

# Looking Up: What You Need to Know About Space Law

ALAANZ National Conference 2 May 2024

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ALL ORBITS, ALL PLANETS™

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# About Gilmour Space



# Top 10 things you need to know about space law

...apart from the fact that it's awesome

# 1. Space is not Lawless

- Five international space law treaties
  - Outer Space Treaty
    - Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies 1967
  - Rescue Agreement
    - Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space 1968
  - Liability Convention
    - Convention on International Liability for Damage Caused by Space Objects 1972
  - Registration Convention
    - Convention on Registration of Objects Launched into Outer Space 1975
  - Moon Agreement
    - Agreement governing the Activities of States on the Moon and Other Celestial Bodies 1979
- Other International Laws and Treaties also apply
  - International Telecommunication Union Rules
  - International Humanitarian Law

## 2. Space Law is the Law of Nations

- Space law is international law which is the law between States
- States agree treaties and other instruments
- Actions are brought by one State against another
- No direct liability of private actors under Space Treaties

## 3. The Edge of Space

- No fixed position/line/region/point/viewpoint
- Karman line – where atmospheric forces can no longer provide lift (von Karman calculated about 84km; now often accepted as 100km)
- US Law of War Manual – orbiting objects are in outer space
- 50 miles (80km) – NASA, FAA, USAF
- 100km – Australia
- Defined by the purpose of the object (not its location)
- Indirectly defining airspace

## 4. Attribution to Launching State

- Actions of private actors are attributed to a particular State or States
- Launching state under the Outer Space Treaty (Article VII):
  - State that launches the space object
  - State that procures the launch of the space object
  - State from whose territory the space object is launched
  - State from whose facility the space object is launched
- One or more states will be “internationally” liable for the actions of any private actors
- States will be cautious about whose activities they authorise



## 5. Liability for Damage

- Absolute liability for damage caused by a space object on the surface of the Earth or in airspace
- Liability for damage caused by a space object in space depends on fault
- Liability will lie with the relevant State
- The State carrying that liability may seek to recover from the private actor they authorised

## 6. Australian Domestic Space Laws

- Space (Launches and Returns) Act 2018 (Cth)
- Space (Launches and Returns) (General) Rules 2019 (Cth)
- Space (Launches and Returns) (Insurance) Rules 2019 (Cth)
- Space (Launches and Returns) (High Power Rocket) Rules 2019 (Cth)
  
- Enact into domestic law some parts of the Space Treaties
  
- Interpretation issues!
  - Use of international treaties to interpret Australian domestic legislation
  - Consistency of interpretation of international treaties across nations

## 7. Launch Facility Licences

- Any launch from within Australia must occur from a launch facility
- A launch facility licence is needed to operate a launch facility
- A launch facility is:
  - “a facility (whether fixed or mobile) or place specifically designed or constructed as a facility or place from which space objects can be launched, and includes all other facilities at the facility or place that are necessary to conduct a launch”
- Penalty for operating a launch facility without a launch facility licence is 1,000 penalty units (around \$330,000)



# BOWEN ORBITAL SPACEPORT, QLD

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## 8. Launch Permits

- Any launch from Australia requires a launch permit
- A launch permit is linked to a particular launch facility
- A launch of a space object is:  
“the launch the whole or part of the object into an area beyond the distance of 100km above mean sea level, or attempt to do so”
- Penalty for launching a space object from Australia without a launch permit is:
  - For an individual – imprisonment for 10 years or 5,500 penalty units (around \$1,815,000)
  - For a company – 100,000 penalty units (\$33,000,000)

## 9. Little Precedent

- International law examples are rare
- International law examples are not binding
- No Australian case law to rely upon to interpret the law

## 10. Interface with Airspace

- Need to ensure that there is concurrent and cooperative use of airspace between the launch facility and the edge of space
- Approval/coordination through CASA
- Notifications (NOTAMs etc)
- Checking
- Launching

# Questions?

