Draft Regulations laid before Parliament under section 68(6) of the Space Industry Act 2018, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

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SPACE INDUSTRY

The Space Industry (Appeals) Regulations 2021

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Coming into force - - ***

CONTENTS

PART 1
General

1. Citation, commencement and extent 2
2. Interpretation 2

PART 2
Appeal panels and appealable decisions

3. Panel members list 3
4. Appeal panels 4
5. Staff and facilities 4
6. Constitution of appeal panel 5
7. Prescribed decisions and people 5

PART 3
Permission to appeal

8. Application for permission to appeal 6
9. Fees 7
10. Response to application for permission to appeal 7
11. Application to intervene 8
12. Determination of application for permission to appeal 9

PART 4
Appeals

13. Procedure 9
14. Directions 10

15. Statement of truth 12
16. Service of documents 13
17. Prevention of disclosure or publication of documents and information 14
18. Evidence 15
19. Hearings 16
20. Failure to comply with direction 16
21. Striking out 16
22. Amendments to notice of appeal 16
23. Withdrawal of the appeal 17
24. Decisions on appeals 17

PART 5
Miscellaneous

25. Use of records and documentary evidence: prescribed persons 18
26. Review 18

The Secretary of State, in exercise of the powers conferred by sections 54(1), (2), (3) and (5), 60 and 66(1) and (3) of, and paragraphs 1(1) and (3), 4, 5(3), 10, 12(2), 13(2), 15 and 16(1) and (2) of Schedule 10 to, the Space Industry Act 2018(**a**), makes the following Regulations.

In accordance with section 68(7) of that Act, the Secretary of State has carried out a public consultation.

In accordance with section 68(6) and (7) of that Act, a draft of this instrument and a report about the public consultation have been laid before Parliament.

In accordance with section 68(6) of that Act, the draft of this instrument has been approved by a resolution of each House of Parliament.

PART 1
General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Space Industry (Appeals) Regulations 2021 and come into force on the twenty-first day after the day on which they are made.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

"the Act" means the Space Industry Act 2018;

"appealable decision" means a decision taken by the regulator or by the Secretary of State under the Outer Space Act 1986(**b**) or the Act, which is subject to a right of appeal;

(**a**) 2018 c. 5. See section 69(1) for the definition of "prescribed".
(**b**) 1986 c. 38.

"appellant" means the person who applies for permission to bring an appeal under regulation 8;

"applicable period" means—

(a) a period of 14 days in a standard appeal, and

(b) a period of 28 days in a complex appeal;

"a complex appeal" means an appeal which has been determined to be a complex appeal under regulation 12(4);

"day" means a calendar day;

"Her Majesty's forces" has the same meaning as in the Armed Forces Act 2006(**a**);

"intelligence service" means—

(a) the Security Service;

(b) the Secret Intelligence Service;

(c) the Government Communications Headquarters;

(d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities;

"panel members list" has the meaning given in regulation 3(1);

"panel website" means the website provided for appeal panels under regulation 5(2)(b);

"respondent" means the person who made the decision which is the subject of the appellant's appeal;

"respondent's notice" means the notice served by the respondent under regulation 13(5) responding to the notice of appeal;

"secretary" means the secretary to the appeal panels appointed under regulation 5(1);

"sensitive information" means information which is information obtained, directly or indirectly, from a government department or an intelligence service, the disclosure of which may, in the opinion of the appeal panel—

(a) breach the international obligations of the United Kingdom, or

(b) cause damage to—

(i) national security or international relations, or

(ii) the economic interests of the United Kingdom or any part of the United Kingdom;

"a standard appeal" means an appeal which has been determined to be a standard appeal under regulation 12(4);

"UKSA" means the United Kingdom Space Agency, an executive agency of the Department for Business, Energy and Industrial Strategy.

PART 2

Appeal panels and appealable decisions

Panel members list

3.—(1) The Secretary of State must appoint persons who are eligible to hear appeals in relation to appealable decisions to be members of a list ("the panel members list").

(2) The panel members list must consist of at least five members, drawn from UKSA and government departments.

(**a**) 2006 c. 52.

(3) All members of the panel members list must be senior officials in the organisations in question, and for these purposes "senior official" means—

(a) a member of the senior civil service in a government department, but not a person who has been temporarily promoted to the senior civil service, or

(b) a person holding an equivalent rank in UKSA.

(4) The Secretary of State may appoint the holder of an office specified by the Secretary of State to be a member of the panel members list, provided that the holder of that office satisfies the requirement in paragraph (3).

(5) Persons on the panel members list—

(a) hold and vacate their appointments in accordance with the terms on which they are appointed, and

(b) are eligible for re-appointment at the end of their period of appointment.

(6) The terms and conditions of appointment of persons on the panel members list must be determined by the Secretary of State.

Appeal panels

4.—(1) An appeal, or a request for permission to appeal(**a**), in respect of an appealable decision, is to be determined by an appeal panel appointed by the Secretary of State under regulation 6(2).

(2) Subject to paragraph (6), an appeal panel must consist of three or more members, including, where possible, a representative from UKSA.

(3) One member of each appeal panel appointed must be designated by the Secretary of State as the chair of that panel.

(4) Where an appeal may involve the consideration of sensitive information, all members of the appeal panel appointed to hear that appeal must have a level of security clearance regarded as appropriate by the government of the United Kingdom for persons with access to that material.

(5) No member of the panel members list may be appointed to an appeal panel if that member has been involved in the decision which is being appealed or has any other conflict of interest.

(6) Where it is not possible to appoint an appeal panel with three members in a particular case because—

(a) there are only two members available, or

(b) one of the proposed members has a conflict of interest,

an appeal panel may sit with two members.

(7) In any case where an appeal panel is sitting with an even number of members, the chair is to have a second vote.

Staff and facilities

5.—(1) The Secretary of State must—

(a) appoint a secretary to the appeal panels;

(b) make arrangements to ensure that each appeal panel receives appropriate legal and expert advice.

(2) The Secretary of State may—

(a) make staff and other facilities available to appeal panels;

(b) make arrangements for a website for the appeal panels;

(c) make payments—

(**a**) Paragraph 5(1) of Schedule 10 to the Space Industry Act 2018 provides that an appeal to a panel may be brought only with the panel's permission.

(i) by way of remuneration, allowances or expenses to members of appeal panels, or

(ii) to cover the cost of facilities provided to appeal panels, including the costs of expert advice.

Constitution of appeal panel

6.—(1) When the secretary to the appeal panels has received an application for permission to appeal under regulation 8(1), the secretary must inform the Secretary of State.

(2) The Secretary of State must, in accordance with regulation 4, appoint an appeal panel from the panel members list to consider the application.

Prescribed decisions and people

7.—(1) The following decisions are prescribed for the purposes of paragraph 4(1) of Schedule 10 to the Act—

(a) refusal, under regulation 64 of the Space Industry Regulations 2021 ("the Regulations")(**a**), to approve the appointment of a training manager of a licensee;

(b) revocation, under regulation 65 of the Regulations, of the approval of the appointment of a training manager;

(c) refusal, under regulation 67 or 68 of the Regulations, to approve a training manual of a licensee or proposed changes to a training manual;

(d) refusal, under regulation 81 of the Regulations, to accept a revision to a safety case;

(e) refusal, under regulation 82 of the Regulations, to accept a revision to a risk assessment;

(f) refusal, under regulation 156 of the Regulations, to accept a revision to a safety case;

(g) a decision to serve a prohibition notice under regulation 249 of the Regulations;

(h) a decision to serve a stop notice under regulation 265(2) of the Regulations;

(i) a decision not to issue a completion certificate under regulation 267(5) of the Regulations;

(j) a decision not to award compensation under regulation 268(1) of the Regulations;

(k) a decision as to the amount of the compensation awarded under regulation 268(1) of the Regulations.

(2) The following persons are prescribed persons for the purposes of paragraph 4(2) of Schedule 10 to the Act—

(a) the licensee, or applicant for a licence, who applied for approval of the appointment of the training manager concerned, in relation to an appeal against the decisions referred to in sub-paragraphs (a) and (b) of paragraph (1);

(b) the licensee, or applicant for a licence, who applied for approval of a training manual, in relation to an appeal against the decision referred to in sub-paragraph (c) of paragraph (1);

(c) the holder of the operator licence, in relation to an appeal against the decision referred to in sub-paragraph (d) of paragraph (1);

(d) the holder of the operator licence, in relation to an appeal against the decision referred to in sub-paragraph (1)(e)(e) of paragraph (1);

(e) the holder of the spaceport licence, in relation to an appeal against the decision referred to in sub-paragraph (f) of paragraph (1);

(f) the person to whom a prohibition notice was given, in relation to an appeal against the decision referred to in sub-paragraph (g) of paragraph (1);

(**a**) S.I. 2021/****.

(g) the person on whom a stop notice was served, in relation to an appeal against the decision referred to in sub-paragraphs (h), (i), (j) and (k) of paragraph (1).

PART 3

Permission to appeal

Application for permission to appeal

8.—(1) An application for permission to appeal must be made to the secretary within 14 days after the day on which the decision which is being appealed was made and, for these purposes, the application is made on the date on which the notice of application for permission to appeal is received by the secretary.

(2) The appeal panel may not extend the time limit set out in paragraph (1) unless—

(a) the appellant demonstrates that it did not receive notice of the decision until a date within the period of 14 days before the application for permission to appeal was made, or

(b) the appeal panel is satisfied that the circumstances are exceptional.

(3) The application must be made by notice of application for permission to appeal which states—

(a) the name and address of the appellant,

(b) the name and address of the representative, if any, of the appellant,

(c) an email address or a postal address in the United Kingdom where documents for the appellant may be sent or delivered, and

(d) the name and address of the respondent to the proceedings.

(4) The notice of application for permission to appeal must contain—

(a) a concise statement of the facts,

(b) details of the decision to which the proceedings relate, including a copy of that decision,

(c) a summary of the grounds for appeal,

(d) a statement as to whether, if permission to appeal is given, the appellant wishes to have an oral hearing, and

(e) a statement of truth in accordance with regulation 15.

(5) When the application is being made on behalf of the appellant by a representative other than a legal representative, the application must be accompanied by a duly authenticated document from the appellant confirming that the representative is authorised to make the application on behalf of the appellant.

(6) The secretary must—

(a) serve the notice of application for permission to appeal, together with all accompanying documents, on each respondent as soon as practicable, and in any event not later than seven days after the date on which the notice was received by the secretary;

(b) publish the notice of application for permission to appeal and the date on which it was received on the panel website, unless paragraph (7) applies.

(7) This paragraph applies if publishing the notice would, in the opinion of the secretary—

(a) breach any international obligations of the United Kingdom,

(b) involve the disclosure of sensitive information, or information which is commercially sensitive, or

(c) breach data protection legislation, and for these purposes, "data protection legislation" has the meaning given in section 3(9) of the Data Protection Act 2018(**a**).

Fees

9.—(1) The fees set out in the second column of the following table are payable in respect of the items described in the first column.

Description of fee	*Amount of fee*
Application for permission to appeal	£116
Application for permission to intervene	£50
Application for directions	£50
Application to amend a notice of appeal	£116
Determination of a standard appeal without a hearing	£154
Determination of a standard appeal with a hearing	£385
Determination of a complex appeal without a hearing	£240
Determination of a complex appeal with a hearing	£528

(2) Fees for making an application are payable by the applicant to the Secretary of State, and must be sent by the applicant to the secretary when the application is made.

(3) Fees for the determination of the appeal are payable by the applicant to the Secretary of State, and must be sent by the appellant to the secretary within the applicable period beginning with the day after the day on which permission to appeal is given.

(4) If the fee for making an application is not sent with the application, the application must be rejected by the secretary.

(5) If the fee for determination of an appeal is not paid within the period referred to in paragraph (3), the appeal must be struck out.

Response to application for permission to appeal

10.—(1) The respondent may serve a response to the application for permission to appeal on the secretary within 14 days beginning with the day after the day on which the respondent received notice of the application for permission to appeal under regulation 8(6)(a).

(2) If a response is served under paragraph (1)—

(a) it must contain—

(i) the name and address of the respondent,

(ii) the name and address of the representative, if any, of the respondent,

(iii) an email address or postal address in the United Kingdom where documents for the respondent may be sent or delivered,

(iv) a summary of the reasons for the decision,

(v) representations in relation to the application for permission to appeal, and

(vi) a statement of truth in accordance with regulation 15, and

(b) it must state whether the appeal will involve consideration of sensitive information.

(3) The secretary must serve a copy of the response on all other parties to the appeal as soon as practicable, and in any event not later than seven days after the day on which the response was received by the secretary.

(**a**) 2018 c. 12. Section 3(9) has been amended by S.I. 2019/419.

Application to intervene

11.—(1) A person with sufficient interest in the decision which is the subject of the appeal may apply to the appeal panel for permission to intervene in the appeal.

(2) An application under paragraph (1) must be made within the period of 14 days beginning with the day after the day on which notice of the application for permission to appeal was published on the panel website and sent to the secretary.

(3) The secretary must give notice of the application for permission to intervene to all the parties to the appeal, and invite them to make representations in relation to the application within a period specified in the notice.

(4) An application for permission to intervene must state—

(a) the title of the appeal to which that application relates,

(b) the name and address of the person wishing to intervene,

(c) the name and address of its legal representative, if any, and

(d) an email address or a postal address in the United Kingdom where documents for the applicant may be sent or delivered.

(5) The application must include—

(a) a concise statement of the matters which give the applicant a sufficient interest in the decision which is the subject of the appeal,

(b) the name of any party whose position the applicant intends to support,

(c) the reasons for making the application, and

(d) a statement of truth in accordance with regulation 15.

(6) If the appeal panel is satisfied, having taken into account the observations of the parties, as to the matters referred to in paragraph 14(1) of Schedule 10 to the Act, it may permit the intervention on such terms and conditions as it thinks fit.

(7) On granting permission under paragraph (6), the appeal panel may make any consequential directions it considers necessary in relation to—

(a) the service on the intervener of documents submitted to the appeal panel;

(b) if the appeal panel considers it appropriate, the submission by the intervener of a statement of intervention;

(c) if a submission is required under sub-paragraph (b), the submission by the principal parties of a response to the statement of intervention and any objections to the admission of evidence put forward by the intervener.

(8) The statement of intervention must contain—

(a) a concise presentation of the facts and arguments supporting the intervention,

(b) the relief sought by the intervener,

(c) a schedule listing all the documents annexed to the intervention, and

(d) a statement of truth in accordance with regulation 15.

(9) As far as practicable, the list referred to in paragraph (8)(c) must include every document, or part of a document, on which the intervener relies, including witness statements, if any, but not including any document annexed to the notice of appeal or respondent's notice.

(10) The intervener must serve a copy of the statement of intervention and any accompanying documents on the secretary.

(11) The secretary must—

(a) give notice of the decision of the appeal panel under paragraph (6), and any directions made under paragraph (7), and

(b) serve a copy of all the documents provided under paragraph (10),

on each of the parties to the appeal as soon as practicable, and in any event not later than seven days after the day on which the documents were received by the secretary.

Determination of application for permission to appeal

12.—(1) An application for permission to appeal must be considered by the appeal panel without a hearing.

(2) The appeal panel considering an application for permission to appeal may require the appellant to provide further information if that information is reasonably required by the panel to enable it—

(a) to determine the application, or

(b) to make the determination referred to in paragraph (4).

(3) When the appeal panel determines the application for permission to appeal, it may—

(a) give permission to appeal;

(b) give permission to appeal, but on limited grounds, or subject to conditions;

(c) refuse permission to appeal.

(4) If the appeal panel grants permission to appeal, it must determine whether the appeal is to be treated as a standard appeal or a complex appeal.

(5) The appeal panel must reject an application for permission to appeal if—

(a) the application for permission to appeal is made out of time, and

(b) no extension of time has been granted under regulation 8(2).

(6) If the appeal panel grants permission to appeal—

(a) the decision being appealed, and

(b) where the decision being appealed is the imposition of conditions on a licence, the grant of that licence,

has no effect pending the determination of the appeal unless the appeal panel directs otherwise.

(7) The secretary must give written notice of the appeal panel's decision to the Secretary of State, the appellant and the respondent within the period of seven days beginning with the day after the day on which the appeal panel decided the application.

(8) If the appeal panel has decided to grant permission to appeal, the notice must state whether the appeal panel considers the appeal to be a standard appeal or a complex appeal.

(9) If the appeal panel has decided to reject the application for permission to appeal, or to grant permission to appeal subject to conditions or limitations on the appeal, that notice must contain a statement of the reasons for the refusal, or for any limitations or conditions.

PART 4

Appeals

Procedure

13.—(1) An appeal may be determined by the same appeal panel which considered the application for permission to appeal.

(2) The appellant must, within the applicable period beginning with the day after the day on which permission to appeal was granted, serve a notice of appeal on the secretary, and the other parties to the appeal.

(3) The notice of appeal must contain—

(a) a full statement of the grounds on which the appellant relies to contest the decision, identifying—

(i) under which legislative provision the appeal is brought,

(ii) to what extent, if any, the appellant contends that the disputed decision was based on an error of fact or was wrong in law, and

(iii) to what extent, if any, the appellant is appealing against the respondent's exercise of its discretion in making the disputed decision,

(b) a statement of the arguments supporting each of the grounds of appeal,

(c) the relief sought by the appellant,

(d) a statement as to whether the appellant wants the appeal to be dealt with at an oral hearing,

(e) a schedule listing all the documents annexed to the notice of appeal, and

(f) a statement of truth in accordance with regulation 15.

(4) The following documents must be annexed to the notice of appeal—

(a) a copy of any written record of the decision being challenged,

(b) any separate written statement of the reasons for that decision, and

(c) a list of every document, or part of a document, on which the appellant relies, including the written statements of any witnesses relied on.

(5) The respondent must, within the applicable period beginning with the day after the day on which the notice of appeal was served on that party serve on the secretary and the other parties to the appeal a notice ("the respondent's notice") responding to the notice of appeal.

(6) If the respondent did not submit a response to the application for permission to appeal, the respondent's notice must state—

(a) the name and address of the respondent,

(b) the name and address of the representative, if any, of the respondent, and

(c) an email address or a postal address in the United Kingdom where documents for the respondent may be sent or delivered.

(7) The respondent's notice must in all cases include—

(a) the grounds on which the respondent is resisting the appeal, including a full explanation for the decision which is the subject of the appeal,

(b) a list of—

(i) every document, or part of a document, on which the respondent relies in support of the decision, including the written statements of any witnesses relied on, and

(ii) any further material, or relevant extracts, which in the opinion of the respondent might undermine the decision taken, and

(c) a statement of truth in accordance with regulation 15.

(8) Within the applicable period beginning with the day after the day on which the respondent's notice was served on the appellant, the appellant may serve on the secretary a reply to the respondent's notice.

(9) If the appellant serves a reply to the respondent's notice under paragraph (8), the appellant must at the same time serve a copy of the reply on all other parties to the appeal.

(10) A party to the appeal may request a copy of any document which is included in a list provided under regulation 11(8)(c) or paragraphs (4)(c) or (7)(b).

(11) The secretary must provide copies of all documents served on the secretary under this regulation to members of the appeal panel as soon as reasonably practicable.

Directions

14.—(1) The appeal panel must, before the expiry of the applicable period beginning with the day after the day on which the respondent's notice was received by the secretary, direct—

(a) whether there is to be an oral hearing;

(b) if there is to be a hearing, what procedure is to be adopted in that hearing;

(c) if there is not going to be a hearing, what further evidence may be submitted to the appeal panel.

(2) Directions given under paragraph (1) must—

(a) permit each party to the appeal to appear in person or to be represented in any hearing held;

(b) ensure that each party to the appeal receives copies of evidence submitted to the appeal panel by another party and has the opportunity to respond to that evidence;

(c) permit a party to the appeal to participate in a hearing through a video link or by other means of remote communication;

(d) require parties to the appeal to produce copies of any documents included on the lists provided under regulations 11(8)(c), 13(4)(c) or 13(7)(b) to the appeal panel and to the other parties to the appeal;

(e) permit or require a party to provide other documents, information or evidence, or to make submissions to the appeal panel or to a party.

(3) If the appeal panel directs that there is to be an oral hearing of the appeal, the appeal panel must give not less than 14 days' notice, ending with the day before the day on which the hearing is to be held, of the date, time and place of the hearing to all parties to the appeal.

(4) The appeal panel may, at any time, on the application of a party or of its own initiative, give such directions as are provided for in paragraph (5), or such other directions as it thinks fit, to secure that the proceedings are dealt with justly and at proportionate cost.

(5) The appeal panel may give directions—

(a) as to the manner in which the proceedings are to be conducted, including any time limits to be observed in the conduct of an oral hearing;

(b) that the parties submit additional pleadings or particulars;

(c) for the preparation and exchange of skeleton arguments;

(d) requiring clarification of any matter in dispute, or additional information in relation to any such matter, within the time specified by the appeal panel;

(e) as to the submission in advance of a hearing of any witness statement or expert reports;

(f) as to the examination or cross-examination of witnesses;

(g) for the submission of a list of issues;

(h) for the production of bundles for any hearing;

(i) as to the fixing of time limits with respect to any aspect of the hearing;

(j) as to the abridgement or extension of any time limits, whether or not expired;

(k) that the whole or part of any proceedings, decision or determination be stayed either generally or until a specified date or event;

(l) for the production by a party or third party of documents or classes of documents;

(m) permitting information which is commercially sensitive to be produced in redacted form, or to be withheld;

(n) for the appointment and instruction of experts, whether by the appeal panel or by the parties and as to the manner in which expert evidence is to be given;

(o) for the hearing of any issues as preliminary issues prior to the main substantive hearing;

(p) for hearing a person who is not a party, where it is proposed at any point in the proceedings to make an order or give a direction in relation to that person.

(6) The appeal panel may also, of its own initiative—

(a) put questions to the parties;

(b) invite the parties to make written or oral submissions on certain aspects of the proceedings;

(c) ask the parties or third parties for information or particulars;

(d) ask for documents relating to the case to be produced.

(7) An application by the parties for directions must—

(a) be made in writing as soon as possible,

(b) be supported by reasons,

(c) indicate whether it is agreed or contested by the other parties,

(d) be served on any other party who might be affected by such directions, and

(e) be determined by the appeal panel taking into account the observations of the parties.

Statement of truth

15.—(1) This regulation applies where a document is required to contain a statement of truth.

(2) The statement of truth verifying a document must be as follows—

"[I believe][The person on whose behalf the statement is being made believes] that the facts stated in the [name of the document being verified] are true.".

(3) In a notice of application for permission to appeal or an application for permission to intervene, the statement of truth must be signed by the applicant or its legal representative.

(4) In a notice of appeal, response to the application for permission to appeal, statement of intervention or respondent's notice, the statement of truth must be signed by the relevant party to the appeal or its legal representative.

(5) Where a document is to be verified on behalf of a body corporate or a partnership the statement of truth must be signed by a person holding a senior position in the body corporate or partnership, and the person making the statement must state the position that person holds.

(6) For the purposes of paragraph (5), the following people hold a senior position—

(a) in a partnership, each of the partners;

(b) in a government department, each member of the senior civil service, but not a person who has been temporarily promoted to the senior civil service;

(c) in the regulator, each person holding an equivalent rank to a person in sub-paragraph (b);

(d) in a body corporate, other than a government department or the regulator—

(i) a director or other member of the management body,

(ii) the treasurer,

(iii) the secretary,

(iv) the chief executive, or

(v) a manager or other officer.

(7) Where a statement of truth is signed by a legal representative—

(a) the statement must refer to the client's belief and not that of the legal representative;

(b) the legal representative's signature will be treated by the appeal panel as a statement that—

(i) the client on whose behalf the legal representative has signed has authorised the representative to do so,

(ii) before signing, the representative had explained to the client that in signing the statement of truth the representative would be confirming the client's belief that the facts stated in the document were true, and

(iii) before signing, the representative had informed the client of the possible consequences to the client if it should subsequently appear that the client did not have an honest belief in the truth of those facts.

(8) Individuals who sign a statement of truth must print their full name clearly below their signature.

(9) Legal representatives who sign a statement of truth must sign it in their own name and not that of their firm or employer.

(10) A person who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth commits an offence.

(11) A person who commits an offence under paragraph (10) is liable—

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;

(c) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

Service of documents

16.—(1) Any notice or other document required or authorised by these Regulations to be served on any person may be served by—

(a) delivering it to that person in person,

(b) leaving it at that person's address for service,

(c) sending it by first class post to that person's address for service, or

(d) sending it by electronic means in accordance with paragraph (3).

(2) A document served in accordance with paragraph (1) is deemed to have been served and received—

(a) if it is delivered in person or left at the address for service—

(i) on a business day before 4.30 p.m., on that day;

(ii) in any other case, on the next business day after the day on which it was so delivered or left;

(b) if it is sent by first class post, the second business day after it was posted;

(c) if it is sent by email—

(i) if the email was sent on a business day before 4.30 p.m., on that day;

(ii) in any other case, on the next business day after the day on which the email was sent.

(3) A document may be served by electronic means—

(a) on any party if that party has—

(i) provided an email address for service, and that address has not been withdrawn, and

(ii) indicated the format in which documents must be sent, and

(b) on the secretary to the appeal panel, in any format which the secretary has indicated is acceptable.

(4) Where a party wishes to serve a document containing a statement of truth by email, that party should retain the document containing the original signature and serve on the secretary and other parties to the appeal a version of the document satisfying one of the following requirements—

(a) the document contains an accurate image of the signature of the person who has signed the statement of truth,

(b) the name of the person who has signed the statement of truth is typed underneath the statement, or

(c) the person who has signed the statement of truth has applied a facsimile of their signature to the statement in the document by electronic means.

(5) The appeal panel may require a party to produce the document containing the original signature.

(6) In this regulation—

"address for service" means—

(a) in the case of the appellant, the address set out in the application for permission to appeal, under regulation 8(3)(c);

(b) in the case of the respondent, the address given in the response under regulation 10(2)(a)(iii), or, where no response was given, in the respondent's notice under regulation 13(6)(c);

(c) in the case of any person intervening in the appeal, the address set out in the application for permission to intervene, under regulation 11(4)(d);

"business day" means any day other than a Saturday, a Sunday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in any part of the United Kingdom.

Prevention of disclosure or publication of documents and information

17.—(1) The appeal panel may make an order prohibiting the disclosure of specified documents or information relating to the proceedings.

(2) The appeal panel may give a direction prohibiting the disclosure of a document or information to a person if—

(a) the appeal panel is satisfied that such disclosure would breach any international obligations of the United Kingdom or involve disclosure of sensitive information, and

(b) the appeal panel is satisfied, having regard to the interests of justice, that it is proportionate to give such a direction.

(3) If one party to the appeal ("the first party") considers that the appeal panel should give a direction under paragraph (2) prohibiting the disclosure of a document or information to another party ("the second party"), the first party must—

(a) exclude the relevant document or information from any documents that will be provided to the second party, and

(b) provide to the appeal panel the excluded document or information, and the reason for its exclusion, so that the appeal panel may decide whether the document or information should be disclosed to the second party or should be the subject of a direction under paragraph (2).

(4) If the appeal panel gives a direction under paragraph (2) which prevents disclosure to a party who has appointed a representative, the appeal panel may give a direction that the documents or information be disclosed to that representative if the panel is satisfied that—

(a) disclosure to the representative would be in the interests of the party, and

(b) the representative will act in accordance with paragraph (5).

(5) Documents or information disclosed to a representative in accordance with a direction under paragraph (4) must not be disclosed either directly or indirectly to any other person without the appeal panel's consent.

(6) The appeal panel may give a direction that certain documents or information must be disclosed to the appeal panel on the basis that the panel will not disclose such documents or information to other persons, or specified other persons.

(**a**) 1971 c. 80.

(7) A party making an application for a direction under paragraph (6) may withhold the relevant documents or information from other parties until the appeal panel has granted or refused the application.

(8) Unless the appeal panel considers that there is good reason not to do so, the panel must serve notice that a party has made an application for a direction under paragraph (6) on each other party.

(9) In a case involving matters relating to national security, the appeal panel must ensure that information is not disclosed contrary to the interests of national security.

(10) The appeal panel must conduct proceedings and record its decision and reasons appropriately so as not to undermine the effect of an order made under paragraph (1), a direction given under paragraph (2) or (6) or the duty imposed by paragraph (9).

Evidence

18.—(1) The appeal panel may give directions as to—

(a) the provision by the parties of statements of agreed matters and statements of matters which are not agreed,

(b) the issues on which it requires evidence, and the admission or exclusion from the proceedings of particular evidence,

(c) the nature of the evidence which it requires to decide those issues,

(d) whether the parties are permitted to provide expert evidence,

(e) any limits on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally, and

(f) the way in which evidence is to be placed before the appeal panel.

(2) In deciding whether to admit or exclude evidence, the appeal panel must have regard to whether it would be just and proportionate to do so, taking into account—

(a) the statutory provision under which the appeal is brought and the standard of review being applied by the appeal panel,

(b) whether or not the substance of the evidence was available to the respondent before the decision which is the subject of the appeal was taken,

(c) the prejudice that may be suffered by one or more parties if the evidence is admitted or excluded, and

(d) whether the evidence is necessary to enable the appeal panel to determine the appeal.

(3) Unless the appeal panel directs otherwise, no witness of fact or expert witness may be heard unless the relevant witness statement or expert report has been submitted in advance of the hearing and in accordance with any directions of the appeal panel.

(4) The appeal panel may require witnesses to give evidence on oath or affirmation or if in writing by way of affidavit.

(5) The appeal panel may allow a witness to give evidence through a video link or by other means of remote communication.

(6) The appeal panel may dispense with the need to call a witness to give oral evidence if a witness statement or expert report has been submitted in respect of that witness.

(7) The appeal panel may limit cross-examination of witnesses to any extent or in any manner it considers appropriate.

(8) The requirements set out in paragraphs 2 to 23 of Practice Direction 32 to the Civil Procedure Rules 1998(**a**) apply to affidavits, exhibits, witness statements and other evidence given during the course of an appeal to the appeal panel under these Regulations as they apply to evidence submitted for proceedings in court.

(**a**) S.I. 1998/3132 (L. 17).

(9) For the purposes of paragraph (8), references in Practice Direction 32—

(a) to the court are to be treated as references to the appeal panel;

(b) to filing documents at court are to be treated as references to filing them with the secretary to the appeal panels;

(c) to court officers are to be treated as references to the secretary to the appeal panels;

(d) to the claim form are to be treated as references to the notice of appeal.

Hearings

19.—(1) If there is an oral hearing of the appeal, the hearing must take place in private.

(2) The appellant, the respondent and any party who has been given leave to intervene under regulation 11 may appear or be represented at the hearing.

(3) The appeal panel may give a direction excluding from any hearing, or part of it, any person who the panel considers should be excluded in order to give effect to the requirement at regulation 17(10).

Failure to comply with direction

20.—(1) If any party fails to comply with any direction issued by the appeal panel in accordance with these Regulations, the panel may if it considers that the justice of the case so requires, order that—

(a) the requirements of the direction be waived,

(b) the failure be remedied, or

(c) the party be debarred from taking any further part in the proceedings without the permission of the appeal panel.

(2) Before making an order under paragraph (1)(c), the appeal panel must give the party (or its representative) the opportunity to make submissions as to why the order should not be made.

Striking out

21.—(1) The appeal panel may, after giving the parties an opportunity to be heard, either on its own initiative or on the application of a party, strike out an appeal in whole or in part at any stage of the proceedings if—

(a) it considers that the notice of appeal, or part of it, discloses no valid ground of appeal,

(b) it considers that the appellant does not have a sufficient interest in the decision in respect of which the appeal is made,

(c) it is satisfied that the appellant has habitually and persistently and without any reasonable ground—

(i) instituted vexatious proceedings, whether against the same person or different persons, or

(ii) made vexatious applications in the proceedings, or

(d) the appellant fails to comply with these Regulations or with any direction issued by the appeal panel.

(2) When the appeal panel strikes out an appeal it may make any consequential determination it considers appropriate.

Amendments to notice of appeal

22.—(1) The appellant may amend the notice of appeal only with the permission of the appeal panel.

(2) Where the appeal panel grants permission under paragraph (1) it may do so on such terms as it thinks fit, and may give any further or consequential directions it considers necessary, including directions permitting the respondent to respond to the amended notice of appeal.

(3) In deciding whether to grant permission under paragraph (1), the appeal panel must take into account all the circumstances including whether the proposed amendment—

(a) involves a substantial change or addition to the appellant's case,

(b) is based on matters of law or fact which have come to light since the notice of appeal was served, or

(c) for any other reason could not practicably have been included in the notice of appeal.

Withdrawal of the appeal

23.—(1) The appellant may withdraw its appeal at any time.

(2) The regulator may only reconsider the decision which is the subject of the appeal before the appeal is determined with leave of the appeal panel.

(3) Where an appeal is withdrawn, the appeal panel or, where no appeal panel has been appointed, the Secretary of State, may instruct the secretary to publish notice of the withdrawal on the panel website or in such other manner as the appeal panel or the Secretary of State, as the case may be, may direct.

(4) Where an appeal is withdrawn—

(a) any interim order of the appeal panel immediately ceases to have effect, and

(b) a fresh appeal may only be brought by the appellant in relation to the decision which was the subject of the appeal—

(i) within the period of 21 days after the day on which the initial appeal is withdrawn, and

(ii) with the permission of the appeal panel.

Decisions on appeals

24.—(1) The appeal panel must give notice of its decision to the Secretary of State, the appellant, the respondent and any intervener, within the applicable period beginning with the day after the day on which the decision was taken.

(2) If the appeal is dismissed, the notice must state—

(a) that the decision appealed against is confirmed,

(b) what action, if any, is required from the appellant, and

(c) the date by which this action must be taken.

(3) If the appeal is allowed in whole or in part, the notice must state—

(a) which parts of the decision appealed against are quashed, and which parts, if any, are confirmed,

(b) how the decision appealed against is varied, and

(c) whether the whole decision is being remitted to the person who made the decision for reconsideration or, if not, which elements of the matter are being so remitted for reconsideration.

(4) The notice must also—

(a) set out the reasons for the appeal panel's decision,

(b) state the date on which the appeal panel's decision comes into effect, and

(c) be signed by the chair of the appeal panel.

(5) If the appeal is allowed in whole or in part, the regulator must, within the period of 28 days beginning with the day after the day on which the regulator received notice of the decision—

(a) reimburse the appellant an amount equal to the fees paid by the appellant in relation to the appeal under regulation 9;

(b) write to the appellant explaining—

(i) what action the regulator will take to comply with the appeal panel's determination, and

(ii) when that action will be taken.

(6) Notice of the outcome of the appeal must be published by the secretary on the panel website unless paragraph (7) applies.

(7) This paragraph applies if publishing the notice would, in the opinion of the appeal panel—

(a) breach any international obligations of the United Kingdom,

(b) involve the disclosure of sensitive information, or information which is commercially sensitive, or

(c) breach data protection legislation, and for these purposes, "data protection legislation" has the meaning given in section 3(9) of the Data Protection Act 2018(**a**).

(8) The secretary must remove information relating to an appeal from the panel website—

(a) if the decision of the appeal panel to grant an appeal is overturned by the court on an application for judicial review, or

(b) if later, after the expiry of a period of five years beginning with the day after the day on which that information was first published on the panel website.

PART 5

Miscellaneous

Use of records and documentary evidence: prescribed persons

25.—(1) The following persons are prescribed persons for the purposes of section 66(1) of the Act—

(a) the Secretary of State;

(b) the regulator;

(c) an inspector appointed by the regulator for the purposes of monitoring or enforcement under section 26 of the Act.

(2) The following persons are prescribed persons for the purposes of section 66(3) of the Act—

(a) the Secretary of State;

(b) the regulator;

(c) the holder of a range control licence;

(d) the holder of an operator licence;

(e) the holder of a spaceport licence;

(f) a person employed by, or providing services to, a person referred to in sub-paragraph (c), (d) or (e).

Review

26.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations, and

(b) publish a report setting out the conclusions of the review.

(**a**) 2018 c. 12. Section 3(9) was amended by S.I. 2019/419.

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(**a**) requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

Name
Parliamentary Under Secretary of State
Date Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the establishment of appeal panels to consider appeals under the Space Industry Act 2018 (c. 5), and under Regulations made under that Act, in accordance with Schedule 10 to that Act. Part 2 provides for the panel members list, the appointment of members of that list to appeal panels to hear an appeal, and defines appealable decisions. Part 3 makes provision for applications for permission to appeal and their determination, the fees payable in respect of appeals, and applications to intervene. Part 4 makes provision for the procedure to be followed at appeals including the powers of the appeal panel to issue directions on procedure and evidential matters and the circumstances in which an appeal may be struck out. Part 5 identifies those persons who are prescribed for the purposes of section 66 of the Act, and who can therefore certify certain documents or records for use in legal proceedings. It also provides for review of the operation of the Regulations for the purpose of the Small Business, Enterprise and Employment Act 2015 (c. 26).

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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(**a**) 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12), and paragraph 36 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

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