



Space Industry Act 2018

2018 CHAPTER 5

Liabilities, indemnities and insurance

34 Liability of operator for injury or damage etc

- (1) No liability arises in trespass or nuisance in respect of spaceflight activities carried out in compliance, or substantially in compliance, with the requirements and conditions imposed by or under this Act.
- (2) Where injury or damage is caused to persons or property on land or water in the United Kingdom or in the territorial sea adjacent to the United Kingdom, or to aircraft in flight over any such land, water or sea, or to persons or property on board any such aircraft—
 - (a) by any craft or space object being used by a person (“the operator”) for spaceflight activities,
 - (b) by anything falling from such a craft or object, or
 - (c) by any person in such a craft,damages in respect of the injury or damage are recoverable without proof of negligence or intention or other cause of action, as if the injury or damage had been caused by the wilful act, neglect, or default of the operator.
- (3) Subsection (2) does not apply to—
 - (a) injury or damage sustained by an individual of a prescribed description taking part in, or otherwise engaged in connection with, the spaceflight activities;
 - (b) injury or damage caused or contributed to by the negligence of the person by whom it is sustained.
- (4) Where—
 - (a) injury or damage is caused as mentioned in subsection (2),
 - (b) damages are recoverable from the operator in respect of the injury or damage only by virtue of that subsection, and
 - (c) a person other than the operator is liable in respect of the injury or damage,the operator is entitled to be indemnified by that other person against any claim in respect of the injury or damage.

- (5) Regulations may make provision for an operator licence to specify a limit on the amount of the licensee's liability (under this section or otherwise) in respect of injury or damage that—
 - (a) arises out of spaceflight activities carried out by the licensee, and
 - (b) is sustained in prescribed circumstances or by persons of prescribed descriptions.
- (6) Regulations under subsection (5) may provide for the limit on the amount of a particular licensee's liability to be determined by the regulator in accordance with the regulations.

35 Power or duty of Secretary of State to indemnify

- (1) Subsections (2) and (3) apply where—
 - (a) injury or damage is sustained by a person as a result of spaceflight activities carried out by the holder of an operator licence (“the licensee”),
 - (b) that person is not an individual of a prescribed description taking part in, or otherwise engaged in connection with, those activities, and
 - (c) the licensee is liable to that or some other person (“the claimant”) in respect of the injury or damage.
- (2) If the liability amount exceeds the insurance amount, the Secretary of State may indemnify the licensee in respect of the difference.

In this subsection—

- (a) “the liability amount” means the amount of the licensee's liability (as limited by or under regulations made under section 34(5), if it is so limited);
 - (b) “the insurance amount” means the amount for which the licensee is insured in respect of that liability (or, if a condition imposed by virtue of paragraph 35(a) of Schedule 1 requires the licensee to be insured for a greater amount in respect of it, that greater amount).
- (3) The Secretary of State must indemnify the claimant in respect of any difference between—
 - (a) the amount of the licensee's liability as limited by or under regulations made under section 34(5), and
 - (b) what the amount of that liability would be but for the regulations.
 - (4) The Secretary of State is entitled—
 - (a) to participate in legal proceedings concerning a liability in relation to which a power under subsection (2) or duty under subsection (3) might arise, or
 - (b) to direct the conduct of the case of a person alleged to be liable in such proceedings.
 - (5) Regulations may—
 - (a) prescribe limits on the amounts that the Secretary of State may or must pay under subsection (2) or (3);
 - (b) prescribe cases or circumstances in which the Secretary of State's power under subsection (2) or duty under subsection (3) does not arise;
 - (c) make provision supplementing subsection (4).

36 Obligation to indemnify government etc against claims

- (1) A person carrying out spaceflight activities must indemnify—
 - (a) Her Majesty’s government in the United Kingdom, or
 - (b) a person or body listed in subsection (2),against any claims brought against the government, or the person or body, in respect of damage or loss arising out of or in connection with those activities.
- (2) The listed persons and bodies are—
 - (a) an appointed person;
 - (b) the Health and Safety Executive;
 - (c) the Health and Safety Executive for Northern Ireland;
 - (d) the Office for Nuclear Regulation;
 - (e) a body or person prescribed under section 21(2);
 - (f) a public authority with whom arrangements are made under section 64.
- (3) Subsection (1)—
 - (a) is subject to any limit specified under section 12(2) on the amount of a licensee’s liability, except in prescribed cases or circumstances;
 - (b) is subject to regulations under section 4(4)(e) or (f).
- (4) The obligation in subsection (1) does not apply—
 - (a) to a person carrying out spaceflight activities as an employee or agent of a person who is authorised to carry them out by an operator licence, or
 - (b) in relation to damage or loss resulting from anything done on instructions given by or on behalf of the regulator.

37 Regulator etc not liable in respect of spaceflight-related actions

- (1) A person or body to whom this section applies is not liable (whether in negligence, for breach of statutory duty or on any other basis) to any person—
 - (a) for taking or failing to take any relevant actions, or
 - (b) for the way in which the person or body takes any relevant actions.
- (2) This section applies to—
 - (a) the Secretary of State;
 - (b) the regulator (if the regulator is not the Secretary of State);
 - (c) the CAA (if not an appointed person);
 - (d) the Health and Safety Executive;
 - (e) the Health and Safety Executive for Northern Ireland;
 - (f) the Office for Nuclear Regulation;
 - (g) a body or person prescribed under section 21(2);
 - (h) a public authority with whom arrangements are made under section 64.
- (3) In subsection (1) “relevant actions” means actions in relation to, or in connection with, spaceflight activities or activities associated with spaceflight activities.
- (4) This section does not apply to liability in respect of wilful misconduct or gross negligence.

- (5) For the purposes of subsection (4) there is “gross negligence” on the part of a person or body if—
- (a) the person or body is in breach of a duty of care owed under the law of negligence, and
 - (b) the conduct constituting that breach falls far below what can reasonably be expected of the person or body in the circumstances.

38 Insurance

- (1) Regulations may require holders of licences under this Act and other persons engaged in spaceflight activities to be insured in respect of prescribed risks and liabilities.

The regulations may prescribe—

- (a) matters to be covered by the insurance;
 - (b) matters that may, or may not, be excluded from the cover required;
 - (c) the amounts of cover required.
- (2) Regulations made with the consent of the Treasury may provide for insurance or reinsurance to be made available by the Secretary of State for the purpose of enabling persons to comply with—
- (a) any requirements imposed on them by regulations under subsection (1);
 - (b) any requirements about insurance imposed by licence conditions.
- (3) The Secretary of State may make arrangements with any person, on whatever terms the Secretary of State thinks appropriate, for the purpose mentioned in subsection (2).
- (4) Arrangements under which insurance or reinsurance is made available by the Secretary of State may not be made under subsection (3), but only in accordance with regulations under subsection (2).
- (5) Arrangements under subsection (3) may include—
- (a) the provision of an indemnity or guarantee;
 - (b) the making of grants.
- (6) The Secretary of State must lay before Parliament a statement about arrangements made under subsection (3), as soon as reasonably practicable after they are made, setting out—
- (a) the persons for whose benefit the arrangements are made;
 - (b) the nature of the arrangements;
 - (c) the amount that may be required to discharge the Secretary of State’s obligations under the arrangements.
- (7) While arrangements under subsection (3) continue, the Secretary of State must make a further statement about the arrangements, as soon as reasonably practicable after the end of each report period, setting out—
- (a) any changes in the arrangements;
 - (b) the amount that may be required to discharge the Secretary of State’s obligations under the arrangements.

The “report period” is the period of two years beginning with the day on which the statement under subsection (6) is laid before Parliament, and each subsequent period of two years.

- (8) A reference in this Act to insurance includes a reference to a security that satisfies prescribed conditions.

References in this Act to being insured, and to reinsurance, are to be read accordingly.

- (9) Sums received by the Secretary of State by virtue of subsection (2), or under arrangements made under subsection (3), are to be paid into the Consolidated Fund.
- (10) Sums required by the Secretary of State for fulfilling obligations by virtue of subsection (2), or under arrangements made under subsection (3), are to be paid out of money provided by Parliament.