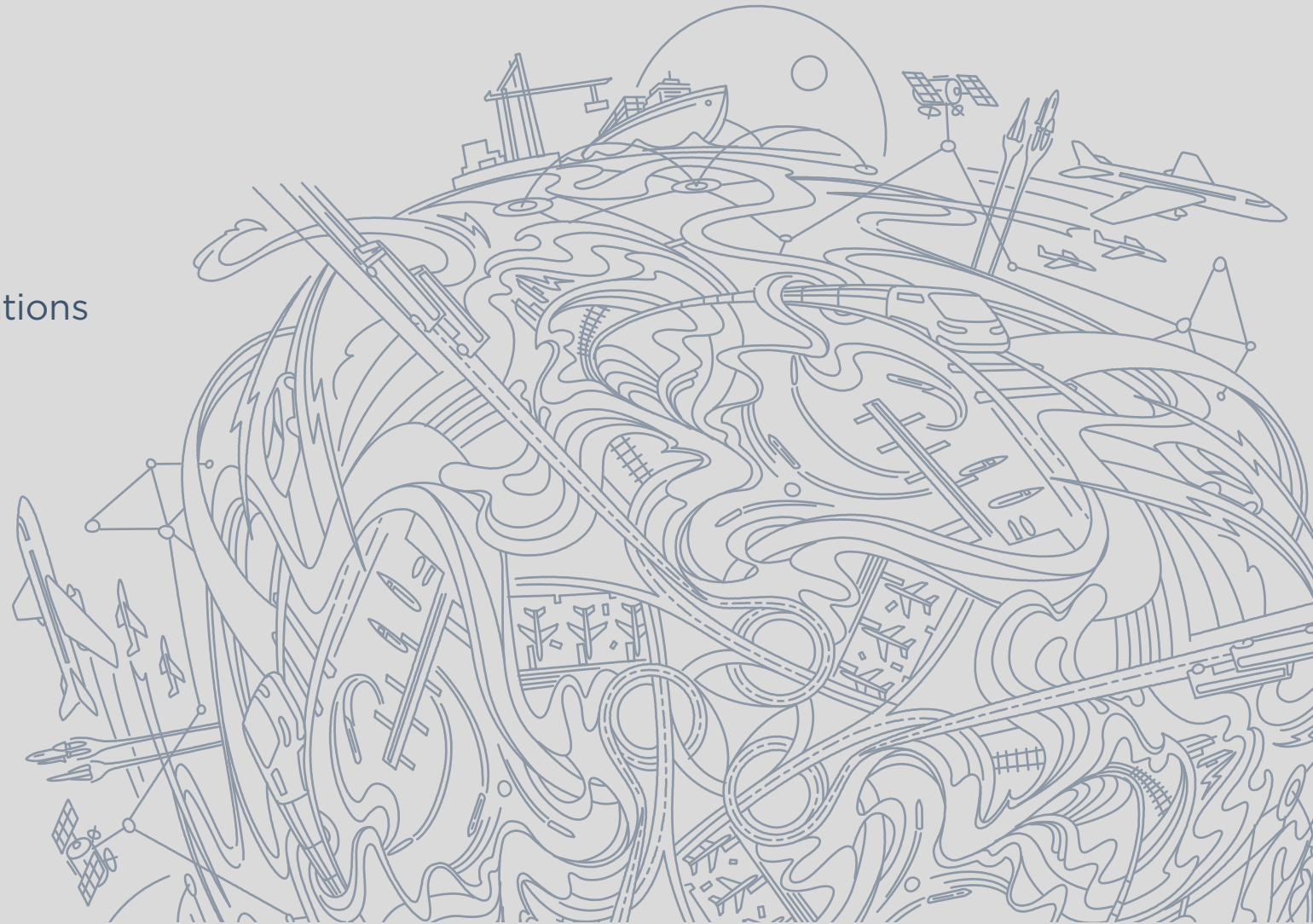


TRENDS IN TRANSPORT

Draft Space Industry Regulations
and Consultation



TRENDS IN TRANSPORT - DRAFT SPACE INDUSTRY REGULATIONS AND CONSULTATION



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PART 3 DRAFT SPACE INDUSTRY REGULATIONS AND CONSULTATION - INTRODUCTION





PART 1

UK'S EMERGING SPACE LAW REGIME

REGULATORY DEVELOPMENTS

The government has published for [consultation a package of draft regulations under the Space Industry Act 2018 \(the Act\)](#). The Act created the high level framework for the development of the UK's ambition to host space launches from UK territory and the draft regulations add crucial detail to that framework.

THE ACT AND THE DRAFT REGULATIONS COVER:

- the launch (into space or into a sub-orbital position) and return of spacecraft;
- procurement of a UK launch and the operation of satellites in orbit; and
- the operation of a Spaceport and the provision of range control services.

In previous Trends in Transport pieces we explored the opportunity for the UK in the global spaceflight and commercial space launch market, which the government has built into its industrial strategy and focused on in the last 10 years.

Part (I) of this article reviews the regulatory context for these new draft rules and the existing framework of international and domestic law applicable to space activities. Part (II) is a Space Law Map, capturing the applicable laws at each level. A summary of some of the key features of the proposed regime as set out in the draft Space Industry Regulations (the Draft Regulations) is available in Part (III), which you can access [here](#).

Since passing the Act in 2018 the Government has been working on key technical detail around the licensing regime for UK spaceports, launch operators and range services and has now established the National Space Council.

That the Government has kept momentum going and published this set of draft regulations despite the extra rulemaking activities caused by Brexit and the Covid-19 pandemic can only mean one thing – the UK is preparing for launch.



UK SPACEPORT INFRASTRUCTURE DEVELOPMENTS (SUTHERLAND SPACEPORT)

Against this background of evolving regulations, spaceport developments have continued to reach new milestones. In late June 2020, Highland Council unanimously approved plans for the construction of a vertical launch spaceport and surrounding launch operation facilities on the A'Mhoine peninsula between Tongue and Durness, a remote area on the north coast of Scotland. The application, submitted by Highlands and Islands Enterprise, was subsequently sent to the Scottish Ministers to confirm if planning approval was required at the national level; Scottish Ministers confirmed on 3 August this was not necessary and publication of the planning permission and its conditions is anticipated. This milestone does, however, mean very little if a sufficient regulatory framework is not in place to allow spaceports and their activities to occur. The consultation and Draft Regulations seek to change this.

WHAT'S IN THE CONSULTATION AND DRAFT REGULATIONS?

The draft legislation which the Government is consulting on is:

- Space Industry Regulations
- The Spaceflight Activities (Investigation of Spaceflight Accidents) Regulations (made under section 20 of the Act)
- The Space Industry (Appeals) Regulations (made under section 60 of the Act)

Commencement regulations (made under section 70) will bring into force some of the provisions of the Act that were not previously commenced by 2018 Commencement regulations but the Government is not consulting on these.

A significant body of guidance has also been published for consultation, including the Regulator's Licensing Rules, risk assessment principles for the regulator (the Civil Aviation Authority) and various guidance for applicants, appellants and licensees.



WHAT'S MISSING - LIABILITY

The treatment of liability for UK space activities under the new regime is a key issue for stakeholders, and section 34 of the Act places strict liability on operators of spaceflight activities for injury or damage to third parties. Individuals will therefore be able to bring a claim against an operator of spaceflight activities without having to prove fault. However, spaceport operators and range control licensees, amongst others, will not be able to utilise the strict liability regime as the policy intent behind this is to protect uninvolved members of the public. Pursuant to the Liability Convention 1972, Launching States are internationally liable for damage arising out of their space activities. Member States, including the UK, require an indemnity for such liability from licensees.

It is anticipated that activities carried out from the UK will include a limit on the licensee's liability to indemnify the Government where a UK entity launches or operates a satellite from the UK. However, the draft legislation does not specify the limit and the consultation notes that this is still being considered by the Government. A further consultation will follow relating to these issues and any insurance requirements.

APPLICATION - DEVOLVED ADMINISTRATIONS

As with the Act, the Draft Regulations extend to the whole of the UK - England and Wales, Scotland and Northern Ireland. The consultation documentation states that the Draft Regulations and guidance has been discussed with the Devolved Administrations and that their views on these are welcomed.

Cooperation and coordination between the Devolved Administrations will be crucial given the location of proposed spaceports in each of these jurisdictions, and the location-specific characteristics of spaceport infrastructure and activities.



The consultation response deadline is
21 October 2020.



PART 2

SPACE LAW MAP



INTERNATIONAL LAWS

A. UN TREATIES ON SPACE LAW

- Outer Space Treaty 1967
- Rescue and Return Agreement 1968
- Liability Convention 1972
- Registration Convention 1975
- Moon Agreement 1984



NATIONAL LAWS

B. OUTER SPACE ACT 1986

Governs space activities of UK companies until the Act enters into force – will continue to regulate space activities carried out overseas.

C. SPACE INDUSTRY ACT 2018

Will be the central piece of the UK legislative framework for space activities taking place from the UK – enabling commercial spaceflight operations from UK territory.

D. DRAFT SPACE REGULATIONS 2020

Contains the detailed regulations for activities carried out from the UK in the draft Space Industry Regulations, Accident Investigation Regulations and Appeals Regulations. Regulatory guidance and the Regulator's Licensing Rules supplement these Regulations.

E. OTHER APPLICABLE UK LAW

- Health and Safety at Work Etc. Act 1974, UK Air Navigation Order 2016, Aviation Security Act 1982
- Environmental and Planning regulation including the Planning (Hazardous Substances) Act 1990, Planning (Hazardous Substances)(Scotland) Act 1997
- Data Protection Act 2018, General Data Protection Regulation

F. OTHER APPLICABLE LAWS

Many other international laws and treaties are relevant to spaceflight activities performed by UK/from the UK, including:

- International aviation and maritime treaties
- ESA Treaty
- EU space law
- Bilateral Agreements including the US-UK Technology Safeguards Agreement
- Missile Technology Control Regime and the Missile Technology Control Regime Guidelines



REGIONAL & EUROPEAN LAWS

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