

# Guidance on appealing decisions made under The Space Industry Act 2018 and The Outer Space Act 1986

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## Section 1: Overview of the Guidance

- 1.1 The Space Industry Act 2018 (the Act) regulates all spaceflight activities carried out in the United Kingdom, and associated activities.
- 1.2 The Act requires any person or organisation wishing to:
  - launch a launch vehicle from the UK
  - return a launch vehicle launched elsewhere than the UK to the UK landmass or the UK's territorial waters
  - operate a satellite from the UK
  - conduct sub-orbital activities from the UK
  - operate a spaceport in the UK, or
  - provide range control services from the UKto obtain the relevant licence.
- 1.3 It is supported by [The Space Industry Regulations 2021](#) (the Regulations), that set out in more detail the requirements for each licence, and the [Regulator's Licensing Rules](#), which specify which application form to use to apply for a licence and what information the regulator will require in support of an application.
- 1.4 There is then a series of guidance documents designed to help explain how to comply with the Act and the Regulations. This document is one of the guidance documents.

With the coming into force of [section 1\(3\) of the Act](#), the [Outer Space Act 1986](#) no longer applies to space activities carried on in the United Kingdom, and accordingly the Outer Space Act 1986 does not apply to a person or organisation wishing to carry out spaceflight activities or operate a spaceport in the United Kingdom. The Outer Space Act 1986 **will** continue to regulate the following activities carried out overseas by UK entities: the procurement of the overseas launch of a space object, where the procurement takes place in the UK; the operation of a satellite in orbit from an overseas facility by a UK entity. Extant licences granted under the Outer Space Act 1986 for the carrying out of space activities from within the UK will continue to be governed under that regime. Where an application for a licence has been made under the Outer Space Act 1986, it will be assessed under that Act and – where successful – will result in the award of a licence under the Outer Space Act 1986.

### What is the purpose of this document?

- 1.5 This guidance document explains how to appeal against a decision made in regard to licencing under the Space Industry Act 2018 and the Outer Space Act 1986. It explains the circumstances in which an appeal can be made, how to make an appeal and what information an appellant will need to provide. It also describes the process for reviewing, assessing and determining appeals.

### Who is this guidance for?

- 1.6 This guidance is for any person or organisation that wishes to appeal against a decision made by the regulator in regard to licencing under the Space Industry Act 2018 and the Outer Space Act 1986. That could be a decision to grant, or refuse to grant a licence, or a decision to impose conditions on a licence (so the appeal is in relation to the conditions). It could also be a decision by the regulator to vary, amend the terms of, revoke or suspend a licence, refuse to renew a licence, refuse to transfer or vary a licence, or any of the prescribed decisions covered in [regulation 7 of the Space Industry \(Appeals\) Regulations](#).

- 1.7 The guidance is written primarily for applicants or licensees who wish to have an independent review of the regulator's decision. An appeal can only be made after the regulator has made a decision. If applicants have concerns during the application process, they should raise these with the regulator. If appropriate, such concerns could be raised under the process for handling procedural irregularities.
- 1.8 Before submitting an appeal, applicants/licensees are strongly advised to read this guidance and associated regulations, to ensure that their appeal is being made on correct grounds.

**IMPORTANT – Eligibility to appeal**

The appeals process is only open to applicants/licensees, a person who has received a notice from an inspector/regulator in relation to spaceflight activities or a person who has been refused a medical certificate. Any other person or organisation who wishes to challenge a regulator's decision can only do so by [judicial review](#).

### Using this guidance

- 1.9 This guidance document on appealing decisions made under the Space Industry Act 2018 is designed to assist in deciding whether to appeal against a decision and understanding how the appeal process will take place. It should be read in conjunction with the [Act](#), [the Regulations](#) and [the Regulator's Licensing Rules](#). Where appropriate, the guidance contains links to each of these.
- 1.10 The guidance is not intended to cover every eventuality that may be encountered in the application process. Together with the Regulator's Licensing Rules, this guidance is designed to help applicants to submit their applications and work with the regulator to ensure the process flows efficiently.
- 1.11 If applicants have any queries, they are encouraged to contact the regulator, to seek clarification or gain further information.

### The regulator

- 1.12 The Civil Aviation Authority (CAA) will perform the functions of the regulator under the Act. It is referred to in this guidance as 'the regulator'. Under [section 2 of the Act](#), the regulator must carry out its functions relating to spaceflight activities with a view to securing the health and safety of members of the public and the safety of their property. This duty has primacy over the other matters that the regulator must take into account in exercising its functions.
- 1.13 In performing its functions, the regulator will need at times to review confidential and commercially sensitive information. The regulator already has robust security processes in place that will ensure all the information sent in relation to applications, and monitoring ongoing licensed activities, is handled and protected appropriately. For more details on the regulator's security processes and systems, please contact the regulator.

**Contacting the regulator**

The regulator can be contacted by email to [commercialspaceflight@caa.co.uk](mailto:commercialspaceflight@caa.co.uk). The regulator welcomes and encourages ongoing contact from prospective applicants before they submit an application for a licence. This can be from the earliest stages of considering whether to apply for a licence.

## Key terms

### 1.14 The Act regulates:

- space activities
- sub-orbital activities and
- associated activities

that are carried out in the UK.

### 1.15 As set out in [section 1 of the Act](#), “space activity” means

- (a) launching or procuring the launch or the return to earth of a space object or of an aircraft carrying a space object
- (b) operating a space object, or
- (c) any activity in outer space

### 1.16 “A space object” includes the component parts of a space object, its launch vehicle and the component parts of that.

### 1.17 “Sub-orbital activity” means launching, procuring the launch of, operating or procuring the return to earth of:

- (a) a rocket or other craft that is capable of operating above the stratosphere
- (b) a balloon that is capable of reaching the stratosphere carrying crew or passengers, or
- (c) an aircraft carrying such a craft

but does not include space activity. By way of clarification, the regulator will use the International Standard Atmosphere (47km) as the stratopause (i.e. the upper limit of the stratosphere) for the purposes of determining whether an activity is ‘sub-orbital’.

### 1.18 Space activities and sub-orbital activities are referred to in the Act as “spaceflight activities”.

### 1.19 “Spacecraft” means a space object, a rocket or other craft that is capable of operating above the stratosphere or a balloon that is capable of reaching the stratosphere carrying crew or passengers, that is used for spaceflight activities. It includes satellites.

### 1.20 “Launch” is defined in the Act as including causing a craft to take off (or releasing a balloon).

### 1.21 [Regulation 2](#) of the Space Industry Regulations defines a launch vehicle, other than in references to a “US launch vehicle”, as:

- “(a) a craft to which section 1(5) of the Act applies and the component parts of that craft, or
- (b) a space object which is a vehicle and the component parts of that vehicle,

that is used for the purpose of the proposed spaceflight activities or the operator’s spaceflight activities, as applicable, but does not include a payload carried by the launch vehicle;”

### 1.22 The “craft to which section 1(5) of the Act applies” referred to in part (a) of this definition are:

- a rocket or other craft that is capable of operating above the stratosphere
- a balloon that is capable of reaching the stratosphere carrying crew or passengers

- 1.23 Part (b) of the definition covers vehicles that are capable of reaching orbit, such as those used to place a satellite payload in orbit. As explained below, the operator of any satellite carried on board a launch vehicle does not require their own launch operator licence, but does require an orbital operator licence.
- 1.24 Associated activities include the operation of spaceports and range control functions.
- 1.25 Under the Act, any site from which a spacecraft or carrier aircraft is intended to launch is considered a spaceport, and must be licensed. A site at which controlled and planned landings of spacecraft are to take place is also a spaceport and must be licensed.
- 1.26 Range control services are defined in [section 6](#) of the Act as:
- “(a) identifying an appropriate range for particular spaceflight activities;
  - (b) co-ordinating arrangements for the activation and operation of the range;
  - (c) obtaining all necessary information for identifying the range and for co-ordinating its activation and operation;
  - (d) ensuring that notifications are issued for the protection of persons who might be put at risk by spacecraft or carrier aircraft within the range or in the vicinity of it;
  - (e) monitoring the range, and the spacecraft or carrier aircraft for which it is provided, to ascertain
    - (i) whether the restrictions or exclusions to which the range is subject are complied with;
    - (ii) whether planned trajectories are adhered to;
  - (f) communicating any failure to comply with those restrictions or exclusions, or to adhere to those trajectories, for the purpose of enabling any appropriate actions to be taken in response;
  - (g) any prescribed services provided for the purposes of, or in connection with, services within any of paragraphs (a) to (f).”
- 1.27 Under [section 13\(1\) of the Act](#), the regulator has the power to include conditions in an operator licence (launch operator licence, return operator licence and orbital operator licence), spaceport licence and a range control licence. Licensees must comply with those conditions. [Schedule 1 of the Act](#) includes a list of examples of conditions, but this is not exhaustive, and the actual conditions included in a licence will vary depending on the operation planned and the type of licence issued. When deciding what conditions to include in a licence, the regulator must consult the public bodies, including the Health and Safety Executive, listed in [section 13\(6\) of the Act](#). Whenever the guidance refers to the regulator imposing conditions (other than a condition which the regulator is required to impose via the Regulations under section 13(3)), the obligation to consult these bodies applies.

### Carrying out spaceflight activities at sea

- 1.28 If a person is proposing to launch or carry out other spaceflight activities from UK territorial waters or from a UK flagged ship elsewhere, the Act and Regulations will regulate the activities. Where appropriate, regulations which refer to land also apply to spaceflight activities from a ship – for example, where a regulation refers to a "place" or "other place" from which activities take place, in addition to activities from land. If a person is proposing to launch or carry out other spaceflight activities from a foreign flagged ship outside UK territorial waters and is a British national, UK body corporate or Scottish firm, the Outer Space Act 1986 regulates these activities.
- 1.29 Sea launch and other sea activities are a complex area; organisations wishing to conduct sea launches are advised to contact the regulator before applying for a licence. Further information on this can be found in section 2 of the guidance document [Applying for a licence under the Space Industry Act 2018](#).



## Requirements and expectations

1.30 Where the guidance uses the term “must”, this refers to a requirement in or under the Act. If applicants / licensees fail to meet that requirement, it could result in the licence not being granted or being revoked or suspended. Where it is stated that “the regulator expects” applicants to do something, this describes a preferred approach; however, it is not a legal requirement to comply with the regulator’s expectations.

### Terms relating to the appeals process

1.31 In this guidance document, the following key terms are used:

- The **appellant** is the person or organisation that is submitting the appeal.
- The **respondent** is the person or organisation whose decision is being appealed. In these circumstances, the respondent will usually be the regulator that made the decision (i.e. the Civil Aviation Authority (CAA)). However, an appeal against a refusal to grant a medical certificate may be brought against the approved aeromedical examiner responsible.
- The **appeals panel** hears all appeals. It consists of three or more senior officials from the UK Space Agency and government departments, supported by a panel secretary. These officials are independent from the regulator.
- **Standard** and **complex** appeals. The appeals panel will decide, based on the specifics of the case, whether an appeal will be assessed as a **standard** or a **complex** case. In a complex case, a longer time period is allowed for many of the stages of the appeal process. Typically, but not always, a standard appeal may be one which requires the panel to make a straightforward decision based on clear-cut facts. A complex appeal would typically be one where greater technical knowledge and assessment is required from panel members and experts to reach an outcome. Examples of reasons why an appeal is deemed standard, or complex, are in section 3 of this guidance.
- As a first step, the person or organisation that wishes to challenge a regulator’s decision must obtain **permission to appeal**. The process for doing so is explained in section 3 of this guidance.
- People or organisations with sufficient interest in an appeal can submit a request to **intervene**. Whether somebody has ‘sufficient interest’ to intervene will be determined on the merits of each application and case. However, a party with some direct interest (e.g. financial) in the decision that is being appealed, may be permitted to intervene in the appeal.

### Types of licence

1.32 The Act refers to three types of licences that can be awarded:

- operator licence
- spaceport licence
- range control licence

1.33 Following the publication of the Act, it was agreed that there should be different licensing requirements for different types of operators. For example, some organisations that would want to operate space objects (such as satellites or research vehicles) would not have a launch capability, and instead would wish to procure such capability and then operate the object once it reached orbit. While these organisations clearly do not need a licence to operate a launch vehicle, they are still required to obtain an operator licence to operate their object in space. Reflecting the various circumstances, there are now five licences available:

- **Launch operator licence:** means an operator licence within [section 3 of the Act](#) which authorises a person or organisation to carry out spaceflight activities that include launching a launch vehicle or launching a carrier aircraft and a launch vehicle. This is the type of licence needed if a person or organisation wants to launch a launch vehicle or use a carrier aircraft to assist with a launch of a

launch vehicle. A person or organisation holding a launch operator licence is referred to as a spaceflight operator,<sup>1</sup> or in some circumstances, launch operator licensee. If a launch operator licensee wishes to return a launch vehicle launched from the UK or the UK's territorial waters to land in the UK, it can apply to do so under the launch operator licence and does not need to apply for a separate return operator licence.

- **Return operator licence:** means an operator licence within section 3 of the Act which is not a launch operator licence and which authorises a person or organisation to operate a launch vehicle, launched into orbit from elsewhere than the United Kingdom, in order to cause that vehicle to land in the United Kingdom. This is the type of licence needed if a person or organisation wants to return a launch vehicle, launched elsewhere than the United Kingdom, to land in the UK or within the UK's territorial waters. A person or organisation holding a return operator licence is referred to as a spaceflight operator,<sup>1</sup> or in some circumstances, return operator licensee.
- **Orbital operator licence:** means an operator licence which authorises a person or organisation to procure the launch of a space object into orbit, operate a space object in orbit or conduct other activity in outer space. The most common examples of activities that would be licensed under an orbital operator licence are the procurement of a satellite launch and the operation of a satellite. However, the licence may also cover any other activity in outer space, and is not limited to activities in Earth's orbit. For example, an orbital operator licence would be needed for missions in lunar orbit, lunar surface missions, or deep space probes. A person or organisation holding an orbital operator licence is referred to as an orbital operator licensee.
- **Spaceport licence:** means a licence granted under [section 3](#) of the Act authorising a person or organisation to operate a spaceport (i.e. a site from which spacecraft or carrier aircraft can be launched or a site at which controlled and planned landings of spacecraft can take place<sup>2</sup>). Spaceports can be licensed for vertical or horizontal launches (or potentially both). A horizontal spaceport must be located at an aerodrome that is already CAA licensed or certified and National Aviation Security Programme (NASP) directed. A person or organisation holding a spaceport licence is referred to as a spaceport licensee.
- **Range control licence:** means a licence granted under [section 7](#) of the Act authorising a person or organisation to carry out range control services in relation to spaceflight activities. That includes identifying an appropriate range; coordinating the use of a range; issuing protective notifications and monitoring the range. A person or organisation holding a range control licence is referred to as a range control licensee.

### Examples of offences and enforcement directions under the Act

1.34 Under [section 3 of the Act](#), it is an offence to carry out spaceflight activities or operate a spaceport in the UK without the required licence. It is also an offence to make a false statement for the purpose of

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<sup>1</sup> The term spaceflight operator is used in the Regulations to refer to both the holder of a launch operator licence and the holder of a return operator licence. Any references to spaceflight operator in the Regulations or guidance encompass both licence types, so any requirements for spaceflight operators are applicable to both launch operator licensees and return operator licensees. Where a requirement only applies to either a launch operator licensee or return operator licensee, this is clearly stated.

<sup>2</sup> Ships used for sea launch or landing are not "sites" and are therefore not spaceports for the purposes of section 3 of the Act and so do not need a spaceport licence. However, certain types of installations at sea may be regarded as a "site" and so come within the definition. A person who wants to launch from, or land at, an installation at sea should contact the regulator to find out whether the installation they propose to use requires a spaceport licence.

obtaining an operator licence or a spaceport licence. A person who commits an offence under this section of the Act may be liable to a fine or imprisonment for a term not exceeding 2 years, or both.

- 1.35 Under [section 7 of the Act](#), it is an offence for range control services to be provided by anyone other than the Secretary of State, or a person or organisation authorised to provide them by a range control licence. It is also an offence for a person to make a false statement for the purpose of obtaining a range control licence. A person who commits an offence under this section of the Act may be liable to a fine or imprisonment for a term not exceeding 2 years, or both.
- 1.36 Under [section 13 of the Act](#), the regulator can grant a licence subject to conditions it thinks appropriate or must include a licence condition if required to do so by a regulation (see regulations 9(5) and 10(2)). When a condition is imposed, it is an offence for a licensee to fail to comply with that condition.
- 1.37 Under [section 17 of the Act](#), it is an offence for a spaceflight operator to allow any person to take part in spaceflight activities without them having given their informed consent and fulfilling the age and mental capacity criteria referred to in Part 12 of the Regulations. Under [section 18 of the Act](#), it is an offence a licensee to allow any unqualified individual to take part in activities authorised by the licence or work in a specified role.
- 1.38 Under [section 27 of the Act](#), the regulator can also issue directions that enable effective enforcement action to be taken, where it appears to the regulator that a person is carrying out spaceflight activities or associated activities without a licence, in contravention of licence conditions or in contravention of the Act or rules made under it.
- 1.39 Under section 27(2), “the regulator may give any directions to that person that appear necessary to be in the interests of safety or for the purposes of securing compliance with—
- (a) the conditions of a licence,
  - (b) provisions contained in or made under this Act, or
  - (c) the international obligations of the United Kingdom.”
- 1.40 It is an offence for a person in receipt of a section 27 direction to fail to comply with it (see [section 31\(3\)\(a\) of the Act](#)). The regulator could also, if it wished to do so, enforce compliance by way of an injunction or equivalent (see section 31(4)).
- 1.41 There are further direction-making powers in the Act, including power for the Secretary of State to give directions under [section 28\(3\)-\(4\)](#) and [section 29\(1\)](#).

#### The full list of guidance documents issued in relation to the Act

- 1.42 The following guidance documents are available in relation to licences that can be granted under the Act (and any statutory instruments made under the Act):
- Applying for a licence under the Space Industry Act 2018
  - Guidance for launch operator and return operator licence applicants and licensees
  - Guidance for spaceport licence applicants and licensees
  - Guidance for range control licence applicants and licensees
  - Guidance for orbital operator licence applicants and licensees
  - Guidance for the assessment of environmental effects
  - Guidance on security matters for applicants and licensees
  - Guidance on the investigation of spaceflight accidents

- Guidance on appealing decisions made under the Space Industry Act 2018 and the Outer Space Act 1986
- Guidance on insurance requirements and liabilities under the Space Industry Act 2018
- Guidance on duties for all licensees under the Space Industry Act 2018 including monitoring and enforcement by the regulator

1.43 In addition, applicants and licensees must follow the Regulator's Licensing Rules and are advised to read the Principles and guidelines for the spaceflight regulator in assessing ALARP and acceptable risk.

## Section 2: Legislative Background

### The Space Industry Act 2018 and the Outer Space Act 1986

- 2.1 As set out above, the Space Industry Act 2018 regulates all spaceflight activities taking place from the United Kingdom. This includes space activities, sub-orbital activities, and all associated spaceflight activities.
- 2.2 It requires any person or organisation wishing to undertake such activities to obtain the relevant licence.
- 2.3 The Outer Space Act 1986 still applies to activities taking place overseas, even if a UK company is involved. For example, if a UK satellite manufacturer procured a launch for its satellite from the UK, it would have to do so under the Space Industry Act 2018. If the same manufacturer procured a launch for its satellite from any other country, it would have to do so under the Outer Space Act 1986.

### Schedule 10 of the Space Industry Act 2018

- 2.4 [Schedule 10](#) of the Space Industry Act 2018 refers to appeals under both the Space Industry Act 2018 and the Outer Space Act 1986.
- 2.5 Part 1 of Schedule 10 imposes a requirement for regulations to establish appeal panels. Part 2 defines the rights of appeal. Part 3 defines how appeals will be determined and Part 4 sets out the core procedure.

### Regulations regarding appeals

- 2.6 Schedule 10 gives power for regulations to make provision regarding appeals and specific aspects of the process. The regulations created under this power are the [Space Industry \(Appeals\) Regulations 2021](#). These regulations make provision for appeal panels, their powers, and the procedure which is to be followed in relation to appeal. Unless otherwise stated, all references to regulations in this guidance refer to the [Space Industry \(Appeals\) Regulations 2021](#).
- 2.7 This guidance is based on Schedule 10 and the [Space Industry \(Appeals\) Regulations 2021](#), and is designed to help people or organisations wishing to appeal to understand whether there might be an appealable decision, what they need to do and how appeals will be assessed and heard.
- 2.8 The guidance is not comprehensive and if there is any doubt, Schedule 10 and the regulations will always take precedence over anything in the guidance.

### Commencement of the Act

- 2.9 The Space Industry Act 2018 received Royal Assent on 15 March 2020, providing a legislative framework for the licensing of space activities, sub-orbital activities, and associated activities carried out in the UK. However, many of the Act's provisions will only come into force on 29 July 2021, when the Space Industry Regulations come into force. From that date, people and organisations will be able to apply for a licence to:
  - launch a launch vehicle from the UK for sub-orbital missions involving human occupants, or return such a launch vehicle to the UK
  - launch a launch vehicle from the UK for orbital missions that do not involve human occupants, or return such a launch vehicle to the UK
  - procure the launch from the UK of a space object (such as a satellite) into orbit
  - operate a satellite from the UK

- operate a spaceport in the UK, or
- provide range control services in the UK

2.10 However, at the point the Regulations come into force, it will not be possible to apply for a licence for some activities that are permitted under the Act. These include:

- the licensing of space activities involving an orbital launch vehicle with human occupants
- the licensing of spaceflight activities involving hypersonic (or any other experimental) transport from A to B

2.11 Such activities are technically complex and difficult to regulate. By their very nature, they will require global collaboration on common standards to a much higher threshold than is achievable with current technologies.

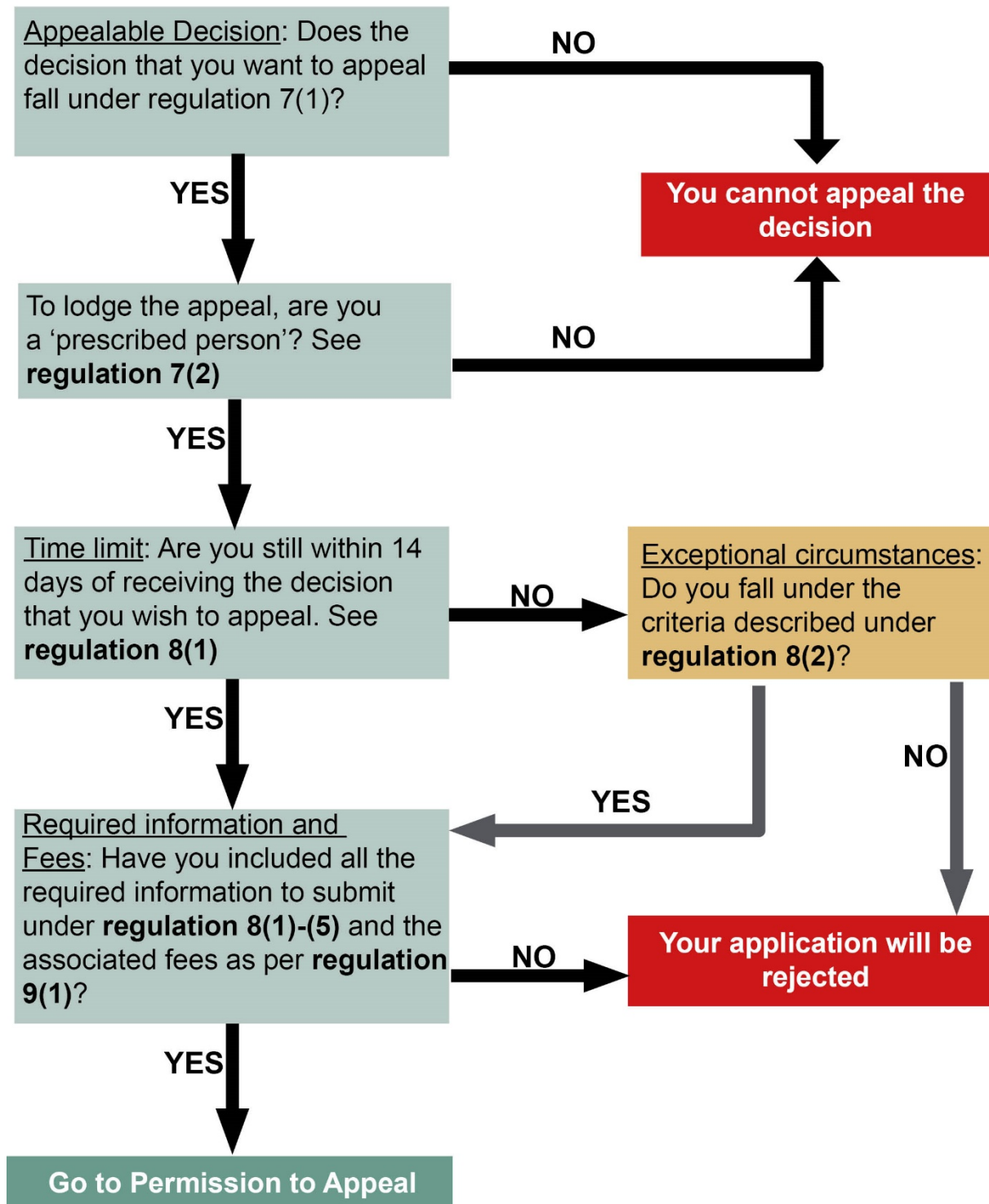
2.12 These restrictions are set out in Commencement Regulations, which also include provisions to ensure that the licensing of a procurement of an overseas launch carried out under the Outer Space Act can continue to be done under that Act, whether such a procurement takes place in the UK or overseas.

## Section 3: The appeal process

- 3.1 If a person wishes to appeal a decision made under the Space Industry Act 2018, or under any regulations made under that Act, they must first seek permission to appeal. To do so, they must:
- write to the secretary of the appeals panel to apply for permission to appeal, providing their contact details
  - provide details of the decision being appealed, and a concise statement of the facts
  - submit a summary of the reasons why they are appealing the decision
  - include the application for permission to appeal fee, or evidence that they have paid the fee
  - say whether they wish to have an oral hearing
  - include a signed statement of truth
- 3.2 Figure 1 below summarises the process for establishing eligibility to appeal.

**Figure 1: Process for establishing eligibility to appeal**

## Can you Appeal a Decision?



- 3.3 Permission to appeal must be sought within 14 days of the decision being appealed. The appeals panel can, at its discretion, consider requests for permission to appeal after the 14-day period has passed. In this situation, the person seeking permission will need to provide an adequate explanation as to why it was not possible for the application to be submitted within the permitted time.



- 3.4 An application for permission to appeal must include contact information for the appellant and any legal representative it wishes to act in the appeal. It must also include the name and address of the respondent.
- 3.5 An application for permission to appeal must also include details of the decision to which the proceedings relate, including a copy of the document setting out that decision.
- 3.6 The information required is set out in regulations 8(3), 8(4), 8(5) and if appropriate 8(6).
- 3.7 Annex A contains a form that appellants can use, with boxes for all required information. Appellants do not have to use this form, but if they do not, they must ensure they provide the panel with all the same required information. In particular, the statement of truth must be reproduced in the same format as in the form at Annex A.
- 3.8 The address to send the application for permission to appeal to is: [commercialspaceflight@caa.co.uk](mailto:commercialspaceflight@caa.co.uk)

**IMPORTANT**

If an appellant knowingly includes false information in any document which includes a statement of truth, they are committing an offence. Their appeal may be dismissed and they could be fined or imprisoned. In such cases, they will also be required to pay any fees paid by other parties.

## Deciding whether to grant permission to appeal

- 3.9 The secretary to the appeals panels will:
- publish details of the application for permission to appeal on its website
  - send details of the appeal to the respondent, within seven days of receiving an application for permission to appeal
- 3.10 The respondent must reply to the secretary of the panel within 14 days of receiving notice, to state whether they wish to contest the appeal or not.
- 3.11 During this period, parties with sufficient interest in the appeal may submit a request to intervene in the appeal (if it goes ahead). This must be done within 14 days of the information about the request to appeal being published on the appeals panel website. In line with regulation 11(5)(a)-(d), any party wishing to intervene must set out in writing:
- why they want to intervene
  - why they have sufficient interest in the decision, and
  - which party, if any, their intervention would support
- 3.12 They must also pay the required fee as per regulation 9.
- 3.13 Annex B contains a form for submitting requests to intervene, with boxes for all required information. Those wishing to intervene do not have to use this form, but must ensure they provide the panel with all the same information. In particular, the statement of truth must be reproduced in the same format as in the form at Annex B.

- 3.14 The panel will then meet to decide whether to grant permission to appeal, based on the information it has received from the appellant, the respondent and anyone that has sought to intervene. Neither the appellant nor the respondent attends this meeting.
- 3.15 Within seven days of the meeting, the panel will issue its decision. If permission to appeal is granted, the panel determines the scope of the appeal. It may limit the grounds on which the appeal can be brought or grant permission subject to specified conditions.
- 3.16 If permission is granted, the panel will also decide (either at the permission to appeal meeting or on a separate occasion):
- whether the appeal is a standard or complex case – a longer time period is allowed for many of the stages in the appeal if the panel decide it is a complex case
  - whether the appeal will be based solely on documents or whether there will be an oral hearing
  - whether to accept any interventions and conditions for intervention
  - any other requirements / preparations for the hearing
  - any directions for the handling of the appeal or the appeal hearing

#### **Standard and complex appeals**

It is up to the panel to determine whether an appeal is standard or complex, based on the information submitted by the appellant in the request for permission to appeal. The panel will not consult with the appellant or respondent in making this decision.

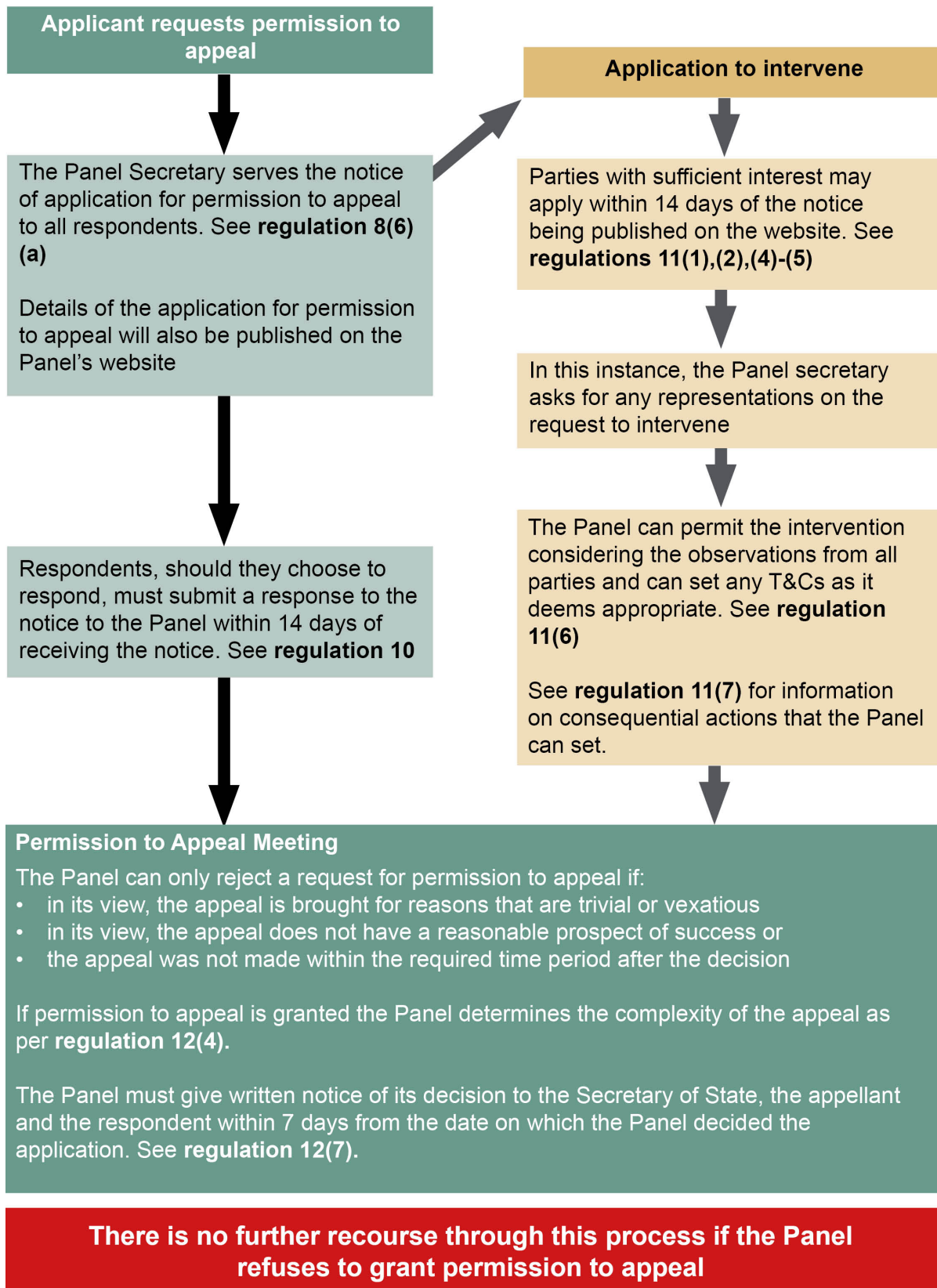
Typically, but not always, a **standard** appeal may be one which requires the panel to make a straightforward decision based on clear-cut facts. For example, an appeal against the regulator's decision not to award compensation under regulation 268(1) may be determined as a standard appeal if it is relatively straightforward for the appellant to demonstrate that a loss was suffered as a result of the regulator serving the stop notice, or the refusal to issue a completion; providing that the relevant conditions are satisfied.

A **complex** appeal would typically be one where greater technical knowledge and assessment is required from panel members and experts to reach an outcome. For example, this could be an appeal against the regulator's decision to refuse an initial licence application, or an application to vary a licence, following a revision of a safety case. In this instance, the reasons may require greater examination and technical expertise – which is why more time is permitted to gather and review information.

- 3.17 The panel can only reject a request for permission to appeal if:
- in its view, the appeal is brought for reasons that are trivial or vexatious
  - in its view, the appeal does not have a reasonable prospect of success or
  - the appeal was not made within the required time period after the decision
- 3.18 If the panel rejects a request for permission to appeal, the only way this can be overturned is via judicial review.
- 3.19 Figure 2 below summarises the process for seeking permission to appeal.

Figure 2: Process for seeking permission to appeal

## Permission to Appeal



## The appeal

### Preparing for the appeal hearing

- 3.20 After permission to appeal has been granted, the appellant must provide the secretary of the panel and all parties to the appeal (including the respondent and anyone given permission to intervene) with more detailed information about their appeal. This is known as “the notice of appeal”. They must do this within 14 days of receiving permission for standard cases, or 28 days for complex cases.
- 3.21 In their notice, appellants must provide the following information:
- a full statement of the grounds on which they are contesting the decision, identifying:
    - the legislative provision under which the appeal is brought
    - the extent to which the applicant believes that the disputed decision was based on an error of fact or was wrong in law
    - if the appeal relates to the respondent’s exercise of their discretion
  - a statement of the arguments supporting each of the grounds of appeal
  - the relief the appellant is seeking (for example whether they want the decision to be overturned, or for the respondent to take into account a fact)
  - a schedule listing all the documents annexed to the notice of appeal, including the written statements of any witnesses relied on
- 3.22 The appellant must also sign a statement of truth and include the appeal fee, or evidence that they have paid the appeal fee.
- 3.23 The respondent is then required to respond in writing to the appellant’s notice within 14 days, or if it is a complex case, within 28 days. This written response – known as “the respondent’s notice” – should include:
- the grounds on which it is resisting the appeal, including a full explanation for the decision which is the subject of the appeal
  - a list of every document (or part of a document) that it will rely on in support of its decision, including the written statements of any witnesses relied on
  - any further material (or relevant extracts) which it believes could undermine the decision it has taken
- 3.24 Both the appellant’s notice and the respondent’s notice (like the other documents required during the appeal process) must be served not only on the secretary to the panel but also on the other parties to the appeal.
- 3.25 The appellant may choose to reply in writing to the respondent’s notice. If they wish to do so, appellants must provide this further reply within 14 days of receiving the respondent’s written response (or 28 days, if it is a complex case).
- 3.26 Any party to the appeal can request from any other party a copy of any document that another party has indicated it will rely on during the hearing.
- 3.27 If the panel has allowed any interventions, then those with permission to intervene may be invited to provide a written statement. As well as providing any further details they deem relevant, in this statement the intervening party should also set out the relief they seek.

## The appeal hearing

- 3.28 If there is to be a hearing, the secretary will make all the arrangements for the panel. The panel must give all parties not less than 14 days' notice, in writing, of the date on which the hearing will be held.
- 3.29 The procedure at the hearing will be determined by directions given by the panel. The directions the panel can give include:
- a direction about the manner in which the proceedings are to be conducted, including any time limits to be observed in the conduct of the oral hearing
  - directions about written material that must be submitted, such as skeleton arguments, expert reports or document bundles
- 3.30 A full list of directions the panel can give is set out in [regulation 14](#).
- 3.31 Any party can request that the panel gives a direction. To do so, it must submit a written request to the panel secretary for a direction along with reasons for the request as soon as possible.
- 3.32 Anyone giving evidence may be required to do so under oath.
- 3.33 If the panel permits any new information or arguments that were not provided in the document bundle prior to the hearing to be introduced by any party, the panel may adjourn the hearing to allow time for all parties to consider the new issues.
- 3.34 There are additional restrictions and processes for hearings and documentation involving sensitive and commercially sensitive information. The secretary will provide additional advice on this if the issue arises (see also [regulation 17](#)).

## Who can attend the oral appeal hearing?

- 3.35 The hearing will be attended by the panel, the secretary and the appeals panel lawyer. In addition, the following will be invited to attend:
- the appellant and any legal or other representative(s) or technical experts
  - the respondent and any legal representatives or technical experts
  - witnesses for the appellant and the respondent
  - anyone permitted to intervene
  - any technical experts appointed by the panel to provide advice
- 3.36 Members of the public may not attend as all hearings are held in private.
- 3.37 If the appellant does not attend and is not represented at the oral hearing, the panel will consider the appellant's arguments in their absence and may need to seek further information before making a decision. If the panel is not notified of such a course of action, the panel may consider that the appeal is not being actively pursued and therefore withdrawn and the appeal will be refused.

## The panel's decision

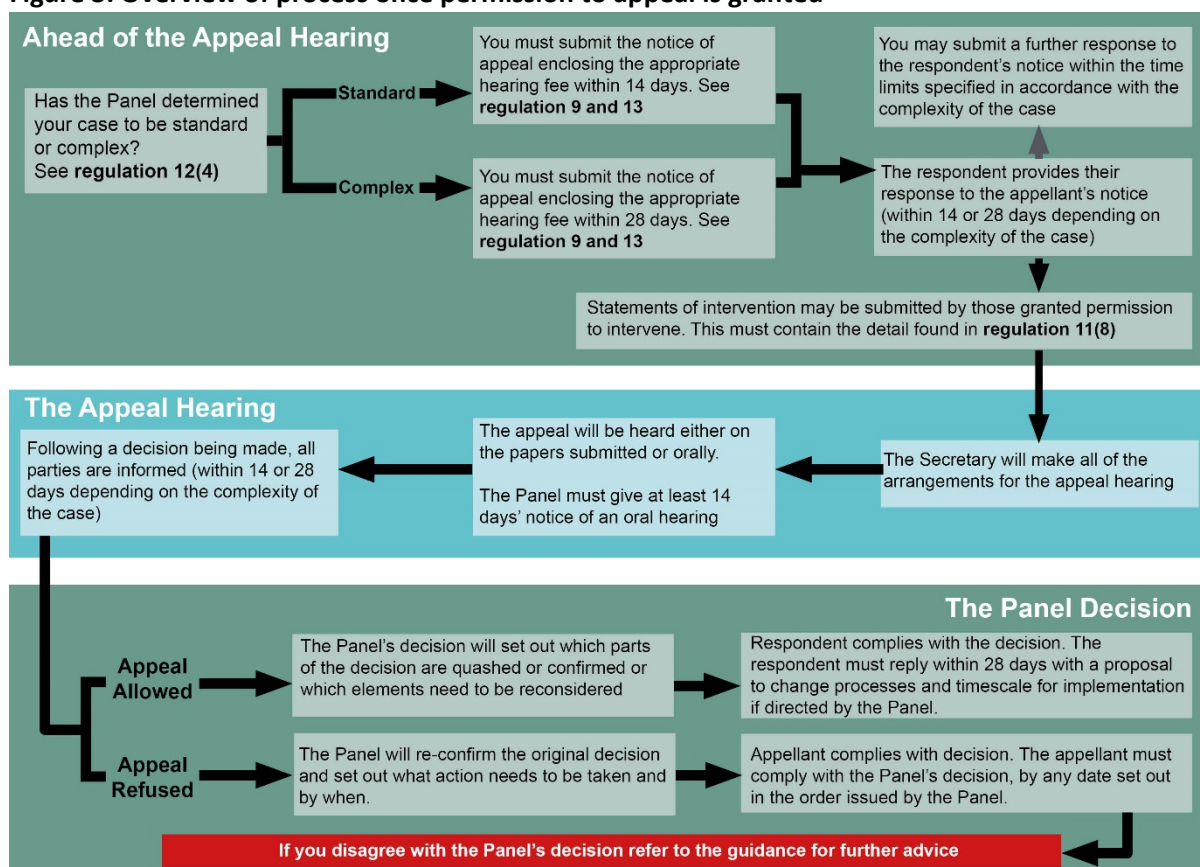
- 3.38 Once a decision has been made, the panel will inform all parties of its decision within 14 days of making that decision if it is a standard case, or 28 days, if it is a complex case. However, no time limits have been set for the panel to make the decision. The panel will endeavour to keep parties updated on its progress and provide some indicative timescales on when appellants can expect to receive the decision.

- 3.39 If the appeal is refused, the panel will re-confirm the original decision and set out what action needs to be taken and by when.
- 3.40 If the appeal is allowed in whole or in part, the panel’s decision will set out which parts of the decision are quashed or confirmed, or which elements need to be reconsidered.
- 3.41 There is no right of appeal if panel refuses the appeal (except judicial review).
- 3.42 The outcome of the appeal is published (unless publication would reveal sensitive information).

### Next steps

- 3.43 If the appeal is successful, the respondent must write to the appellant within 28 days of the panel’s decision, explaining how it proposes to comply with the panel’s decision and giving the proposed timescale for implementation.
- 3.44 Figure 3 below summarises what happens after permission to appeal is granted, including the hearing and implementing the panel’s decision.

**Figure 3: Overview of process once permission to appeal is granted**



## Section 4: Common questions on the appeals process

### Who can represent an appellant during the appeals process?

- 4.1 Appellants can represent themselves or appoint a representative to submit documents on their behalf and /or represent them at a hearing. This would normally be a legal representative such as a practising solicitor. If appellants wish to appoint someone other than a legal representative to represent them, the appellant will need to provide a signed document stating that the representative is authorised to act on their behalf.

### Can documents be submitted by email?

- 4.2 Yes, documents can be submitted to the secretary or to other parties by email. The sender should meet any requirements on format requested by another party. When sending documents to the secretary, the decision reference number should be included in the email subject line.
- If the email contains sensitive information, it must be sent securely. Any party wishing to send such information should contact the secretary to agree the process.
  - For documents with a signature, including the statement of truth, a paper copy must be made, signed and retained. An electronic copy of the signed document can then be submitted.

### What type of evidence can appellants provide in the notice of appeal?

- 4.3 In the notice of appeal, appellants should include:
- all documentation that they submitted to the regulator as part of their original application or licence change request **which are relevant to the grounds for the appeal**. Applicants must not simply submit their entire licence application
  - all evidence that they wish to present at the hearing
- 4.4 As well as written documents, relevant evidence could include pictures, emails, SMS messages, social networking messages or video clips.
- 4.5 Appellants must not provide the panel with any information that the respondent did not have access to in reaching their original decision.
- 4.6 Appellants must submit any evidence that they wish to present at the hearing in advance. A specific deadline will be set: after the deadline, any further evidence may only be presented with the permission of the panel.

### What wording should be used for the statement of truth?

- 4.7 Many documents submitted to the panel at any stage of the appeals process, including (but not limited to) the application for permission to appeal, the respondent's notice, and any applications to intervene, must include a signed statement of truth. The following wording should be used:

“[I believe][[the person on whose behalf the statement is being made] believes] that the facts stated in the [name of the document being verified] are true.”<sup>3</sup>

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<sup>3</sup> This wording is taken from the procedure rules for witness statements. See [www.justice.gov.uk/courts/procedure-rules/civil/rules/part32/pd\\_part32](http://www.justice.gov.uk/courts/procedure-rules/civil/rules/part32/pd_part32)



- 4.8 Where a party is submitting a bundle of documents, they only need to include a single statement of truth, which refers to the whole bundle.

## Who sits on the appeals panel and how they are appointed?

- 4.9 The appeals panel will consist of three or more senior government officials taken from a panel members list appointed by the Secretary of State to consider appeals. The use of senior government officials reflects the potential commercial sensitivity of the regulator's decisions which may affect private businesses. The members will be drawn from the UK Space Agency and government departments. One of the panel members will be appointed as chair. No-one from the regulator, or from any other organisation who was involved in the decision that is being appealed, will sit on the appeals panel. Officials from the UK Space Agency will provide technical expertise where required. However, any UK Space Agency officials involved will not be drawn from the commercial teams or will not have been involved in the original decision being appealed, or in the Secretary of State's approval of the decision to grant the licence in the first instance.
- 4.10 The panel will be supported by a secretary and an appeals panel lawyer, who will also have been independent of the initial decision.
- 4.11 The panel will also be able to access specialist advice in dealing with technical matters. However, such technical experts will not vote on the panel's decision.

## What happens if any party fails to comply with a direction from the panel?

- 4.12 If the panel makes a direction, the relevant party must follow that direction. If a party fails to do so, that party may be excluded from the proceedings. The panel may also strike out the appeal (in whole or in part).

If the decision to issue an enforcement notice is being appealed, will all operations on the ground need to stop whilst the appeal is in progress?

- 4.13 No, unless a specific enforcement notice prohibiting certain activities has been issued, the appellant can continue with its licensed activities while the appeal is in progress. Please refer to [Guidance on duties for all licensees under the Space Industry Act 2018 including monitoring and enforcement by the regulator](#) for further detail.

Can mediation be used following the regulator's decision to avoid the appeals process?

- 4.14 No, at present there is no formal recourse to mediation available. This is because throughout the application and licensing process there is already opportunity for extensive engagement between the applicant/licensee and the regulator, which should help avoid the regulator reaching a decision that that the applicant/licensee does not expect. Where an affected party disagrees with the regulator's decision ahead of the appeals process, it is able to liaise with the regulator before and even during the appeal (but not once the hearing has been determined). This may result in the withdrawal of the appeal.

## Can the appellant withdraw their appeal?

- 4.15 Yes, appeals can be withdrawn at any time. If an appeal is withdrawn, the panel will uphold the original decision and no further action will be taken. Once an appeal is withdrawn, a further appeal cannot be lodged against the same decision unless it is done within 21 days of the withdrawal.



4.16 If the appellant and respondent reach an agreement that the respondent will review its decision at any time before the panel reaches a determination, they should jointly inform the panel. Subject to the panel's consent, the appeal can then be ceased. The panel may however decide to continue with an appeal – for example, if there are several interventions that it deems should be heard.

## Section 5: Appeals fees

5.1 The fees payable in relation to appeals are set out in the table below. They are fixed, based on fees charged in courts under the civil procedure.

**Table 1: Appeals fees**

<i>Description of fee</i>	<i>Amount of fee</i>	<i>Who pays</i>
Applying for permission to appeal	£116	Appellant
Application for permission to intervene	£50	Person wishing to intervene
Application for directions	£50	Any party in the proceedings
Application to amend a notice of appeal	£116	Appellant
Determination of a standard appeal without a hearing	£154	Appellant
Determination of a standard appeal with a hearing	£385	Appellant
Determination of a complex appeal without a hearing	£240	Appellant
Determination of a complex appeal with a hearing	£528	Appellant

- 5.2 An appellant must include the relevant fee, or evidence that they have paid the fee, when sending the application for permission to appeal.
- 5.3 If the application for permission to appeal is successful, the appellant must then pay the relevant fee for determination at the same time as submitting the documents for the appeal hearing.
- 5.4 If the appropriate fee is not paid in full and on time, the appeal will be dismissed by the panel.
- 5.5 There are no exemptions from fees.
- 5.6 If an appellant withdraws their appeal, they will not receive a refund of any fees they have paid.
- 5.7 If an appeal is upheld, the appeal fees paid by the appellant will be refunded by the respondent. The appellant will also not be charged for any subsequent activity taken by the respondent to comply with the panel's decision. This will also include a waiver of charges for any re-assessments that the respondent

needs to carry out. However, any legal costs incurred by the appellant in the appeals process will not be refunded by the respondent.

5.8 The appeals panel cannot order that one party pays the costs of another party.

## Annex A: Template form for notice of application for permission to appeal

### The Space Industry (Appeals) Regulations 2021 – notice of application for permission to appeal

Please note that it is not compulsory to use this form if you wish to make an application for permission to appeal.

This form can only be completed by the appellant, a legal representative acting on behalf of the appellant or a person duly authorised by the appellant.

Once completed, this form should be sent to:  
The secretary to the Appeals Panel<sup>4</sup>

Please note that all notices of application for permission to appeal will be published on the panel's website to provide those who wish to intervene in the appeal the opportunity to apply and determine their level of interest in the case. Please therefore indicate if there are any details in this application that you do not wish to be published. The panel will determine whether any redactions can be made to the notice.

#### Section 1 - Details of the decision you are appealing

1. Decision reference \_\_\_\_\_
2. Are you a:

<input type="checkbox"/>	Licence applicant	<input type="checkbox"/>	Licence holder	<input type="checkbox"/>	Other (please specify – see guidance note for additional categories)
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Section  
2 -

#### Details of the party appealing ('The Appellant')

3. Name

4. Address (including postcode)

	Tel no.	
	E-mail (for service of documents)	

5. What is the UK address for the service of documents (if different to question 4 above)?

<sup>4</sup> Contact details for the secretary will be confirmed after the consultation and before the licensing process comes into force.

## Details of the respondent to the Appeal

6. Name

7. Address (including postcode)

Tel no.	<input type="text"/>
E-mail (for service of documents)	<input type="text"/>

8. Details of additional parties (if any) are attached

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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## Section 3 - Reasons for your appeal

9. Please provide details of the decision (or part of the decision) made by the regulator which you are seeking to appeal.

You must include a copy of that decision when submitting this notice of application for permission to appeal. Please tick the box to confirm you have attached this decision.

10. Please provide a summary of the grounds for appeal.

11. Please provide a concise statement of the facts of your case.

## Request for an oral hearing

12. If permission to appeal is given, please tick the box if you wish for your appeal to be heard at an oral hearing. Please note that alternative fees apply for an oral hearing.

Please provide your reasons

## Section 4 – Legal or other representation

13. Are you legally represented?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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14. Name of your legal representative

15. The address (including postcode) of your legal representative

Tel no.	<input type="text"/>
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	E-mail (for service of documents)	
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16. Are you being represented by someone other than a legal representative?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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17. The address (including postcode) of your authorised representative

	Tel no.	
	E-mail (for service of documents)	

18. Please tick the box to confirm that you have included with this submission an authenticated document confirming that the representative is authorised to make the application on your behalf

<p><b>Statement of Truth</b>          [I believe][[the person on whose behalf the statement is being made] believes] that the facts stated in the [name of the document being verified] are true.          Signed _____ Dated _____          Appellant('s legal representative) ('s authorised representative)          Full name _____          Name of appellant's legal representative firm _____          Position or office held: _____          (if signing on behalf of firm or company)</p>
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#### Permission to appeal fee

19. You must include the fee when submitting your notice of application for permission to appeal (£116).

Please tick the box to confirm that you have included the fee with your submission (or paid by the methods included in the guidance).

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#### Signature and date

Signed \_\_\_\_\_ Dated \_\_\_\_\_

Appellant('s legal representative) ('s authorised representative)

Full name \_\_\_\_\_

Position or office held \_\_\_\_\_  
 (if signing on behalf of firm or company)

## Annex B: Template form for interventions in an appeal

The submission of a statement of intervention should include the following contact information to ensure that we still have the correct details for you. You may wish to adapt the template form to reflect this or provide the information in an alternative format:

- a. the title of the appeal to which your statement of intervention relates,
- b. your name and address,
- c. the name and address of your legal representative, if any, and
- d. an e-mail address or a postal address in the United Kingdom for service of documents to you.

Your statement must also provide the following information:

- e. a concise presentation of the facts and arguments supporting the intervention;
- f. the relief you are seeking;
- g. a schedule listing all the documents annexed to the intervention;
- h. a statement of truth as set out below

### **Statement of Truth**

[I believe] [the person on whose behalf the statement is being made] believes] that the facts stated in the [name of the document being verified] are true.

Signed \_\_\_\_\_ Dated \_\_\_\_\_

Appellant('s legal representative) ('s authorised representative)

Full name \_\_\_\_\_

Name of appellant's legal representative firm \_\_\_\_\_

Position or office held \_\_\_\_\_

(if signing on behalf of firm or company)

### Signature

Please arrange signature of the documentation (further guidance can be found in the appeals guidance or use the template below).

### **Signature and date**

Signed \_\_\_\_\_ Dated \_\_\_\_\_

Appellant('s legal representative) ('s authorised representative)

Full name \_\_\_\_\_

Position or office held \_\_\_\_\_

(if signing on behalf of firm or company)