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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Space Industry Regulations 2021**

**PART 14**

**Monitoring and enforcement**

**CHAPTER 1**

**General**

**Interpretation**

**222.** In this Part—

“contravention notice” means a notice issued under regulation 247;

“information” means information held in any form;

“inspector” means a person appointed under regulation 237;

“prohibition notice” means a notice issued under regulation 249;

“warning notice” means a notice issued under regulation 248.

**Offence to obstruct inspector or regulator**

**223.** It is an offence for a person intentionally to obstruct or impede any person who is exercising a power or performing a duty under this Part.

**Penalty for obstructing inspector or regulator**

**224.** A person guilty of an offence under regulation 223 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 six months, or a fine, or both.

**Offence to impersonate inspector**

**225.** It is an offence to impersonate an inspector.

**Penalty for impersonating inspector**

**226.** A person guilty of an offence under regulation 225 is liable on summary conviction—

- (a) in England and Wales, to a fine;
- (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

## CHAPTER 2

### Obligation to provide information to the regulator

#### Persons to whom obligation applies

**227.** This Chapter applies to a person who—

- (a) carries out spaceflight activities,
- (b) operates a spaceport,
- (c) occupies land forming part of a spaceport or is allowed access to such land for the purposes of the activities of a business carried on by the person,
- (d) provides range control services under a range control licence, or
- (e) carries out associated activities.

#### Information notices

**228.**—(1) The regulator may serve a notice on a person specified in regulation 227 requiring the provision of any information it thinks necessary for the purposes set out in section 26(2).

(2) A notice requiring the provision of information under this Chapter is referred to as an “information notice”.

(3) The regulator may specify in the information notice that the information is to be provided by any means it thinks necessary, including a written response or an oral interview.

(4) Where information is provided orally, the regulator may record that information in any manner which in the regulator’s view is appropriate.

(5) The notice must specify a period within which the person must provide the information specified.

(6) An information notice may require the creation of documents, or documents of a description, specified in the notice.

(7) A requirement to provide information or create a document is a requirement to do so in a legible form.

#### Obligation to provide information to regulator

**229.** A person who receives an information notice must, before the end of the period specified in the notice, provide, or cause to be provided, to the regulator such information as is specified or described in the information notice.

#### Offence of failing to comply with information notice

**230.** A person who contravenes regulation 229 commits an offence, but it is a defence for a person charged with such an offence to show that they took all reasonable steps and exercised all due diligence to avoid committing the offence.

#### Penalty for failing to comply with information notice

**231.** A person guilty of an offence under regulation 230 is liable, on summary conviction—

- (a) in England and Wales, to a fine;
- (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

### **Offence of providing false information**

- 232.** It is an offence for a person, in purported compliance with regulation 229—
- (a) to make a statement that the person knows to be false in a material particular, or
  - (b) recklessly to make a statement that is false in a material particular.

### **Penalty for providing false information**

- 233.** A person guilty of an offence under regulation 232 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.

### **Offences of false recording**

- 234.—**(1) It is an offence for a person to—
- (a) use any document or record issued or required or having effect by or under the Act—
    - (i) which the person knows or ought to know has been forged, altered, revoked, or suspended, or
    - (ii) to which the person knows or ought to know that that person is not entitled, or
  - (b) lend any document or record issued or required or having effect by or under the Act to, or allow it to be used by, any other person.
- (2) It is an offence for a person intentionally to damage, alter, or render illegible—
- (a) any document or record issued or required or having effect by or under the Act, or
  - (b) any entry made in such a document or record.
- (3) It is an offence for a person—
- (a) knowingly to make, or procure or assist in the making of, any false entry in or material omission from any document or record issued or required or having effect by or under the Act, or
  - (b) to destroy any such document or record during the period for which the person is obliged to preserve it.
- (4) It is an offence for a person knowingly to create a false licence, certificate, approval, permission, exemption or any other document issued by the regulator.

### **Defence to offences of false recording**

- 235.** It is a defence for a person charged with an offence—
- (a) under regulation 234(2) to show that the person was acting with intent to amend an error in the document, record or entry;
  - (b) under regulation 234(3)(b) to show that the person took all reasonable steps and exercised all due diligence to avoid committing the offence.

### **Penalty for false recording**

- 236.** A person guilty of an offence under regulation 234 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.

## CHAPTER 3

### Inspectors

#### SECTION 1

##### *Appointment and powers*

#### **Appointment of inspector**

**237.**—(1) The regulator may appoint a person (referred to in this Chapter as “an inspector”) to act on the regulator’s behalf for the purposes set out in section 26(2).

(2) The regulator must not appoint a person under paragraph (1) unless satisfied that that person is qualified to carry out the functions that the regulator authorises the person to carry out.

(3) The regulator may appoint an inspector under this Chapter on such terms as the regulator may determine and may terminate that appointment at any time.

(4) Any appointment of an inspector under this regulation must be made in writing and must specify the powers available to the inspector.

#### **Duties of inspector**

**238.** An inspector must carry out all monitoring and enforcement activities and tasks that the regulator thinks necessary to discharge its obligations in section 26(1) for the purposes set out in section 26(2).

#### **Powers of inspector**

**239.**—(1) The regulator may authorise the inspector to exercise any power set out in Section 2 of this Chapter.

(2) That authority may be given—

- (a) without restriction, or
- (b) only to a limited extent or for limited purposes.

(3) The authority conferred by an instrument of appointment to exercise any power may be varied by the regulator by a further instrument in writing varying the instrument of appointment.

(4) When exercising or seeking to exercise a power, an inspector must, if asked, produce formal identification showing their authority to exercise that power.

#### **References to inspector**

**240.** In this Chapter, references to an inspector, in relation to any power, are to the inspector exercising or proposing to exercise the power.

## SECTION 2

### *Powers exercisable by inspectors*

#### **Power of entry**

**241.**—(1) An inspector may enter any of the premises mentioned in paragraph (2), or enter, or demand access to, any vehicle mentioned in paragraph (3), where the inspector has reason to believe it is necessary for the purposes set out in paragraph (4)—

- (a) at any reasonable time, or
- (b) at any time, in a situation—
  - (i) which, in the inspector’s opinion, is or may be dangerous, or
  - (ii) in which, in the inspector’s opinion, delay would or might be prejudicial to public safety or the national security of the United Kingdom.

(2) In this Section “premises” means—

- (a) any spaceport or other space site;
- (b) any site from which spaceflight activities, the operation of a spaceport, the provision of range control services, or associated activities are being carried out, including range control facilities, spaceport facilities, mission control, and mission management facilities;
- (c) any place in the United Kingdom where spacecraft(1) or carrier aircraft(2) used by a regulated person(3) are assembled or made or where third party work is carried out on behalf of a regulated person;
- (d) any other facility used by or on behalf of a regulated person;
- (e) any place where any carrier aircraft, spacecraft or other vehicle involved in spaceflight activities used by any person, including a person who is not a regulated person, has landed.

(3) In this Section “vehicle” means any carrier aircraft, spacecraft or other vehicle involved in spaceflight activities and used by or on behalf of a regulated person.

(4) An inspector so authorised may enter the premises or enter, or demand access to, the vehicle for any of the following purposes—

- (a) to inspect the premises or to inspect any vehicle;
- (b) to inspect any document or record which the inspector has power to demand under these Regulations;
- (c) to examine, inspect or test any part of, or material intended to be incorporated in or used in the manufacture of any part of, any vehicle or its equipment;
- (d) to examine, inspect or test any equipment used or intended to be used in connection with the provision of a service to any vehicle whether or not in flight;
- (e) to inspect the training and assessment of persons for a specified role under regulation 56(1);
- (f) to carry out any examination, inspection or test necessary to discharge the inspector’s duties;
- (g) to serve any notice under these Regulations.

(5) The power to enter any premises or vehicle under this regulation includes the power to be on the premises or vehicle during testing, training, demonstration flights, and commercial flights.

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(1) See section 2(6) of the Space Industry Act 2018 for the definition of “spacecraft”.

(2) See section 2(6) of the Space Industry Act 2018 for the definition of “carrier aircraft”.

(3) See section 28(8) of the Space Industry Act 2018 for the definition of “regulated person”.

### **Power to take persons and equipment etc. onto premises or vehicle**

- 242.** In exercising the power of entry mentioned in regulation 241 an inspector may—
- (a) be accompanied—
    - (i) by any person approved by the regulator including a representative of a qualifying health and safety authority, and
    - (ii) by a constable if the inspector has reasonable cause to expect any serious obstruction in the exercise of the inspector’s powers, and
  - (b) take along any equipment and materials required for any purpose for which the inspector is exercising the power of entry.

### **Powers of inspection and examination and to take samples**

- 243.**—(1) An inspector may—
- (a) take measurements and photographs, and
  - (b) make recordings.
- (2) An inspector may take and deal with samples of—
- (a) any article or substance found on any premises or vehicle, or
  - (b) the atmosphere in, or in the vicinity of, any premises or vehicle.
- (3) An inspector may take possession of—
- (a) any part of, or material to be incorporated or used in the manufacture of any part of, any vehicle or its equipment, or
  - (b) any equipment used, or intended to be used, in connection with the provision of a service to any vehicle in flight or on the ground,
- and retain it for as long as necessary to comply with the purposes in section 26(2).
- (4) An inspector may direct that any premises or vehicle, or any article or substance or atmosphere in them, must be left undisturbed for as long as reasonably necessary for the purposes of any inspection, examination or test under regulation 241(4).
- (5) A direction under paragraph (4)—
- (a) may relate to part of any premises;
  - (b) may relate to particular aspects of any premises, article, substance or atmosphere.

### **Powers to require information and documents**

- 244.**—(1) An inspector may require any person whom the inspector has reasonable cause to believe is able to give any information relevant to any inspection or examination under regulation 241(4)—
- (a) to answer any question that the inspector thinks fit, and
  - (b) to sign a declaration of the truth of the person’s answers.
- (2) An inspector may—
- (a) require any relevant documents to be produced, and
  - (b) inspect and take copies of, or of any information in, any relevant documents.
- (3) For this purpose—
- (a) “document” includes information recorded in any form;
  - (b) “relevant document” means a record or other document which—

- (i) is required to be kept by virtue of these Regulations, or
  - (ii) the inspector needs to see for the purposes of any inspection, examination or test under regulation 241(4).
- (4) In the case of a relevant document that consists of information held otherwise than in legible form, including information held in electronic form, the inspector may—
- (a) require it to be produced—
    - (i) in a legible form, or
    - (ii) in a form from which it can readily be produced in a legible form, and
  - (b) require access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with the relevant document.
- (5) An inspector may take possession of any document or record which the inspector has power to demand and retain it for as long as necessary to comply with the purposes in section 26(2).
- (6) Where an inspector has reason to believe that any document or record which the inspector has power to demand is held on electrical or electronic equipment, the inspector—
- (a) may take possession of that equipment and retain it for as long as necessary to comply with the purposes in section 26(2);
  - (b) may take all reasonable steps to gain access to the document or record held on the electrical or electronic equipment.

#### **Powers exercisable in relation to particular articles or substances**

**245.**—(1) An inspector may take possession of any article or substance found on any premises or vehicle and retain it for as long as necessary—

- (a) for it to be examined or tested;
  - (b) for anything to be done to it which the inspector may cause to be done under paragraph (6);
  - (c) to ensure that it is not tampered with before any examination, test or other procedure mentioned in sub-paragraph (a) or (b) is complete;
  - (d) to ensure that it is available for use in any proceedings for an offence under the Act or any regulations made under the Act.
- (2) The inspector may exercise the power in paragraph (1) if the inspector has reason to believe that—
- (a) the article or substance has caused, may have caused, or is likely to cause, non-compliance with a licence condition, a provision of the Act or an international obligation of the United Kingdom,
  - (b) the article or substance has caused, may have caused, or is likely to cause, danger to public safety or national security, or
  - (c) it is desirable to do so for the purposes set out in section 26(2).
- (3) Before taking possession of any substance under this regulation, the inspector must, if it is practicable—
- (a) take a sample of it, and
  - (b) give a portion of the sample, marked so as to be identifiable, to a person at the premises or vehicle from which the substance is taken.
- (4) An inspector who takes possession of any article or substance under this regulation must—
- (a) if it is practicable to do so, give written notice to that effect to a person at the premises or vehicle from which the article or substance is taken;

- (b) otherwise, fix such a notice in a conspicuous position at the premises or vehicle from which the article or substance is taken.
- (5) The notice must include sufficient information about the article or substance to identify it.
- (6) An inspector may cause any article or substance found in any premises or vehicle—
  - (a) to be dismantled;
  - (b) to be examined or tested;
  - (c) to be the subject of a demonstration showing how the article or substance functions;
  - (d) to be deactivated or otherwise rendered safe for handling;
  - (e) to have any other process applied to it.
- (7) The inspector may exercise any power in this regulation if the inspector has reason to believe that—
  - (a) the article or substance has caused, may have caused, or is likely to cause, non-compliance with a licence condition, a provision of the Act or an international obligation of the United Kingdom,
  - (b) the article or substance has caused, may have caused, or is likely to cause, danger to public safety or national security, or
  - (c) it is desirable to do so for the purposes set out in section 26(2).
- (8) Before exercising a power in this regulation, the inspector must use their best endeavours to consult such persons as the inspector considers appropriate.
- (9) Anything done to the article or substance under this regulation must not damage or destroy it unless in the circumstances that is unavoidable.
- (10) If requested by a person who has responsibilities in relation to the premises or vehicle from which the article or substance is taken, and that person is on or at the premises or vehicle, the inspector must allow anything done to the article or substance under this regulation to be done in that person's presence.
- (11) Paragraph (10) does not apply where the inspector considers that that would be prejudicial to the national security of the United Kingdom.

#### **Power to require the use of facilities and assistance**

**246.** A power conferred by this Section includes power to require any person to provide any facilities or assistance relating to matters or things—

- (a) within the person's control, or
- (b) in relation to which the person has responsibilities,

which are needed in order to enable an inspector to exercise the power.

#### **Power to issue contravention notice**

**247.**—(1) This paragraph applies where an inspector is of the opinion that a person—

- (a) is contravening, or has contravened—
  - (i) any of the conditions of a licence granted under the Act,
  - (ii) any provision of the Act or regulations made under the Act, or
- (b) is conducting an activity that is likely to cause a contravention of—
  - (i) any of the conditions of a licence granted under the Act;
  - (ii) any provision of the Act or regulations made under the Act.



(2) The inspector may serve on that person a notice (a “contravention notice”) identifying the contravention.

(3) The notice must—

- (a) specify the relevant licence condition or provision of the Act or regulations, and
- (b) state that the inspector is of the opinion mentioned in paragraph (1).

(4) The notice must specify a period within which it is in the inspector’s opinion reasonable for the contravention to be remedied.

(5) The notice may include directions as to the measures to be taken to remedy the contravention identified in the notice.

### **Power to issue warning notice**

**248.**—(1) This regulation applies where the conditions in paragraph (2) are met.

(2) The conditions are—

- (a) a contravention notice has been issued to a person,
- (b) the period specified under regulation 247(4) has expired, and
- (c) the contravention identified in the notice has not been remedied in full.

(3) The inspector may serve on that person a notice (a “warning notice”) informing that person of—

- (a) the regulator’s power to revoke, vary or suspend a licence under section 15;
- (b) the regulator’s power to give a direction under sections 27 and 28;
- (c) the Secretary of State’s power to give a direction under section 28;
- (d) the inspector’s power to give a prohibition notice under regulation 249.

(4) The notice must specify a period within which it is, in the inspector’s opinion, reasonable for the contravention to be remedied.

(5) The notice may include directions as to the measures to be taken to remedy the contravention identified in the contravention notice.

### **Power to issue prohibition notice**

**249.**—(1) This paragraph applies where the conditions in paragraph (2) are met.

(2) The conditions in this paragraph are—

- (a) a warning notice has been served on a person,
- (b) the period given in the warning notice has expired,
- (c) the contravention identified in the contravention notice has not been remedied in full, and
- (d) the inspector is of the opinion that that person—
  - (i) is carrying on activities which involve a risk to public safety or the national security of the United Kingdom, or
  - (ii) is likely to carry on activities which involve a risk to public safety or the national security of the United Kingdom.

(3) The inspector may serve on that person a notice (a “prohibition notice”) directing the relevant person to stop carrying on the activities specified in the notice unless that person remedies the contravention complained of in the contravention notice.

(4) The notice must—

- (a) state that the inspector is of the opinion mentioned in paragraph (2)(d), and why;
  - (b) specify the matters which in the inspector’s opinion give rise, or will give rise, to the risk mentioned in that sub-paragraph.
- (5) A prohibition notice takes effect—
- (a) at the end of the period specified in the notice, or
  - (b) if the notice so specifies, immediately.

### **Appealing against notice under regulation 249**

**250.** A prohibition notice must include information about the right of appeal against the notice.

### **Supplementary powers**

**251.** A power conferred by this Section includes power to do anything incidental that is necessary for the inspector to fulfil the purpose of the inspector’s appointment.

### **Protection for documents subject to legal professional privilege etc.**

**252.** Nothing in this Section is to be taken to confer power to compel the production by any person of a document or information in respect of which—

- (a) in England and Wales or Northern Ireland, a claim to legal professional privilege, or
- (b) in Scotland, a claim to confidentiality of communications,

could be maintained in legal proceedings.

## **CHAPTER 4**

### **Sharing of information between regulator and other bodies**

#### **Regulator may share information**

**253.—(1)** The regulator may share the information listed in paragraph (2) with the following persons—

- (a) the Secretary of State;
- (b) a qualifying health and safety authority;
- (c) the Defence Safety Authority;
- (d) any other public authority or international organisation responsible for regulating any aspect of spaceflight activities;
- (e) an appointed person<sup>(4)</sup>,

for the purposes set out in section 26(2).

(2) The regulator may share the following information—

- (a) information submitted to the regulator by a person making an application for a licence under the Act;
- (b) information otherwise obtained by a regulator in respect of a person making an application for a licence under the Act;
- (c) information submitted to or obtained by the regulator, or an inspector, in the exercise of powers under this Part.

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(4) See definition in section 16(1) of the Space Industry Act 2018.

## CHAPTER 5

### Restrictions on disclosure of information

#### SECTION 1

##### *Prohibition against disclosure of protected information*

##### **Meaning of “protected information”**

**254.**—(1) A reference in this Section to “protected information” means information which has been—

- (a) obtained by the regulator or an inspector under this Part, or
- (b) shared with any of the persons listed in regulation 253(1).

(2) Information is not protected information for the purposes of this Section if it has been disclosed or made available to the public lawfully from other sources.

##### **Prohibition on disclosing protected information**

**255.** Protected information must not be disclosed except in accordance with Section 2 of this Chapter.

##### **Offence of disclosing protected information**

**256.** It is an offence for a person to disclose information in contravention of regulation 255.

##### **Defences to offence of disclosing protected information**

**257.** It is a defence for a person charged with an offence under regulation 256 to prove—

- (a) that the person did not know, and had no reason to suspect, that the information disclosed was protected information, or
- (b) that the person took all reasonable precautions, and exercised all due diligence, to avoid committing the offence.

##### **Penalty for disclosing protected information**

**258.** A person guilty of an offence under regulation 256 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.

#### SECTION 2

##### *Exceptions to prohibition against disclosure of protected information*

##### **Disclosure with consent**

**259.** Regulation 255 does not prohibit disclosure of protected information if it is made with the consent of the person or body who provided or shared the information.

### **Disclosure by the regulator, inspectors etc.**

**260.**—(1) Regulation 255 does not prohibit a disclosure of protected information by—

- (a) the regulator,
- (b) an inspector,
- (c) any person referred to in regulation 253(1),
- (d) any other public authority,

for the purposes set out in paragraph (2).

(2) Those purposes are—

- (a) complying with any of that person’s duties, or
- (b) exercising their powers,

under the Act or any regulations made under the Act.

### **Disclosure to authorities**

**261.**—(1) Regulation 255 does not prohibit a disclosure to a public or local authority, or an officer of that authority.

(2) Where protected information is disclosed by virtue of this paragraph, the person to whom the information is disclosed may only use the information for the purposes of the authority in question.

### **Disclosure required under legislation**

**262.** Regulation 255 does not prohibit a disclosure of protected information which is made in accordance with an obligation under—

- (a) the Freedom of Information Act 2000(5), or
- (b) the Freedom of Information (Scotland) Act 2002(6).

### **Legal proceedings, inquiries and investigations**

**263.**—(1) Regulation 255 does not prohibit a disclosure of protected information for the purposes of—

- (a) any legal proceedings;
- (b) an investigation under section 20;
- (c) any report of such proceedings or investigation.

(2) Regulation 255 does not prohibit a disclosure of protected information which is made—

- (a) by the regulator or an inspector, and
- (b) for any of the purposes specified in section 17(2)(a) to (d) (criminal proceedings and investigation) of the Anti-terrorism, Crime and Security Act 2001(7).

### **Anonymised information**

**264.** Regulation 255 does not prohibit a disclosure of protected information which is made in a form calculated to prevent a particular person or case, to whom the information relates, from being identified.

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(5) 2000 c. 36.  
(6) 2002 asp 13.  
(7) 2001 c. 24.

