



## Operational Policy: Liability, Insurance and Indemnities

### 1.1 Purpose of this document

This is the New Zealand Space Agency (**NZSA**) policy concerning liability insurance and indemnities relating to permitting and licencing assessments and decisions made under the Outer Space and High-altitude Activities Act 2017 (**the Act**) and in accordance with the Outer Space and High-altitude Activities (Licences and Permits) Regulations 2017 (**the Regulations**).

It explains the provisions in the Act relating to liability, insurance and indemnities and provides guidance on how these provisions will be implemented when assessing applications under the Act and the Regulations

### 1.2 When to apply this policy

This policy will be applied as one of a number of considerations when assessing applications for:

- + Launch licences
- + Payload permits
- + Overseas launch licences
- + Overseas payload permits
- + Facility licences
- + High-altitude licences

### 1.3 Policy background

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies (**the Outer Space Treaty**) and the Convention on International Liability for Damage Caused by Space Objects (**the Liability Convention**) assign liability to a State party for damages caused by space objects that are launched from its territory or by its nationals overseas.

A space object may include launch vehicles (such as rockets), payloads (such as satellites) and component parts thereof. When more than one launching state is involved, states are jointly and severally liable.

As a launching state, New Zealand has:

- **absolute liability** for damage caused by its space objects on the surface of the Earth or to aircraft in flight (i.e. during launch or re-entry into the atmosphere); and
- **fault-based liability** for damage caused in-orbit.



## 1.4 Policy Intent

The Act puts into place a flexible approach to managing the risks associated with space activities. This approach incorporates the provisions in the Act relating to the management of New Zealand's liability under the Outer Space Treaties.

New Zealand's regulatory regime takes the view that liability is best managed by those whose activities create the risk. The Act preserves flexibility for risk sharing between the government and the licensee across the activities governed by the Act. This is reflected in the ability of the Responsible Minister to apply conditions to a licence or a permit requiring insurance and indemnities.

It is the preference of the New Zealand regulatory regime that the risks associated with activities permitted under the Act are managed first through technical controls, such as compliance with international orbital debris mitigation standards. Please refer to NZSA's [Orbital Debris Mitigation Operational Policy](#) for further detail.

The Minister may impose indemnity and insurance requirements if the risk cannot be managed with technical controls alone.

In the case of launch licences there will always be a requirement for indemnity and insurance.



## 1.5 Summary of sections in the Act relating to indemnities and insurance

Relevant sections	
<b>Launch licence</b>	<ul style="list-style-type: none"> <li>• <b><u>10(2)&amp;(3)</u></b> - Conditions, indemnity, and insurance relating to launch licence</li> <li>• <b><u>12(2)</u></b> - Renewal of launch licence</li> <li>• <b><u>13</u></b> - Continuing obligations of licensee</li> </ul>
<b>Payload permit</b>	<ul style="list-style-type: none"> <li>• <b><u>18(2)&amp;(3)</u></b> - Conditions, indemnity and insurance relating to payload permit</li> <li>• <b><u>20</u></b> - Continuing obligations of permit holder</li> </ul>
<b>Overseas launch licence</b>	<ul style="list-style-type: none"> <li>• <b><u>26(2)&amp;(3)</u></b> - Conditions, indemnity and insurance relating to overseas launch licence</li> <li>• <b><u>28(2)</u></b> - Renewal of overseas launch licence</li> <li>• <b><u>29</u></b> - Continuing obligations of licensee</li> </ul>
<b>Overseas payload permit</b>	<ul style="list-style-type: none"> <li>• <b><u>34(2)&amp;(3)</u></b> - Conditions, indemnity and insurance relating to overseas payload permit</li> <li>• <b><u>36</u></b> - Continuing obligations of permit holder</li> </ul>
<b>Facility licence*</b>	<ul style="list-style-type: none"> <li>• <b><u>41(2)</u></b> - Conditions and indemnity relating to facility licence</li> <li>• <b><u>43</u></b> - Renewal of facility licence</li> </ul>
<b>High-altitude licence*</b>	<ul style="list-style-type: none"> <li>• <b><u>48(2)</u></b> - Conditions and insurance relating to high-altitude licence</li> </ul>
<p><b>If there is a proposed transfer or change of control of a licence or permit, the liability, indemnity and insurance requirements are reviewed and conditions may be imposed as appropriate in accordance with this policy</b></p>	

*\*Note that the Liability Convention and Outer Space Treaty do not assign liability to states regarding the operation of launch facilities and operation of high altitude vehicles.*



## 1.6 Approach to exercising the discretion to require insurance and/or indemnity

The Act provides the responsible Minister with flexibility to require insurance or an indemnity. NZSA will apply the following policy:

Payloads:

- Generally small payloads that meet internationally accepted standards for orbital debris mitigation (supported by an ODMP that meets New Zealand's requirements) will not require indemnity and insurance requirements.
- Indemnity and insurance requirements for a payload permit is assessed on a case by case basis.
- The Minister may impose further conditions on any licence or permit as they see fit.

High altitude vehicles:

- The NZSA may recommend the Minister impose a condition to require insurance to mitigate the risk of the activity.
- The Minister may impose further conditions on any licence or permit as they see fit.

Space launches involving a US commercial launch vehicle:

- Require insurance up to the level of the maximum probable loss (MPL) for damage arising from the launch activity.
- Require New Zealand to be a co-beneficiary on the MPL insurance policy.
- Require the benefits of the US indemnity for damage above that amount to be passed on to New Zealand

If you are seeking a facility or launch licence please get in touch with NZSA at: [nzspaceagency@mbie.govt.nz](mailto:nzspaceagency@mbie.govt.nz)