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PROSPECTIVE

## SCHEDULES

### SCHEDULE 10

Section 60

#### APPEALS IN CONNECTION WITH SPACEFLIGHT ACTIVITIES

##### PART 1

##### APPEAL PANELS

###### *Appeal panels*

- 1 (1) Regulations must make provision for the establishment of one or more panels to consider appeals.
- (2) In this Schedule—
- (a) “appeal” (except in Part 2) means an appeal under paragraph 2, 3 or 4;
  - (b) “panel” means a panel established under the regulations.
- (3) Regulations under sub-paragraph (1) may in particular make provision—
- (a) about the composition of a panel (including the appointment of one of the members of the panel as its Chair);
  - (b) about the terms of a person's appointment as a member of a panel;
  - (c) for the payment of remuneration, allowances or expenses to members of a panel;
  - (d) subject to the provisions of this Schedule, about the powers of a panel;
  - (e) about the quorum of a panel;
  - (f) about the procedure to be followed by a panel in making its decisions;
  - (g) about the appointment of staff to assist a panel.

##### PART 2

##### RIGHTS OF APPEAL

###### *Appeals: refusal to grant licence*

- 2 (1) An appeal lies to a panel against—
- (a) a decision of the regulator to refuse an application for a licence under this Act;
  - (b) a decision of the Secretary of State to refuse an application for a licence under section 4 of the Outer Space Act 1986.
- (2) An appeal under this paragraph may be brought only by the applicant.

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*Appeals: decisions in connection with licences*

- 3 (1) An appeal lies to a panel against a decision of the regulator or the Secretary of State—
- (a) to grant a licence subject to conditions;
  - (b) to refuse to renew a licence;
  - (c) to refuse to consent to the transfer of a licence;
  - (d) to vary, or refuse to vary, a licence;
  - (e) to suspend a licence;
  - (f) to revoke a licence.
- (2) An appeal under this paragraph may be brought—
- (a) in the case of decision specified in sub-paragraph (1)(c), only by the holder of the licence or the person to whom the holder intended to transfer the licence;
  - (b) otherwise, only by the holder of the licence.
- (3) In this paragraph “licence” means a licence under this Act or under the Outer Space Act 1986.

*Appeals: other decisions*

- 4 (1) An appeal lies to a panel against—
- (a) any other decisions of the regulator under this Act, or under regulations made under this Act, that are prescribed;
  - (b) any other decisions of the Secretary of State under the Outer Space Act 1986 that are prescribed.
- (2) An appeal against any such decision may be brought only by a prescribed person.

**PART 3**

DETERMINATION OF APPEAL

*Permission to appeal*

- 5 (1) An appeal to a panel may be brought only with the panel's permission.
- (2) An application for permission to appeal under this Schedule may be made only by a person who, if permission is granted, will be entitled to bring the appeal.
- (3) An application for permission to appeal under this Schedule must be made within the prescribed period.

*Circumstances in which panel may not accept an application*

- 6 (1) Where a person appeals to a panel and there is no appealable decision, the panel may not accept the appeal.
- (2) Where the panel does not accept an appeal, it must—
- (a) notify the person making the appeal and the person who made the decision, and
  - (b) take no further action on that appeal.

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- (3) In this paragraph “appealable decision” means a decision from which an appeal lies to a panel under this Schedule.

*Determination of application for permission to appeal*

- 7 (1) A panel may refuse permission to appeal under this Schedule only on the ground that—
- (a) the appeal is brought for reasons that are trivial or vexatious, or
  - (b) the appeal does not have a reasonable prospect of success.
- (2) A panel may grant permission to appeal under this Schedule subject to conditions.

*When appeals may be allowed*

- 8 A panel may allow an appeal only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds—
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that an error was made in the exercise of a discretion.

*Determination of appeal*

- 9 (1) Where it does not allow an appeal, a panel must confirm the decision appealed against.
- (2) Where it allows an appeal, a panel must do one or more of the following—
- (a) quash the decision appealed against;
  - (b) vary the decision appealed against;
  - (c) remit the matter that is the subject of the decision appealed against to the person who made the decision for reconsideration and determination in accordance with the relevant provisions and any directions given by the panel.
- (3) Where a panel allows only part of an appeal—
- (a) sub-paragraph (2) applies in relation to the part of the decision in respect of which the appeal is allowed, and
  - (b) sub-paragraph (1) applies to the rest of that decision.
- (4) A panel must not give a direction under this paragraph that requires a person to do anything that the person would not have power to do apart from this paragraph.
- (5) A person to whom a direction is given under this paragraph must comply with it.
- (6) A direction given under this paragraph is enforceable—
- (a) in England and Wales and Northern Ireland, as if it were an order of the High Court, and
  - (b) in Scotland, as if it were an order of the Court of Session.
- (7) In this paragraph “the relevant provisions”—
- (a) where the decision appealed against was made under this Act, means the provisions of this Act;

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- (b) where the decision appealed against was made under regulations made under this Act, means those regulations;
- (c) where the decision appealed against was made under the Outer Space Act 1986, means the provisions of that Act.

*Determination of appeal: further provision*

- 10 (1) Regulations may prescribe—
- (a) the form in which a determination of a panel is to be made;
  - (b) the time at which a determination of a panel takes effect;
  - (c) persons to whom copies of a determination of a panel are to be sent.
- (2) Regulations may make provision about publication of determinations of a panel.

*Determination of appeal: time limit*

- 11 A panel must determine an appeal within whatever period is prescribed (if any).

## PART 4

### PROCEDURE

*Representations in relation to an application for permission to appeal*

- 12 (1) This paragraph applies where the relevant person wishes to make representations to a panel in relation to an application under paragraph 5 for permission to appeal against a decision.
- (2) The relevant person must make representations in writing within the prescribed period.
- (3) The period prescribed for the purposes of sub-paragraph (2) must be one that ends after the end of the period prescribed for the purposes of paragraph 5(3).
- (4) The relevant person must send a copy of the representations to the person who made the application for permission to appeal.
- (5) In this paragraph “the relevant person” means the person who made the decision which is the subject of the appeal.

*Intervention in an appeal*

- 13 (1) Where an application is made under paragraph 5 for permission to appeal to a panel against a decision, a person may make an application for permission to intervene in the appeal to the panel.
- (2) An application for permission to intervene may be made before the end of the prescribed period.
- (3) An application for permission to intervene may be made after the end of that period only with the leave of the panel.
- (4) The applicant must send a copy of the application—

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- (a) to the appellant, and
- (b) to the person who made the decision which is the subject of the appeal.

*Determination of application for permission to intervene*

- 14 (1) A panel may grant permission to intervene in an appeal only if it is satisfied—
- (a) that the applicant has a sufficient interest in the decision which is the subject of the appeal, and
  - (b) that allowing the applicant to intervene is necessary or desirable for the proper resolution of the appeal.

*Procedure regulations*

- 15 (1) Regulations may make provision regulating the conduct and disposal of appeals.
- (2) Regulations may make provision supplementing the provisions of this Schedule in relation to any application or requirement for which this Schedule provides.
- (3) Regulations may in particular make provision—
- (a) about the manner in which a panel makes its decisions;
  - (b) about the form of an application for permission to appeal under this Schedule and the information to be provided with an application;
  - (c) about the conditions subject to which permission to appeal may be granted;
  - (d) requiring information to be verified by a statement of truth;
  - (e) about the time limits for taking any step in an appeal before a panel;
  - (f) about intervention in an appeal;
  - (g) about the matters to be taken into account (or disregarded) by a panel when considering an appeal;
  - (h) about the production of documents or information to a panel;
  - (i) about the holding of oral hearings;
  - (j) for dealing with matters without a hearing;
  - (k) about evidence (including the taking of evidence on oath and the administration of oaths);
  - (l) about the circumstances in which an appeal may be dismissed by a panel;
  - (m) about withdrawal—
    - (i) of an application for permission to appeal under this Schedule or, after permission has been granted, of an appeal,
    - (ii) of an application for permission to intervene or, after permission has been granted, of an intervention, or
    - (iii) of any other application in connection with an appeal;
  - (n) about the consequences of non-payment of a fee.
- (4) Regulations under this paragraph—
- (a) may make provision to enable a panel to require the reimbursement of any fee required to be paid by a party to an application or appeal under this Schedule by another party to that application or appeal, but
  - (b) may not confer on a panel any other power (whether by order or otherwise) to require a party to an application or appeal under this Schedule to make payments to another party to the application or appeal in respect of costs.

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(5) Sub-paragraphs (2), (3) and (4)(a) do not limit sub-paragraph (1).

## **PART 5**

### FEES

#### *Fees*

- 16 (1) The Secretary of State may by regulations prescribe fees payable in respect of anything dealt with by a panel under this Schedule.
- (2) Regulations under this paragraph may, in particular, make provision about—
- (a) the scale or rates of fees;
  - (b) exemptions from or reductions in fees;
  - (c) remission of fees in whole or in part.
- (3) Any prescribed fee must be reasonable and proportionate to the costs to which it relates.
- (4) Fees payable under sub-paragraph (1) are recoverable summarily (or, in Scotland, recoverable) as a civil debt by the Secretary of State.

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