

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)
National Space Legislation – Harmonisation and Enforcement (3)

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NEW SPACE LAW AND REGULATION IN AUSTRALIA

Abstract

The Australian Parliament recently passed the Space Activities (Launches and Returns) Act 2018 which commences on 1 September 2019. This is in the context of a paradigm shift in the nature of the space industry in Australia, reflecting a similar global shift. In the context the nascent Australian Space Agency, which prepared the new legislation, and which is currently working on subordinate Rules under the new legislation, has opted for a relatively minimalist approach. The industry had called for more wholesale change, but such change would not have been achievable in the given time period. New entrepreneurs in the Australian space industry are seeking to grapple with this new legislation, how it differs from the old legislation and how it interacts with international space law and the domestic space laws of other nations, and the conclusions that they have drawn are not always positive. However, the Australian Space Agency is seeking to manage a broader group of equities: the interests of the Australian public beyond the space industry and the desire of the tax payer for a ‘return on investment’ for them; the interests of intersecting industries such as the aviation industry; and the interests of next and future generations. How the government, and the Australian Space Agency specifically, will reconcile those interests in drafting subordinate Rules and executing the legislation is yet to be seen, although there is a strong commercial impetus throughout the Australian space industry and government, and a desire to be internationally competitive. There are challenging policy issues that need to be settled so that the Australian government does not ‘fall’ into certain legal positions, as if by accident – such as the content of the obligation of due regard, the regulation of spectrum use by cubesats, managing exposure to liability among stakeholders, and the concept of global public benefit. These are complex issues at the strategic level, but for Australian space entrepreneurs, they seek a simple ‘path’ to navigate the legal and regulatory frameworks applicable to their space activities. The ‘ANGELS’ Project (‘Australian Navigational Guide Explaining Laws for Space’) aims to provide a resource for space entrepreneurs, including those from overseas. It is a collaboration between International Aerospace Law and Policy Group and The University of Adelaide, funded by a grant from the Law Foundation of South Australia and aims to create a web resource with easy-to-find information on space law and regulation.