

Legal Alert

Corporate

September 2019

Recent changes to Australian space law will assist participation

In a Nutshell

On 31 August 2019, the *Space (Launches and Returns) Act 2018* replaced the existing *Space Activities Act 1998*. The new regulatory framework for space access is designed to reduce barriers to participation in space activities by streamlining the approval process and significantly reducing the insurance required for launches and returns. This is expected to allow smaller businesses and universities to participate in space activities and facilitate innovation and entrepreneurship in Australia's growing space sector.

Existing Framework

Until recently, Australia's existing space regulatory framework was set out in the *Space Activities Act 1998*, and the *Space Activities Regulations 2001*. Recognising the potential for this framework to limit innovation and growth in the rapidly changing space industry, the Australian Government has introduced an updated regulatory regime.

New Legislation

The *Space (Launches and Returns) Act 2018*, the *Space (Launches and Returns) (General) Rules 2019*, and the *Space (Launches and Returns) (Insurance) Rules 2019* are now in effect. In addition, the *Space (Launches and Returns) (High Power Rocket) Rules 2019* will commence on 30 June 2020.

The new legislation has been developed to provide flexibility to not only adjust to the changes that have occurred within the space industry in recent years, but also to support innovation and participation by streamlining the approvals processes and reducing insurance requirements. In particular, this should allow smaller, emerging businesses and universities to be able to participate in space activities.

In summary the new legislation:

- extends the framework to cover launches from in-flight aircraft;
- includes arrangements for safe launches and returns of high power rockets;

- streamlines approval and permitting processes;
- significantly reduces the insurance requirements for launches and returns;
- requires a debris mitigation strategy in the application for an Australian launch permit and an overseas payload permit;
- updates a number of key terms (*see table below*)

New terms under the <i>Space (Launches and Returns) Act 2018</i>	Previous terms under the <i>Space Activities Act 1998</i>
Launch facility licence	Space licence
Australian launch permit	Launch permit
Australian high power rocket permit	Previously under the <i>Civil Aviation Safety Regulation 1998</i>
Overseas payload permit	Overseas launch certificates
Return authorisation	Authorisation of return of overseas-launched space objects
Authorisation certificate	Exemption certificate

Launches from in-flight aircraft

An Australian launch permit or an authorisation certificate is now required to launch a space object from an Australian aircraft that is in flight or from a foreign aircraft which is in flight over Australian territory.¹

To obtain the Australian launch permit, the Minister needs to be satisfied that the person carrying out the launch or return is competent, the insurance requirements have been satisfied and the probability of causing substantial harm to the public or property is as low as reasonably practicable.²

Regulation of High Power Rockets

New rules and permit requirements will regulate the launch of high power rockets from 30 June 2020. Existing arrangements will apply until then.

Part 3 Division 4 of the *Space (Launches and Returns) Act 2018* outlines the process for the grant of a high power rocket permit, as well as a number of conditions an applicant must satisfy.

Approval Process

The old framework only allowed launch facility licences and Australian launch permits to be granted to corporations. This limitation has been removed so that small businesses and universities can be granted licences and permits. The new approval process considers the nature of the space activity being undertaken, rather than the type of organisation undertaking it.

Insurance Requirements

Under the new framework, the minimum amount of insurance needed for a launch or return authorised by an Australian launch permit, or authorised by an Australian high power rocket permit, has been significantly reduced from \$750 million to \$100 million.³

These insurance requirements are now located in the *Space (Launches and Returns) (Insurance) Rules 2019* to allow for greater flexibility for updates as the industry develops.

Debris Mitigation Strategy

Parties applying for an Australian launch permit or an overseas payload permit must now include a debris mitigation strategy as part of their application.

The debris mitigation strategy must be based on an internationally recognised guideline or standard,⁴ must

describe mitigation measures planned for orbital debris that may arise from a proposed launch⁵ and the strategy must include an orbital assessment based on an internationally recognised model.⁶

Contact details

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¹ *Space (Launches and Returns) Act 2018* s 12.

² *Space (Launches and Returns) Act 2018* s 28.

³ *Space (Launches and Returns) (Insurance) Rules 2019* s 6.

⁴ *Space (Launches and Returns) (General) Rules 2019* s 54(1).

⁵ *Space (Launches and Returns) (General) Rules 2019* s 54(2).

⁶ *Space (Launches and Returns) (General) Rules 2019* s 54(3).