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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Space Industry Regulations 2021**

**PART 12**

**Informed consent**

**CHAPTER 1**

**Interpretation**

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**203.** In this Part—

- (a) “injury” means personal injury, and
- (b) except in regulation 209, a reference to “operator’s spaceflight activities” is a reference to those activities to be carried out by a spaceflight operator in which a human occupant is to take part.

**CHAPTER 2**

**Prescribed matters**

**Prescribed role or capacity**

**204.** For the purposes of section 17(1)—

- (a) a member of the crew is a prescribed role, and
- (b) a spaceflight participant is a prescribed capacity.

**Prescribed criteria with respect to age and mental capacity**

**205.**—(1) For the purposes of section 17(1)(b), the criterion prescribed relating to age is that a human occupant must be at least 18 years of age.

(2) For the purposes of section 17(1)(b), the following are the prescribed criteria relating to mental capacity—

- (a) if the launch vehicle is to be launched from England or Wales, a human occupant must have capacity within the meaning of the Mental Capacity Act 2005(1) to understand the risks involved in the operator’s spaceflight activities and the meaning of signifying their consent to take part in those activities,
- (b) if the launch vehicle is to be launched from Scotland, a human occupant is not incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000(2) of understanding the risks involved in the operator’s spaceflight activities and the meaning of signifying their consent to take part in those activities, or

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(1) 2005 c. 9.  
(2) 2000 asp 4.

- (c) if the launch vehicle is to be launched from Northern Ireland, a human occupant must have capacity in accordance with the law of Northern Ireland to understand the risks involved in the operator's spaceflight activities and the meaning of signifying their consent to take part in those activities.

## CHAPTER 3

### The consent form

#### Details to be included in the consent form

**206.**—(1) The consent form must include—

- (a) the full name, address and date of birth of the human occupant,
- (b) the name and address of the spaceflight operator,
- (c) the design specification of the launch vehicle to be used for the operator's spaceflight activities, and
- (d) the details of the current risk assessment for the operator's spaceflight activities in an easily understandable form.

(2) Where the consent form is to be signed by a spaceflight participant, the consent form must, in addition to the details set out in paragraph (1), contain details of—

- (a) the spaceport or other place from which the launch vehicle is to be launched,
- (b) the spaceport or other place at which a controlled or planned landing of the launch vehicle is to take place,
- (c) the planned date of the flight,
- (d) the flight nomenclature, and
- (e) the planned trajectory and duration of the flight.

(3) Where the consent form is to be signed by a member of the crew, the consent form may relate to more than one flight where—

- (a) all the flights are to take place in a launch vehicle of the same design specification, and
- (b) the current risk assessment relates to all the flights.

#### Statements to be included in the consent form

**207.**—(1) The consent form must include statements that the human occupant—

- (a) has fulfilled the criteria in paragraphs 50 and 52 of Schedule 3,
- (b) has read and understood—
  - (i) the details of the current risk assessment for the operator's spaceflight activities, and
  - (ii) the other information specified in regulations 209 and 210,
- (c) has been given the opportunity to ask questions and received answers to those questions in accordance with regulation 211,
- (d) accepts and understands that the operator's spaceflight activities carry an inherent risk of danger and in particular that—
  - (i) the activities may result in death or injury,
  - (ii) the regulator has not certified that the launch vehicle complies with any national or international safety standards, and

- (iii) the provision referred to in paragraph (2) will not apply in the event of the human occupant dying or sustaining injury by taking part in the operator’s spaceflight activities, and
  - (e) has not been unduly influenced to consent to accept the risks involved in the operator’s spaceflight activities.
- (2) The provision referred to in paragraph (1)(d)(iii) is section 34(2) (which provides for damages to be recovered 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 licensee)(3).

#### **No derogation from statements in the consent form**

**208.** The consent form must not contain any provision which derogates from the statements required to be included in the form by regulation 207.

### CHAPTER 4

Information to be given to a human occupant before the consent form is signed

#### **Information about operator’s spaceflight activities carried out by the spaceflight operator**

**209.**—(1) In this regulation, references to “operator’s spaceflight activities” are to all such activities carried out by the spaceflight operator.

(2) At least 24 hours, but not more than one month, before a human occupant signs a consent form, the spaceflight operator must give that individual—

- (a) the information referred to in paragraph (3),
  - (b) a copy of any safety recommendations made as a result of a safety investigation relating to the operator’s spaceflight activities, and
  - (c) information in writing and in an easily understandable form about any actions taken to improve safety following a spaceflight accident relating to the operator’s spaceflight activities.
- (3) The information mentioned in paragraph (2)(a) is information in writing about—
- (a) the number of launches that the operator’s spaceflight activities have involved,
  - (b) the number of persons who have died, sustained an injury or had a medical emergency as a result of taking part in the operator’s spaceflight activities, and
  - (c) the number of spaceflight accidents relating to the operator’s spaceflight activities and whether they occurred during the testing and development of the launch vehicle or during commercial operation.
- (4) In this regulation “commercial operation” means any operation of the launch vehicle—
- (a) which is available to the public, or
  - (b) which, when not made available to the public, is performed under a contract between the spaceflight operator and a customer, where the latter has no control over the spaceflight operator,

in return for remuneration or other valuable consideration.

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(3) See regulation 218(1)(c) and (d) of Part 12. For the purposes of section 34(3)(a) of the Space Industry Act 2018, a human occupant under this Part is an individual of a prescribed description taking part in spaceflight activities.

### **Information about the operator's spaceflight activities**

**210.** At least 24 hours, but not more than one month, before a human occupant signs a consent form, the spaceflight operator must give that human occupant—

- (a) the details of the current risk assessment for the operator's spaceflight activities in an easily understandable form,
- (b) information in writing about the availability of emergency services in the event of an accident or medical emergency, and
- (c) where that human occupant is a crew member or a launch vehicle task specialist, the information relating to exposure to cosmic radiation which is referred to in regulation 140(1).

### **Opportunity for questions**

**211.—**(1) Before a human occupant signs the consent form, the spaceflight operator must—

- (a) give the human occupant an opportunity to ask questions about the information given to that individual in accordance with regulations 209 and 210, and
- (b) answer the questions in an easily understandable form.

(2) The questions referred to in paragraph (1)(a) may be raised, and answers referred to in paragraph (1)(b) may be given, in writing or orally.

## **CHAPTER 5**

### **Procedural requirements with regard to the signification of consent**

#### **Who prepares the consent form**

**212.** The spaceflight operator must prepare the consent form in writing and in duplicate.

#### **When a human occupant signs the consent form**

**213.** A human occupant must sign both copies of the consent form no more than 24 hours before taking part in the operator's spaceflight activities or, if the form relates to more than one flight, no more than 24 hours before taking part in the first of those flights.

#### **What happens after the consent form is signed**

**214.** A human occupant must give the duplicate consent form to the spaceflight operator by hand or send such duplicate form to the spaceflight operator.

## **CHAPTER 6**

### **Evidential requirements with regard to the information and the signification of consent**

#### **A written record of the information provided to the human occupant**

**215.—**(1) The spaceflight operator must keep a written record of—

- (a) the information provided to a human occupant in accordance with regulations 209 to 211, and
- (b) the date on which and time at which such information was provided to that individual.

(2) Before a human occupant signs the consent form, the spaceflight operator must give a copy of the written record referred to in paragraph (1) to that individual.

### **The signification of consent**

**216.**—(1) A human occupant must sign the consent form.

(2) A human occupant must date the consent form and record on the form the time at which the consent form was signed.

(3) An electronic signature satisfies the requirements to sign the consent form in paragraph (1).

(4) In this regulation “electronic signature” has the same meaning as in section 7(2) (electronic signatures and related certificates) of the Electronic Communications Act 2000(4).

### **The consent form as evidence of signification of consent**

**217.** The requirement in section 17(2) for consent to accept the risks involved in an operator’s spaceflight activities to be signified by signing the consent form is satisfied only if—

- (a) the spaceflight operator complies with the requirements in regulations 206 to 212 and 215, and
- (b) a human occupant complies with the requirements in regulations 213, 214 and 216.

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(4) 2000 c. 7. Section 7(2) was amended by S.I. 2016/696 and provides that an electronic signature is so much of anything in electronic form as: (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data, and (b) purports to be used by the individual creating it to sign.