and specifications for all parts of the launch facility;
- where a technical recognition instrument does not exist in relation to the launch facility, the applicant must supply a copy of the design and engineering plans for the facility;
- an emergency plan and any required approvals in relation to the emergency plan;
- an environmental approval or reason why an environmental approval is not required;
- documents relating to the launch vehicle proposed to be used at the facility if a technical recognition instrument does not exist or if a technical recognition instrument does exist; and
- an outstanding acquittals plan.

Subregulation 2.06(4A) retains the same meaning as before but has different cross references to paragraphs as a result of the amendments to the Principal Regulations.

Subregulation 2.06(4B) specifies the requirements for the form of application for the grant of a space licence to be submitted by an organisation that is not an approved scientific or educational organisation in support of their application under paragraph 2.06(1)(i).

The subregulation specifies that the application must include:

- a copy of the program management plan in accordance with documentary and content requirements set out in regulation 2.11;

- a copy of the flight test plan in accordance with documentary and content requirements set out in regulation 2.12;
- a copy of the technology security plan in accordance with documentary and content requirements set out in regulation 2.13;
- a copy of an emergency plan and any required approvals in relation to the emergency plan in accordance with documentary and content requirements set out in regulation 2.14;
- a copy of the risk hazard analysis methodology in accordance with documentary and content requirements set out in regulation 2.16A;
- documents for each flight path proposed to be covered by the space licence in accordance with documentary and content requirements set out in regulation 2.16B; and
- if there are no requirements for environmental plans under any other Australian law, a copy of an environmental plan in accordance with documentary and content requirements set out in regulation 2.17, together with an assessment of its adequacy prepared by an independent third party.

Subregulation 2.06(4C) specifies the requirements for the form of application for the grant of a space licence to be submitted by an approved scientific or educational organisation in support of their application under paragraph 2.06(1)(j). In keeping with the differing conditions applying to the different categories of licence holders, the form of application for the grant of a space licence for approved scientific or educational organisations requires the submission of a number of documents but does not specify the content requirements in relation to those documents.

Approved scientific or educational organisations will need to have regard to the content requirements for documents which constitute the form of application for an organisation that is not an approved scientific or educational organisation. Given the intention to deal flexibly with approved scientific or educational organisations, it is anticipated that expectations of the specific requirements for documents making up the form of application will be established by the regulator following contact with the applicant.

The subregulation specifies that the application must include the following:

- a copy of the declaration under section 8A of the Act in relation to the applicant;
- documents providing evidence of the purpose of each activity proposed to be undertaken by the applicant;
- a copy of the program management plan;
- a copy of the flight test plan;
- a copy of the technology security plan;
- a copy of an emergency plan and any required approvals in relation to the emergency plan;
- if there are no requirements for environmental plans under other Australian law, a copy of an environmental plan approved by the Minister;

- a description of the risk hazard analysis methodology that the applicant proposes to use; and
- a description of each flight path proposed to be covered by the space licence.

Item 10 Subregulation 2.06 (5A)

This item omits subregulation 2.06(5A), as new requirements for a hazard analysis for each launch and any connected return have been established under the Amendment Regulations.

Item 11 Substitute regulation 2.06A heading

2.06A Alternative documents for subparagraph 2.06(4)(c)(ii)

This item substitutes the heading as a result of the amendments to the Principal Regulations.

Item 12 Subregulation 2.06A(2)

This item updates the cross references in the Principal Regulations.

Item 13 Subparagraphs 2.06A(3)(e)(i) and (4)(b)(i)

This item updates the cross references in the Principal Regulations.

Item 14 Substitute regulation 2.06B heading

2.06B Alternative documents for sub-subparagraph 2.06(4)(g)(ii)(B)

This item replaces the heading as a result of the amendments to the Principal Regulations.

Item 15 Subregulation 2.06B(2)

This item updates the cross references in the Principal Regulations.

Item 16 Subparagraphs 2.06B(3)(e)(i) and (4)(b)(i)

This item updates the cross references in the Principal Regulations.

Item 17 Substitute paragraph 2.08(1)(c), insert new paragraph 2.08(1)(ea)

This paragraph has been amended to allow all proposed transferees for the transfer of a space licence to submit an ABN, if they have one, in addition to an ACN. Applicants are also required to provide evidence of their corporate status.

Item 18 Substitute paragraph 2.08(1)(h), insert new paragraphs 2.08(1)(i) and (j)

This regulation identifies the regulations which set out the requirements for the form of application for the transfer of a space licence applicable to the different categories of proposed transferees.

Paragraph 2.08(1)(h) specifies subregulation 2.08(4) as the subregulation setting out the requirements for the form of application for the transfer of a space licence common to all categories of proposed transferees.

Paragraph 2.08(1)(i) specifies subregulation 2.08(4A) as the subregulation setting out the requirements for the form of application for the transfer of a space licence for a proposed transferee that is not an approved scientific or educational organisation.

Paragraph 2.08(1)(j) specifies subregulation 2.08(4B) as the subregulation setting out the requirements for the form of application for the transfer of a space licence for a proposed transferee that is an approved scientific or educational organisation.

Item 19 Substitute subregulation 2.08(4)

Subregulation 2.08(4) specifies the requirements for the form of application for the transfer of a space licence to be submitted by all categories of proposed transferees in support of their application under paragraph 2.08(1)(h). The subregulation specifies that the application must include:

- documents providing details of the proposed transferee's organisational structure, financial standing and key personnel connected with the operation of the launch facility and launch vehicles;
- where a technical recognition instrument exists in relation to a launch facility or part of a launch facility, the proposed transferee must obtain the Minister's approval to submit documents specified in the technical recognition instrument (and other relevant documents) in substitution for a copy of the design and engineering plans and specifications for all parts of the launch facility;
- where a technical recognition instrument does not exist in relation to the launch facility, the proposed transferee must supply a copy of the design and engineering plans for the facility;
- an emergency plan and any required approvals in relation to the emergency plan obtained by the proposed transferee;
- an environmental plan or reason why an environmental plan is not required; and
- an outstanding acquittals plan in accordance with regulation 2.16.

Subregulation 2.08(4A) specifies the requirements for the form of application for the transfer of a space licence to be submitted by a proposed transferee that is not an approved scientific or educational organisation in support of their application under paragraph 2.08(1)(i).

The subregulation specifies that the application must include the following in relation to the transferee:

- a copy of the proposed transferee's program management plan in accordance with documentary and content requirements set out in regulation 2.11;
- a copy of the proposed transferee's flight test plan in accordance with documentary and content requirements set out in regulation 2.12;

- a copy of the proposed transferee's technology security plan in accordance with documentary and content requirements set out in regulation 2.13;
- a copy of the proposed transferee's emergency plan and any required approvals in relation to the emergency plan in accordance with documentary and content requirements set out in regulation 2.14;
- a copy of the proposed transferee's risk hazard analysis methodology in accordance with documentary and content requirements set out in regulation 2.16A;
- documents for each flight path proposed to be covered by the space licence in accordance with documentary and content requirements set out in regulation 2.16B; and
- if there are no requirements for environmental plans under other Australian law, a copy of an environmental plan in accordance with documentary and content requirements set out in regulation 2.17 together with an assessment of its adequacy prepared by an independent third party.

Subregulation 2.08(4B) specifies the requirements for the form of application for the transfer of a space licence to be submitted by a proposed transferee that is an approved scientific or educational organisation in support of their application under paragraph 2.08(1)(j). In keeping with the differing conditions applying to the different categories of licence holders, the form of application for the transfer of a space licence for an approved scientific or educational organisation requires the submission of a number of documents but does not specify the content requirements for these documents.

Approved scientific or educational organisations will need to have regard to the content requirements for documents which constitute the form of application for an organisation that is not an approved scientific or educational organisation. Given the intention to deal flexibly with approved scientific or educational organisations, it is anticipated that expectations on the specific requirements for documents will be established by the regulator following contact with the proposed transferee.

The subregulation specifies that the application must include the following:

- a copy of the declaration under section 8A of the Act in relation to the proposed transferee;
- documents providing evidence of the purpose of each activity proposed to be undertaken by the proposed transferee;
- a copy of the proposed transferee's program management plan;
- a copy of the proposed transferee's flight test plan;
- a copy of the proposed transferee's technology security plan;
- a copy of the proposed transferee's emergency plan;
- a copy of the proposed transferee's risk hazard analysis methodology;
- documents for each flight path proposed to be covered by the space licence; and

- if there are no requirements for environmental plans under other Australian law, a copy of an environmental plan approved by the Minister.

Item 20 Subregulation 2.08(5A)

This item is omitted as the amendments to the Principal Regulations remove any reference to an alternative methodology for hazard analysis.

Item 21 Paragraph 2.08(7)(b)

This item replaces the term "applicant" with the term "proposed transferee" for the purposes of clarity and uniformity throughout the Amendment Regulations.

Item 22 Substitute regulation 2.08A heading

2.08A Alternative documents for subparagraph 2.08(4)(c)(i)

This item replaces the heading as a result of the amendments to the Principal Regulations.

Item 23 Subregulation 2.08A(2)

This item updates the cross references in the Principal Regulations.

Item 24 Subparagraphs 2.08A(3)(e)(i) and (4)(b)(i)

This item updates the cross references in the Principal Regulations.

Item 25 Division 2.7, heading

Division 2.7 Documents relevant to certain conditions and applications under this Part

This item replaces the heading as a result of amendments to the Principal Regulations.

Item 26 Regulation 2.11

This item updates the cross references in the Principal Regulations.

Item 27 Regulation 2.12

This item updates the cross references in the Principal Regulations.

Item 28 Subregulation 2.13(1)

This item updates the cross references in the Principal Regulations.

Item 29 Regulation 2.14

This item updates the cross references in the Principal Regulations.

Item 30 Regulation 2.15

This item updates the cross references in the Principal Regulations.

Item 31 Regulation 2.16

This item updates the cross references in the Principal Regulations.

Item 32 Substitute paragraph 2.16(c)

This item substitutes the existing paragraph 2.16(c) with a new one which updates the cross references in the Principal Regulation. This is the result of the distinction being drawn between two categories of licence holders under the Amendment Regulations.

Item 33 Insert after paragraph 2.16(c)

This item inserts two new subregulations which are the result of the distinction being drawn between two categories of licence holders under the Amendment Regulations. The effect of this item is that it improves the clarity of regulation 2.16.

Item 34 Insert after regulation 2.16 in Division 2.7

2.16A Risk hazard analysis methodology

This item specifies the documentary information an applicant is required to provide in relation to its proposed risk hazard analysis methodology. This is the result of the amendments to the Principal Regulations which provide for a single process for assessing an applicant's proposed risk hazard analysis methodology. There are two categories of information required from the applicant:

- information that allows the regulator to assess the proposed risk hazard methodology against the Risk Hazard Analysis Methodology of the Flight Safety Code; and
- information about any software that the applicant proposes to use to implement the risk hazard analysis methodology.

Regulation 2.16B Documents relating to flight paths

This item sets out the information an applicant is required to provide in relation to each flight path proposed to be covered by the space licence. This includes the following:

- a description of the flight path and the purpose of the flight path;
- the configuration of each launch vehicle that might be used on the flight path;
- details of the assets and the population that might be affected by an accident involving the operation of the launch vehicle on the flight path;
- a description of how the licence holder or applicant has ensured that the level of risk involved in the operation of the launch vehicle on the flight path will be as low as is reasonably practicable and comply with the launch safety standards set out in the Flight Safety Code; and
- a description of any additional arrangements to be undertaken by the applicant to enhance the safety of the launch activities associated with the flight path.

Item 35 Regulation 2.17

This item updates the cross references in the Principal Regulations.

Item 36 Substitute regulation 3.02

3.02 Standard launch permit conditions

This regulation identifies the regulations relating to launch permit conditions applicable to the different categories of launch permit holders.

Paragraph 3.02(a) specifies regulation 3.02A as the regulation which relates to launch permit conditions common to all categories of launch permit holders.

Paragraph 3.02(b) specifies regulation 3.02B as the regulation which relates to launch permit conditions applicable to an organisation that is not an approved scientific or educational organisation.

Paragraph 3.02(c) specifies regulation 3.02C as the regulation which relates to launch permit conditions applicable to an approved scientific or educational organisation.

Regulation 3.02A Standard launch permit conditions - all launch permit holders

This regulation sets out extra conditions that apply to all categories of launch permit holders, in addition to those specified in section 29 of the Act.

The conditions set out in the regulation require the launch permit holder to:

- respond to and record their response to directions given by the Launch Safety Officer, provide a copy of the record and direction to the Minister, and retain a record of the direction and response for 7 years;
- conduct the launch and any connected return only at the date and time specified in the permit;
- provide additional information to the Minister following a launch as required under Australia's international obligations and the Flight Safety Code; and
- comply with any notice from the Minister under section 60 of the Act.

Regulation 3.02B Additional standard launch permit conditions - permit holders that are not approved scientific or educational organisations.

This regulation sets out the extra conditions that apply to a launch permit holder that is not an approved scientific or educational organisation, in addition to those specified in section 29 of the Act. The conditions are as follows:

- meet all costs and expenses for an investigation into any accident or incident up to a total of \$3,000,000;
- ensure that a hazard analysis that complies with paragraph 3.04(4A)(d) has been carried out for each launch from the launch facility and any connected return;

- provide confirmation of launch details to the Minister prior to a launch;
- ensure that the launch is conducted in accordance with the program management plan as set out in regulation 3.08; the technology security plan as set out in regulation 3.09 and the flight safety plan set out in regulation 3.10. All these plans must also be approved by the Minister;
- ensure that each launch conforms to the requirements of Australian environmental law or an environmental plan as set out in regulation 3.12 and is approved by the Minister;
- amend the plans so that they remain up to date;
- revise certain plans according to any directions given by the Minister under subregulation 3.02B(2); and
- provide copies of amendments to plans to the Minister, so that the Minister remains informed.

Subregulation 3.02B (2) provides for the Minister to give the launch permit holder directions to revise any of the following documents: the program management plan, the technology security plan, the flight safety plan and the environmental plan.

Regulation 3.02C Additional standard launch permit conditions - launch permit holders that are approved scientific or educational organisations.

This regulation sets out the extra conditions that apply to an approved scientific or educational organisation launch permit holder, in addition to those specified in section 29 of the Act.

The activity to be undertaken under the launch permit will need to be the same as the information about the activity given by the launch permit holder under regulation 1.04. The subject matter of the remaining conditions for approved scientific or educational organisations mirrors those for organisations that are not approved scientific or educational organisations, namely the requirement for the submission of a number of documents such as the program management plan and the risk hazard analysis methodology. The differences in the conditions for the two categories of launch permit relates to the content requirements for each of these documents.

For approved scientific or educational organisations, the Amendment Regulations does not specify the content requirements for each of these documents. This will allow for the specific content requirements associated with these documents to be tailored to the scale, risk and nature of the space activity to be undertaken by the applicant. All plans will need to be approved by the Minister. Approved scientific or educational organisations will need to have regard to the conditions for a launch permit for an organisation that is not an approved scientific or educational organisation. Given the intention to deal flexibly with approved scientific or educational organisations, it is anticipated that expectations of the content requirements for documents will be established by the regulator following contact with the applicant.

The conditions set out in the regulation require the launch permit holder to:

- meet all costs and expenses for an investigation into any accident or incident up to a total of \$3,000,000 or a lower amount specified by the Minister;

- ensure that the activity undertaken under the launch permit accords with information about the activity given by the launch permit holder under regulation 1.04;
- ensure that a hazard analysis that complies with paragraph 3.04(4B)(f) has been carried out for each launch from the launch facility and any connected return;
- provide confirmation of launch details to the Minister prior to a launch;
- ensure that the launch is conducted in accordance with the program management plan, the technology security plan and the flight safety plan with all three plans having been approved by the Minister;
- ensure that each launch conforms to the requirements of Australian environmental law or an environmental plan that is approved by the Minister;
- amend the plans so that they remain up-to-date;
- revise certain plans according to any directions given by the Minister under subregulation 3.02C(2); and
- provide copies of amendments to plans to the Minister, so that the Minister remains informed.

Subregulation 3.02C (2) provides for the Minister to give the launch permit holder directions to revise any of the following documents: the program management plan, the technology security plan, the flight safety plan and the environmental plan.

Item 37 Substitute paragraph 3.04(1)(b), insert new paragraph 3.04(1)(ba)

This paragraph has been amended to allow applicants for a launch permit to submit an ABN, if they have one, in addition to an ACN. Applicants are also required to provide evidence of their corporate status.

Item 38 Substitute paragraph 3.04(1) (1)

This regulation identifies the regulations which set out the requirements for the form of application for the grant of a launch permit applicable to the different categories of applicants.

Paragraph 3.04(1)(1) specifies subregulation 3.04(4) as the subregulation setting out the requirements for the form of application for the grant of a launch permit for all categories of applicants.

Paragraph 3.04(1)(m) specifies subregulation 3.04(4A) as the subregulation setting out the requirements for the form of application for the grant of a launch permit for an organisation that is not an approved scientific or educational organisation.

Paragraph 3.04(1)(n) specifies subregulation 3.04(4B) as the subregulation setting out the requirements for the form of application for the grant of a launch permit for an approved scientific or educational organisation.

Item 39 Substitute subregulation 3.04(4)

Subregulation 3.04(4) specifies the requirements for the form of application for the grant of a launch permit for all categories of applicants under paragraph 3.04(1)(1). The subregulation specifies that the application must include:

- details of the qualifications and experience of each person who will be responsible for specified key functions in relation to the proposed launch or connected return;
- a statement of procedures in relation to the return of a space object, and of technical parameters related to the return;
- a statutory declaration by the CEO, however described, of the applicant confirming that the space object(s) does not contain a nuclear weapon or weapons of mass destruction;
- a written statement indicating whether the applicant proposes to satisfy the insurance requirements under paragraph 47(2)(a) of the Act or show direct financial responsibility for the launch as described under paragraph 47(2)(b) of the Act; and
- a copy of any documents specified in the Flight Safety Code and required by the Code to be lodged with an application for a launch permit.

Subregulation 3.04(4A) specifies the requirements for the form of application for the grant of a launch permit to be submitted by an organisation that is not an approved scientific or educational organisation in support of their application under paragraph 3.04(1)(m).

The subregulation specifies that the application must include:

- a copy of the program management plan in accordance with regulation 3.08;
- a copy of the technology security plan in accordance with regulation 3.09;
- a flight safety plan in accordance with regulation 3.10;
- a hazard analysis of the proposed launch and any connected return, carried out by a qualified expert approved by the Minister, in accordance with the risk hazard analysis methodology mentioned in paragraph 2.04C(1)(e) and that meets the launch safety standards set out in the Flight Safety Code; and
- if no other Australian law requires an environmental plan, an environmental plan containing the information set out in regulation 3.12, and an assessment of its adequacy prepared by an independent third party.

Subregulation 3.04(4B) specifies the requirements for the form of application for the grant of a launch permit to be submitted by an approved scientific or educational organisation applicant in support of their application under paragraph 3.04(1)(n). In keeping with the differing conditions applying to the different categories of launch permit holders, the form of application for the grant of a launch permit for approved scientific or educational organisations requires the submission of a number of specified documents but does not specify the content requirements for these documents.

Approved scientific or educational organisations will need to have regard to the content requirements for documents which constitute the form of application for an organisation that is not an approved scientific or educational organisation. Given the intention to deal flexibly with approved scientific or educational organisations, it is anticipated that expectations on the specific

requirements in relation to the specified documents will be established by the regulator following contact with the applicant. The subregulation specifies that the application must include:

- a copy of the declaration under section 8A of the Act in relation to the applicant;
- evidence of the purpose of each activity proposed to be undertaken by the applicant;
- a copy of the program management plan;
- a copy of the technology security plan;
- a flight safety plan;
- a hazard analysis of the proposed launch and any connected return, carried out by a qualified expert approved by the Minister, in accordance with the risk hazard analysis methodology mentioned in paragraph 2.04D(1)(f) and that meets the launch safety standards set out in the Flight Safety Code; and
- if no other Australian law requires an environmental plan, an environmental plan containing the arrangements and procedures approved by the Minister under which the applicant proposes to conduct the launch or launches and any connected return.

Item 40 Substitute paragraph 3.06(1) (c)

This paragraph has been amended to allow the proposed transferee in an application for the transfer of a launch permit to submit an ABN, if they have one, in addition to an ACN. The proposed transferee is also required to provide evidence of their corporate status.

Item 41 Substitute paragraphs 3.06(1)(ia), (j), (k) and (l)

This item renumbers the paragraphs identified in order to tidy up the Principal Regulations.

This item also inserts new paragraphs that identify the regulations which set out the requirements for the form of application for the transfer of a launch permit applicable to the different categories of applicants.

Paragraph 3.06(1)(m) specifies subregulation 3.06(4) as the subregulation setting out the requirements for the form of application for the transfer of a launch permit for all categories of proposed transferees.

Paragraph 3.06(1)(n) specifies subregulation 3.06(4A) as the subregulation setting out the requirements for the form of application for the transfer of a launch permit for a proposed transferee that is not an approved scientific or educational organisation.

Paragraph 3.06(1)(o) specifies subregulation 3.06(4B) as the subregulation setting out the requirements for the form of application for the transfer of a launch permit for a proposed transferee that is an approved scientific or educational organisation.

Item 42 Substitute subregulation 3.06(4)

Subregulation 3.06(4) specifies the requirements for the form of application for the transfer of a launch permit for all categories of applicants under paragraph 3.06(4)(m). The subregulation specifies that the application must include:

- details of the qualifications and experience of each person who will be responsible for specified key functions in relation to the proposed launch or connected return if the launch permit were transferred to the proposed transferee;
- a statutory declaration by the CEO, however decribed, of the proposed transferee's organisation confirming that the space object does not contain a nuclear weapon or weapons of mass destruction; and
- a written statement indicating whether the proposed transferee proposes to satisfy the insurance requirements under paragraph 47 (2) (a) of the Act or show direct financial responsibility for the launch as described under paragraph 47 (2) (b) of the Act.

Subregulation 3.06(4A) specifies the requirements for the form of application for the transfer of a launch permit to be submitted by a proposed transferee that is not an approved scientific or educational organisation in support of their application under paragraph 3.06(1)(n).

The subregulation specifies that the application must include:

- a copy of the proposed transferee's program management plan in accordance with regulation 3.08;
- a copy of the proposed transferee's technology security plan in accordance with regulation 3.09;
- the proposed transferee's flight safety plan in accordance with regulation 3.10;
- a hazard analysis of the proposed launch and connected return, carried out by a qualified expert approved by the Minister, in accordance with the risk hazard analysis methodology mentioned in paragraph 2.04C(1)(e) and that meets the launch safety standards set out in the Flight Safety Code; and
- if no other Australian law requires an environmental plan, an environmental plan containing the information set out in regulation 3.12 and an assessment of its adequacy prepared by an independent third party.

Subregulation 3.06(4B) specifies the requirements for the form of application for the transfer of a launch permit to be submitted by an approved scientific or educational organisation applicant in support of their application under paragraph 3.06(1)(o). In keeping with the differing conditions applying to the different categories of launch permit holders, the form of application for the transfer of a launch permit for approved scientific or educational organisations requires the submission of a number of documents but does not specify the content requirements for these documents.

Approved scientific or educational organisations will need to have regard to the content requirements for documents which constitute the form of application for the transfer of a launch permit, for an organisation that is not an approved scientific or educational organisation. Given the intention to deal flexibly with an approved scientific or educational organisation, it is anticipated that expectations on the specific requirements for documents will be established by the regulator following contact with the proposed transferee. The subregulation specifies that the application must include:

- a copy of the declaration under section 8A of the Act in relation to the proposed transferee;

- evidence of the purpose of each activity proposed to be undertaken by the proposed transferee;
- a copy of the program management plan;
- a copy of the proposed transferee's technology security plan;
- the proposed transferee's flight safety plan;
- a hazard analysis of the proposed launch and connected return, carried out by a qualified expert approved by the Minister, in accordance with the risk hazard analysis methodology mentioned in paragraph 2.04D(1)(f) and that meets the launch safety standards set out in the Flight Safety Code; and
- if no other Australian law requires an environmental plan, an environmental plan containing the arrangements and procedures approved by the Minister under which the proposed transferee proposes to conduct the launch or launches and any connected return.

Item 43 Substitute Division 3.5 heading

Division 3.5 Documents relevant to certain conditions and applications under this Part

This item substitutes the existing heading to improve its clarity.

Item 44 Regulation 3.08

This item updates the cross references in the Principal Regulations.

Item 45 Subregulation 3.09(1)

This item updates the cross references in the Principal Regulations.

Item 46 Regulation 3.10

This item updates the cross references in the Principal Regulations.

Item 47 Regulation 3.11

This item updates the cross references in the Principal Regulations.

Item 48 Regulation 3.12

This item updates the cross references in the Principal Regulations.

Item 49 Substitute paragraph 4.03(1)(b)

This paragraph is amended to allow applicants for an overseas launch certificate the option to submit an ABN, if they have one.

Item 50 Paragraph 4.03(4)(f)

This item involves a change in punctuation at the end of the paragraph to reflect the addition of a new paragraph.

Item 51 Insert after paragraph 4.03(4) (f)

This item inserts a requirement for an application for an overseas launch permit by an approved scientific or educational organisation to include a copy of the following:

- a declaration under section 8A of the Act; and
- a document setting out evidence of the purpose of each activity to be undertaken by the applicant.

Item 52 Substitute paragraph 4.05(1) (c)

This paragraph is amended to allow a proposed transferee in an application for the transfer of an overseas launch certificate to submit an ABN, if they have one.

Item 53 Subparagraphs 4.05(1)(d)(i) and (ii)

This item replaces the term "applicant" with the term "proposed transferee" for the purposes of clarity and uniformity in the Amendment Regulations.

Item 54 Paragraph 4.05(5) (d)

This item involves a change in the punctuation at the end of the paragraph to reflect the addition of a new paragraph.

Item 55 Insert after paragraph 4.05(5) (d)

This item inserts the requirements for an application for a transfer of an overseas launch permit by an approved scientific or educational organisation to include the following:

- a copy of the declaration under section 8A of the Act; and
- a document setting out evidence of the purpose of each activity to be undertaken by the proposed transferee.

Item 56 Substitute Part 9 Fees

Part 9 Fees

This part has been amended to include the fees for an approved scientific or educational organisation. Regulations have also been made in relation to fees for the following:

- an application for an authorisation under section 43 of the Act concerning the return of a space object to a place in Australia; and
- an annual licence fee for a space licence for both categories of licence holders.

The lower fees for approved scientific or educational organisation acknowledge the public benefit component of the activities undertaken by such organisations. They also ensure that the fees do not unduly restrict such organisations from undertaking research activities.

9.01 Fees for applications for launch permits

Regulation 9.01 specifies the fee for a launch permit application under section 59(1) of the Act at \$40,000 and at \$10,000 for each subsequent launch for a person other than an approved scientific or educational organisation. The regulation also specifies the fee for a launch permit for an approved scientific or educational organisation at \$400 and at \$100 for each subsequent launch. The applicant is required to pay the fee when the application is made.

9.02 Fees for applications for overseas launch certificates

Regulation 9.02 specifies the fee for an overseas launch certificate for a person other than an approved scientific or educational organisation at \$10,000. The regulation also specifies the fee for an overseas launch certificate for an approved scientific or educational organisation at \$100. The applicant is required to pay the fee when the application is made.

9.03 Fees for applications for authorisations

Regulation 9.03 specifies the fee for an application for an authorisation under section 43 of the Act for a person other than an approved scientific or educational organisation at \$10,000. The regulation also specifies the fee for an authorisation under section 43 of the Act for an approved scientific or educational organisation at \$100. The applicant is required to pay the fee when the application is made.

9.04 Fees for applications for space licences

Regulation 9.04 specifies the fee for a space licence for a person other than an approved scientific or educational organisation at \$300,000. The regulation also specifies the fee for a space licence for an approved scientific or educational organisation at \$3,000. The applicant is required to pay the fee at the time of application, or by two equal instalments, with the first payment due at the time of the application and the second payment due within four months of submission of the application.

9.05 Annual licence fees

Regulation 9.05 specifies the annual licence fee for a space licence for a person other than an approved scientific or educational organisation at \$190,000. The regulation also specifies the annual licence fee for a space licence for an approved scientific or educational organisation at \$1,900. The applicant is required to pay the fee on or before the anniversary in each year of the day when the space licence was granted.

9.06 Fees for application for exemption certificates

Regulation 9.06 specifies the fee for an application for an exemption certificate for a person other than an approved scientific or educational organisation at \$10,000. Section 46 of the Act provides that the Minister may issue an exemption certificate to persons exempting them from the requirement to have a launch permit or other permissions for the return of a space object to Australia or to operate a launch facility. The regulation also specifies the fee for an exemption certificate for an approved scientific or educational organisation at \$100. The applicant is required to pay the fee when the application is made.

9.07 Non-payment of fees

Regulation 9.07 specifies that the recovery of any unpaid or overdue fees may be made through the courts.

Item 57 Insert in Part 10, before regulation 10.01

10.01A Circumstances - accident

This item prescribes a circumstance under paragraph 85(b) of the Act where an event will not be viewed as an accident if the following requirements are satisfied:

- where damage to the space object occurs in a manner consistent with the stated purpose of the activity for which the object is being used; and
- the flight was not terminated by the operation of a flight safety system.

Item 58 Substitute regulation 11.01

11.01 Delegations by Minister (Act, s104)

This item substitutes regulation 11.01 to update the cross references in the Principal Regulations.

Item 59 Paragraph 11.02(a)

This item updates the cross references in the Principal Regulations.

Item 60 Additional amendments

This item replaces a number of terms in the specified subregulations, paragraphs and subparagraphs for the purposes of clarity and uniformity throughout the Amendment Regulations. The following terms have been affected:

- the term "transferee" has been replaced with the term "proposed transferee";
- the term "transferee's" has been replaced with the term "proposed transferee's" and
- the term "transferor" has been replaced with the term "proposed transferor".