

Orrery Update November 2020

Consultation on draft insurance and liabilities requirements and charging proposals under the Outer Space Act 1986 and the Space Industry Act 2018

This consultation seeks views on the operability and effectiveness of the Government's proposed liabilities, insurance and charging requirements to implement the Space Industry Act 2018. The closing date is 10 November 2020.

On 13 October 2020, the UK Space Agency (**UKSA**), Department for Transport (**DfT**), Department for Business, Energy and Industrial Strategy (**BEIS**) and the Civil Aviation Authority (**CAA**) published an additional [consultation](#) on draft secondary legislation for implementation of the Space Industry Act 2018 (**SIA**), specifically concerning insurance, liabilities regulations and charging proposals (**Consultation**).

The Consultation supplements the first consultation on "Spaceport and spaceflight activities: regulations and guidance" which closed on 21 October 2020.

The Consultation seeks views on the operability and effectiveness of the following documents:

- The Draft Space Industry (Liabilities) Regulations;
- The Impact Assessment on Liabilities & Insurance 2020;
- Guidance for stakeholders on insurance and liabilities requirements under the SIA; and
- Guidance on the Modelled Insurance Requirement Determination Process.

The Consultation covers:

- the proposed Modelled Insurance Requirement (**MIR**) approach for launch activities;
- liability to indemnify the Government under Section 36 of the SIA;
- a new strict third-party liability regime under Section 34 of the SIA;
- insurance requirements; and
- charging proposals under the Outer Space Act 1986 (**OSA**) and the SIA.

The deadline for submitting a response is 23:59 (GMT) on 10 November 2020.

Liability

The SIA introduces two types of operator liability:

- liability to indemnify the UK Government for claims brought against it (Section 36(1) of the SIA); and
- a new strict liability regime towards third parties for injury or damage caused to:
 - o persons or property on land or water in the UK;
 - o in the territorial sea adjacent to the UK;
 - o aircraft in flight over any such land, water or sea; or
 - o persons or property on board any such aircraft(Section 34(2) of the SIA).

Insurance

The regulator's approach to setting required insurance amounts and limits of liability for satellites launched or operated from the UK and licensed under the SIA will mirror the current policy under the OSA as follows:

- insurance requirement of €60 million for standard missions involving a single satellite; and

- for higher risk missions (novel in nature or scale, using unproven technology) the liability limit and insurance requirement may be set at a higher amount.

An operator's insurance policy will be required to insure the following:

- the UK Government and the persons and bodies listed under Section 36(2) of the SIA against any claims in respect of damage or loss arising out of or in connection with the spaceflight activities authorised by that licence;
- the operator against any liability which may be incurred by it in respect of injury or damage to persons or property under Section 34(2) of the SIA, subject to the specified limit on the amount of the operator's liability;
- the operator against any TPL which may be incurred by it in respect of the death of or bodily injury to any person or damage to property not covered by Section 34(2) of the SIA, subject to the specified limit on the amount of the operator's liability; and
- the operator against any obligation to indemnify either the UK Government or the listed persons or bodies under Section 36(2) of the SIA, subject to any limit on the amount of the operator's liability.

MIR

The Government intends to implement a MIR methodology (similar to the maximum probable loss concept applied in the US) for setting insurance requirements for launch activities from the UK. The MIR is assessed as the amount of potential third party claims that an operator could incur in a realistically possible scenario. The level of insurance required, which would be set out in a licence condition, would be calculated in this way for all types of launch. MIR would not apply to in-orbit operations, where the same approach as currently applied would be used (i.e. €60 million for standard missions).

Charging

A summary of the Government's proposals is as follows.

- There will be no charges (cost recovery) in relation to spaceport, range and launch licensing for the first three years. The costs of initial operations and licensing are likely to be high as the regulator gains experience, particularly in relation to its safety-critical functions. A charging scheme will be implemented in 2024, moving to full cost recovery over a phased approach, such to annual review.
- In relation to OSA licensing, the charge will remain at £6,500 per licence. The same fees will also be charged for SIA satellite (orbital operations) licensing. Longer term, the Government proposes to implement a flexible charging regime for all types of mission and licensing activities.
- In 2021 the exemption from fees for educational institutions will be removed.

It is proposed that SIA satellite licensing fees will become effective by 1 April 2021.

A separate CAA consultation on charging will be published later this month.

Please contact Joanne Wheeler (joanne.wheeler@wearealden.com) if you would like our assistance with your response to the Consultation.



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