

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry, Science and Technology

Space (Launches and Returns) Act 2018

Space (Launches and Returns) (High Power Rocket) Rules 2019

Purpose and Operation

The *Space Activities Amendment (Launches and Returns) Act 2018* was passed by parliament in August 2018 and amended provisions of the *Space Activities Act 1998* (the 1998 Act). The renamed *Space (Launches and Returns) Act 2018* (the Act) provides an improved and streamlined framework for the regulation of space activities in Australia or by Australians overseas, as well as arrangements for the launch of high power rockets.

Section 110 of the Act includes powers for the Minister to make rules by legislative instrument. The rules are needed to support the effective operation of the Act. They are intended to provide clear information and a streamlined process relevant to the approval of an activity under the Act.

In 2015, the Australian Government commenced a review of the 1998 Act to ensure Australia's space regulation was appropriate for technology advancements and did not unnecessarily inhibit innovation in Australia's space activities. The introduction of high power rocket activity into the regulatory framework addresses the concern that high power rocket activity presents a higher risk profile and should include an evaluation under the Flight Safety Code and the application of insurance. To provide a balance between the removal of barriers to participation and safety, the application requirements are streamlined compared to launches above 100km. For example the amount of information on the testing of the launch vehicle or the amount of information on a launch vehicle if it has had a major modification is reduced.

The purpose of the *Space (Launches and Returns) (High Power Rocket) Rules 2019* (the Rules) is to provide the definition of high power rocket, additional application criteria for Australian high power rocket permits, standard permit conditions for Australian high power rocket permits and application requirements for grant, variation or transfer of an Australian high power rocket permit.

The Flight Safety Code is incorporated into this instrument by reference as in force from time to time in accordance with subsection 110(3) of the Act. The Flight Safety Code describes specific measures relating to public safety. It sets out the requirements for applicants to demonstrate that their activities will be safe. The document is developed and owned by the Australian Government.

The Flight Safety Code is incorporated in this way to increase the flexibility of the Rules to respond to the rapidly evolving nature of space technologies (therefore supporting the growth of the sector), and the need to agilely review safety standards and the corresponding equations if safety requirements change including consideration of changing international

approaches. The document is amended by the Australian Government, as required. Notwithstanding subsection 14(2) of the *Legislation Act 2003*, subsection 110(3) of the Act facilitates such an incorporation by reference.

The Flight Safety Code is a complex document, and including the information contained in it directly in the Rules would substantially increase the length and complexity of the Rules. The Flight Safety Code is freely available on the website of the Australian Space Agency (Agency) (www.space.gov.au).

Background

In 2015, the Australian Government commenced a review of the 1998 Act to ensure Australia's space regulation was appropriate for technology advancements and did not unnecessarily inhibit innovation in Australia's space activities.

The review identified that the 1998 Act required higher insurance amounts than other space-faring nations and would benefit from increased flexibility and a focus on the nature of the activity rather than the type of organisation undertaking the activity.

A Bill to amend the 1998 Act was drafted that provided improvements appropriate to Australia's national context and supported participation in the Australian space industry, whilst balancing the role of the Agency as a globally responsible regulator. The *Space Activities Amendment (Launches and Returns) Act 2018* passed both houses of Parliament in August 2018 and received Royal Assent on 31 August 2018. The amendment Act commenced on 31 August 2019.

Authority

Subsection 110(1) of the Act provides that the Minister may, by legislative instrument, make rules prescribing matters required or permitted by the Act to be prescribed by the rules, or make rules prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Accordingly, the Rules are made under subsection 110(1) of the Act.

Consultation

Public consultation on the draft Rules was undertaken in May to June 2019 for a period of four weeks. As part of this consultation, the Agency released a consultation paper along with an exposure draft of the Rules and accepted submissions on the draft Rules. Additionally, a public meeting was held in every capital city. The Agency also consulted with relevant Australian Government departments.

The Rules were drafted by the Office of Parliamentary Counsel.

Regulatory Impact

The regulatory impact of the Rules was considered during its development. A preliminary assessment form was completed and provided to the Office of Best Practice Regulation (OBPR) for consideration. It was determined that the development of streamlined rules to support the Act would only have a minor regulatory impact. As such a Regulatory Impact Statement was not required (OBPR reference number 25273).

Details of the *Space (Launches and Returns) (High Power Rocket) Rules 2019*

Part 1—Preliminary

Section 1—Name

This section specifies the name of the Rules as the *Space (Launches and Returns) (High Power Rocket) Rules 2019* (the Rules).

Section 2—Commencement

This section sets out the commencement date for the Rules. It provides that the whole instrument commences on 30 June 2020. The Australian Space Agency (the Agency) will be accepting applications from this date.

The delayed commencement date serves two purposes. Firstly, work is continuing to align Commonwealth regulatory regimes for high power rockets. Secondly, the Agency is providing the space industry with a transition period ahead of the Rules commencing, so that it can better understand and adapt to the new requirements before they commence.

Section 3—Authority

This section identifies that the Rules are made under the *Space (Launches and Returns) Act 2018*.

Section 4—Definitions

This item provides for the definition of terms used in the Rules. The following terms are defined in this section.

The definition of *ABN* has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

The definition of *ACN* has the same meaning as in the *Corporations Act 2001*

The definition of the *Act* is the *Space (Launches and Returns) Act 2018*.

The definition of *Agency* is that part of the Department of Industry, Innovation and Science known as the Australian Space Agency.

The definition of *current version* is for a plan relating to an Australian high power rocket permit which is either the plan as included as part of the application for the permit (including any variations to the application); or if the permit holder has subsequently given a copy of an amendment of the plan to the Minister—the plan as amended.

The definition of *Flight Safety Code* is the document of that name published by the Agency, as in force from time to time.

The definition of *insurance/financial requirements* is the insurance/financial requirements in Division 7 of Part 3 of the Act.

The definition of *period*, in relation to the launch of a high power rocket, is the period that includes all of the days for which there is a window for the launch. This definition is intended to define ‘period’ as the period of days in which a window has been identified that the launch may occur on.

The definition of *window*, in relation to the launch of a high power rocket on a given day, is the window or windows of time on that day in which the rocket is able to be launched. This definition is intended to define ‘window’ as the time period in which the rocket is able to be launched.

Part 2—Definition of high power rocket

Section 5—Definition of high power rocket

This section provides the definition of *high power rocket* for the purposes of section 8 of the Act. This definition defines the type of rocket activity that will be regulated under the Act.

High power rocket activity was introduced into the Act’s regulatory framework as part of the *Space Activities Amendment (Launches and Returns) Act 2018*. The review of the *Space Activities Act 1998* (the 1998 Act) noted that high power rocket activity presented a higher risk profile and identified the need to ensure the safety of high power rocket activities, including evaluation under the Flight Safety Code and the application of insurance requirements.

The Explanatory Memorandum for the *Space Activities Amendment (Launches and Returns) Act 2018* noted that the definition will be prescribed in rules to provide flexibility for the definition to be readily updated when necessary to maintain currency with changing technology.

The definition in section 5 specifies two elements for an object to be a high power rocket. An object is a *high power rocket* if it meets either paragraph 5(a) or 5(b).

Paragraph 5(a) ensures that rockets which have a large combined total impulse (greater than 889,600 Newton seconds) are captured as high power rockets. This is because large impulse values represent a potential for a higher risk profile.

Paragraph 5(b) ensures that rockets which have a lower combined total impulse (but still greater than 40,960 Newton seconds) than in paragraph 5(a), but include systems that allow active control of the rocket’s trajectory, are captured as high power rockets. This is because rockets with systems that control the rocket’s trajectory represent a potential for a high risk profile. Active control of trajectory alone does not necessarily translate to a high-risk activity. However, in combination with a reasonably high impulse it presents a higher risk profile that

warrants evaluation under the Flight Safety Code and the application of insurance requirements.

This definition ensures that a reasonable balance is achieved between industry participation and the safety of higher risk rocket activities where altitude does not exceed 100 km above mean sea level, including the risk of damage to persons or property.

It is noted that currently all rocket activity not exceeding 100km is regulated by the Civil Aviation Safety Authority. The Australian Government will work to align Commonwealth regulatory regimes for high power rockets as appropriate.

Part 3—Australian high power rocket permits

Division 1—Additional criteria for grant of Australian high power rocket permit

Division 1 of Part 3 of the Rules establishes criteria, in addition to those specified in the Act, which must be satisfied by the applicant before the Minister can grant a high power rocket permit.

Section 6—Additional criteria

Subsection 38(2) of the Act sets out that the Minister may grant an Australian high power rocket permit if they are satisfied that certain criteria are met. Paragraph 38(2)(e) of the Act states that the rules may prescribe additional criteria that must be satisfied in relation to the Australian high power rocket permit.

Section 6 of the Rules provides the prescribed additional criteria that the Minister must be satisfied of in order to grant an Australian high power rocket permit. The criteria in this section have been included to ensure the objects and purpose of the Act are met.

Subsection 6(2) prescribes that the Minister, having regard to the proposed purpose of the launch, must be satisfied that the high power rocket is as effective and safe as is reasonably practicable. It is important that the overall safety of the high power rocket can be assessed by the Minister to minimise the risk of damage to persons or property as a result of launch activities.

Subsection 6(3) specifies that the Minister, having regard to the purpose of the launch, the design of the rocket and the launch safety standards in the Flight Safety Code, must be satisfied that the flight path nominated by the applicant is as safe as reasonably practicable. This criterion allows the Minister to consider how different components of the launch design interact when determining if the flight path is effective and safe.

The launch safety standards in the Flight Safety Code consider the safety standards for risks posed to third parties as a result of launch activities. The Flight Safety Code (including the launch safety standards) is incorporated by reference into the Rules to maintain flexibility in case the launch safety standards change.

Subsection 110(3) of the Act provides the authority for the rules to make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

The Flight Safety Code is incorporated in this way to increase the flexibility of the Rules to respond to the rapidly evolving nature of space technologies (therefore supporting the growth of the sector), and the need to agilely review safety standards and the corresponding equations if safety requirements change including consideration of changing international approaches. It is also a large and complex document, and including the information contained in it directly in the Rules would substantially increase the length and complexity of the Rules. The Flight Safety Code is freely available on the Agency's website (www.space.gov.au).

Subsection 6(4) specifies that the Minister must be satisfied that the risk hazard analysis for the launch is consistent with the Flight Safety Code. This criterion is intended to ensure that the applicant's risk hazard analysis prepared for the launch is consistent with the Flight Safety Code. The Flight Safety Code sets out the requirements of applicants to demonstrate that their proposed launch activities will be safe. Consistency with the Flight Safety Code is a critical component of ensuring that the risk to persons or property as the result of a launch is minimised.

Subsection 6(5) specifies that the Minister must be satisfied that the applicant has undertaken adequate planning to address the environmental impacts of the launch.

Division 2—Standard Australian high power rocket permit conditions

Section 40 of the Act sets out the standard conditions for an Australian high power rocket permit, including any conditions prescribed by the rules. Division 2 of Part 3 of the Rules contains additional conditions that the permit holder must comply with.

Section 41 of the Act imposes a civil penalty and an offence for breaching an Australian high power rocket permit condition. This means that the contravention of the conditions detailed in Division 2 of Part 3 of the Rules may result in a civil penalty or an offence.

Compliance with the conditions included in the Rules are critical for ensuring that the launch is undertaken safely to minimise the risk of damage to persons or property. In particular, the conditions focus on notification requirements to ensure the Minister is informed of the critical aspects of the activity and to ensure the launch is operated in line with the various safety and management plans that have been submitted to the Minister.

Section 7—Standard conditions

Section 7 specifies that the standard conditions in Division 2 of Part 3 are prescribed for the purposes of paragraph 40(c) of the Act. The standard conditions in this Division relate to the conduct of high power rocket launch activities.

Section 8—Launch information and notice of changes

Subsection 8(1) specifies certain notice requirements that must be complied with by the permit holder. The permit holder must give the Minister confirmation of the day the launch is scheduled to take place, the launch window on that day, and the planned trajectory of the high power rocket. The permit holder must also identify launch windows on subsequent days on which the launch may be attempted if the launch cannot occur on the scheduled day. A minimum of two days is required to ensure that relevant government agencies and the public are given advance notice of the launch activity in order for appropriate action to be taken.

Subsection 8(2) requires the permit holder to notify the Minister as soon as practicable if a launch does not go ahead on its scheduled day. This notification must identify the new date and launch window from the days provided under paragraph 8(1)(b). This condition is intended to ensure that the Minister is aware of the new day and window in which the permit holder intends to attempt the launch.

Pursuant to subsection 8(3), the permit holder must notify the Minister of any change to the payloads that will be launched. In the application for the Australian high power rocket permit, the applicant must provide specific details of any payloads that will be included in the launch. These payloads are assessed to determine their impact on the safety of the launch and if the Minister considers that any of these payloads should not be launched for reasons relevant to the security, defence or international relations of Australia. This is a mandatory consideration under paragraph 38(2)(d) of the Act. This condition is intended to ensure the Minister is aware of any changes to the payloads that are launched so that the Minister may assess the impact of the changes.

Pursuant to subsection 8(4) of the Rules, the permit holder must inform the Minister of any changes to the assumptions and data used in the risk hazard analysis for the launch. The permit holder must also provide a statement from a suitably qualified expert as to whether the risk hazard analysis continues to satisfy the launch safety standards in the Flight Safety Code.

This condition is intended to ensure that any changes in the assumptions and data has not resulted in the launch no longer being consistent with the Flight Safety Code. The Flight Safety Code sets out the requirements of applicants to demonstrate that their proposed launch activities will be safe. Consistency with the Flight Safety Code is a critical component of ensuring that the risk of damage to persons or property as the result of a launch is minimised.

Subsection 8(5) specifies that permit holder must notify the Minister of any changes to the information mentioned in section 19 of the Rules (information about flight path) for the launch. The Minister can then assess whether the amendments made to the information create or increase any risks to health and safety, property, international relations, or national security. It is important to allow the permit holder the opportunity to change their flight path, so that they can, among other things, address changing situations and make updates to ensure that the probability of the operation of the launch causing substantial harm to public health or

safety or substantial damage to property continues to be as low as reasonably practicable. However, the Minister needs to be made aware of any such change.

Pursuant to subsection 8(6), the permit holder must not make any amendments to the information mentioned in section 19 of the Rules (information about flight path) within two weeks of launch without the permission of the Agency. As the flight path is a critical element of the activity, this reassures the Minister that a change to the information relating to the flight path will not change without the Agency's agreement in close proximity to the launch date. Noting that there are a number of reasons that the information provided under section 19 may need to change, this subsection facilitates such a change but ensures that the Agency has oversight over any change which may have an impact on risks to health and safety, property, international relations, or national security.

Subsection 8(7) specifies that the permit holder must conduct the launch consistent with the information provided under section 19 of the Rules (information about flight path) to the Minister as far as practicable. This condition recognises that circumstances may arise which make a permit holder unable to operate the launch in accordance with the information provided on the flight path, in particular if a deviation is required for safety reasons. Otherwise the launch must be conducted in line with the information provided on the flight path. If the high power rocket permit holder were to cease operating the launch in line with the information provided about the flight plans, this may increase the probability of damage to persons or property to an unacceptable level.

Section 9—Plans

Pursuant to subsection 9(1), if the relevant plans in relation to the launch are amended, the permit holder must give a copy of the amendment to the Minister. The Minister can then assess whether the amendments made to the plans create or increase any risks to health and safety, property, national security or international relations. The Minister can then raise any concerns they have with the amendments made to the plans with the permit holder.

It is important to allow the permit holder the opportunity to amend their plans so that they can, among other things, address changing situations, ensure their plans remain accurate and make updates to ensure that the probability of the operation of the launch causing substantial harm to public health or safety or substantial damage to property continues to be as low as reasonably practicable.

The relevant plans are the launch management plan, the flight safety plan and the technology security plan.

Pursuant to subsection 9(2), the permit holder must not make any amendments to these plans within two weeks of launch without the agreement of the Agency. As the plans are critical to the safety of an activity, this condition gives the Minister assurance that the plans will not change in close proximity to the launch date, unless the Agency agrees that the amendments are appropriate. There are a number of reasons why this information may need to change so it

is necessary to allow some flexibility, as long as the Agency has oversight and can agree as to whether the change is suitable in the circumstances.

Subsection 9(3) specifies that the launch must be operated in accordance with the plans submitted (or, if they have been amended, in accordance with the current version of the plans). The Minister must assess the probability of the launch causing substantial harm to public health or safety or causing substantial damage to property before granting an Australian high power rocket permit, and does so on the basis that it will be operated in line with these plans. If the permit holder were to cease operating the launch in line with the plans this may increase the risk to persons or property.

Section 10—Other launch conduct requirements

Pursuant to subsection 10(1), the launch must occur in accordance with the Flight Safety Code. As the Flight Safety Code sets out the launch safety standards for risks posed to third parties as a result of launch activities, it is important that the permit holder conduct the launch in accordance with these standards.

The Flight Safety Code (including the launch safety standards) is incorporated by reference into the Rules to maintain flexibility in case the launch safety standards change. Subsection 110(3) of the Act provides the authority for the rules to make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

The Flight Safety Code is incorporated in this way to increase the flexibility of the Rules to respond to the rapidly evolving nature of space technologies (therefore supporting the growth of the sector), and to allow for the need to agilely review safety standards and the corresponding equations if safety requirements change including consideration of changing international approaches. The Flight Safety Code is also a large and complex document, and including the information contained in it directly in the Rules would substantially increase the length and complexity of the Rules. The Flight Safety Code will be freely available on the Agency's website (www.space.gov.au).

Subsection 10(2) prescribes a condition that a launch must not enter a foreign country's territory or airspace unless there are arrangements in place between that country and Australia. Subsection 10(2) allows launches into international territory to be considered, subject to appropriate arrangements being in place with that country and Australia. Under subsection 38(1) of the Act, an Australian high power rocket permit can be granted from a specified facility or place in Australia. A launch from Australia crossing into another country's jurisdiction may have additional concerns relevant to safety, security, defence or international relations of Australia.

Section 11—Report must be given after launch

Following the launch authorised by the permit, under section 11 the permit holder must provide information to the Minister on the compliance of the launch with the launch safety

standards in the Flight Safety Code, as well as with the assumptions and data used in the risk hazard analysis.

This condition is to verify that the launch was conducted safely and in line with the permit holder's plans and any other information provided under sections 25 and 26 of the Rules.

Section 12—Compliance with requests for information

Section 12 specifies that the permit holder must give the Minister any information about the permit that the Minister requests under section 60 of the Act. The Minister needs to be able to request information about the launch to ensure that the launch is being undertaken in line with the plans and information provided and that the launch activity is being undertaken as safely as reasonably practicable.

In particular, this information may be required to satisfy the Minister that the probability of the launch causing substantial harm to public health or safety or causing substantial damage to property is as low as reasonably practicable in accordance with paragraph 38(2)(c) of the Act.

Section 13—Personnel

Subsections 13(1) and (2) specify that if the details of the organisational structure and specific personnel with relevant responsibilities or roles that were described in section 17 change, the permit holder must notify the Minister of the changes.

The Minister needs access to this information so they can determine whether there are any grounds for concern about the competence of the operation of the launch or grounds for concern relevant to the security, defence or international relations of Australia. These are both criteria that the Minister must be satisfied of to grant an Australian high power rocket launch under paragraphs 38(2)(a) and (d) of the Act.

Division 3—Application for grant of permit

Division 3 of Part 3 sets out requirements that the applicant must comply with in their application for the grant of an Australian high power rocket permit.

Section 14—Purpose of Division

Section 14 states the purpose of Division 3 of Part 3 of the Rules.

Section 15—Application must be in writing and in English

Section 15 states that applications, and documents required to be included in applications, must be in writing and in English. If the document is not in English, a translation of the document into English must be provided. The purpose of this section is to ensure that the Minister can have regard to all of the information that must be included in applications.

Section 16—Information about applicant

Section 16 specifies details about the applicant for the Australian high power rocket permit that must be included in the application. This information is required so that the applicant can be identified. Information about other persons or entities that have ownership, control or direction of the applicant are relevant to the Minister's consideration of whether there are any reasons relating to the security, defence or international relations of Australia, that the permit should not be granted under paragraph 38(2)(d) of the Act.

The applicant is required to provide this information so the Minister can consider who may be in a position to influence or control the applicant in their operation of the launch.

Section 17—Organisational structure and personnel

The purpose of section 17 is to provide information that demonstrates that the applicant's organisation has a suitable structure and appropriate personnel for holding an Australian high power rocket permit. This is relevant for the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act. Section 17 provides the details required to form part of the application concerning the applicant and its personnel.

Paragraph 17(1)(a) specifies that the application must include a description of the applicant's organisational structure, including the chain of command within the organisation and the responsibilities of each position within the chain of command, along with the particular personal details of the individuals who fulfil particular roles and responsibilities under subsection 17(2) within the applicant's organisation.

Subsection 17(2) specifies the individuals of the applicant's organisation for whom particular personal details must be disclosed under subsection 17(1). Paragraph 17(1)(b) specifies the personal information that must be provided by the people captured in subsection 17(2). This includes their name, date of birth, place of birth, current address and the individual's relevant qualifications and experience and the length of time in their current position in the organisation.

Section 17 of the Rules requires the applicant to provide specific personal information on specific individuals related to the high power rocket. It is necessary to request this amount of information from the applicant in order to achieve the objects and purpose of the Act.

Firstly, it is necessary to collect this information in order to determine the competence of the organisation to operate a launch. A lack of relevant experience and qualified personnel in key positions could result in activities not being conducted safely, increasing the risk to persons or property. The Minister cannot grant an Australian high power rocket permit unless they are satisfied that the person is competent to carry out the launch pursuant to paragraph 38(2)(a) of the Act.

Secondly, the information is required to assist in determining if there are any reasons relevant to the security, defence or international relations of Australia that an Australian high power

rocket permit should not be granted. This is a matter the Minister must consider pursuant to paragraph 38(2)(d) of the Act. The launching of rockets could, if subverted, result in significant damage and injury. The name, date of birth, place of birth and address of relevant persons are necessary for the Minister to determine if there are any national security concerns with the particular personnel.

This information is not requested of all personnel associated with the launch, only those who have access or control over, or provide direction on, critical tasks in the operation of the launch.

Section 18—Information about launch

Section 18 sets out the specific information that the applicant must provide about the launch. The information required by subsection 18(1) is mandatory and informs the Minister of the purpose of the launch, where the launch will take place from, the launch period and window.

Subsection 18(2) of the Rules specifies that, for the purposes of paragraph 18(1)(c), if the launch period extends over more than one day, the application must also include an estimated launch day.

This information on the launch is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act.

Section 19—Information about flight path

Section 19 sets out the requirements that the applicant must provide concerning the flight path. This includes a description of the flight path, the planned and maximum altitude, the planned and maximum range, the sequence of flight events, as well as identification of critical assets directly under the flight path, or within an area of reasonable probability that scheduled or unscheduled debris may fall.

Scheduled debris, for the purposes of this section, has the same definition as in the Flight Safety Code. Under subsection 6(3) of the Rules, the Minister must consider whether the flight path is effective and safe as is reasonably practicable. Knowing which identified critical assets are located under the flight path, or in areas in which scheduled or unscheduled debris may land, is critical to this consideration.

This information is also relevant to the Minister's consideration as to whether there are reasons relevant to the security, defence or international relations of Australia that the permit should not be granted under paragraph 38(2)(d) of the Act.

Section 20—Information about high power rocket

Section 20 sets out the information that the applicant must provide in the application in relation to the high power rocket. The information required by subsection 20(1) is mandatory.

Paragraphs 20(1)(a) to (i) requires the applicant to provide information on the manufacturing of the high power rocket, including the quality assurance certification and systems, and evidence that the high power rocket has been built and tested to specifications. Paragraphs 20(1)(j) and (k) requires the applicant to provide information on whether the rocket contains a nuclear power source or a weapon of mass destruction or any nuclear power source or other hazardous materials.

Subsection 20(2) lists the types of systems for which technical specifications must be provided.

The information regarding the high power rocket is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act. In particular, it is necessary for the Minister's determination as to whether, pursuant to subsection 6(2) of the Rules, the high power rocket is as effective and safe as is reasonably practicable having regard to the purpose of the launch.

Section 21—History of kind of rocket

Section 21 sets out the information that the applicant must provide in relation to the history of the kind of high power rocket.

Paragraph 21(a) provides that the application must include an outline of publically available information on the flight history of the kind of high power rocket over the last five years.

Paragraph 21(b) requires the safety record of the kind of high power rocket. The safety record may include details of the testing of the kind of high power rocket, for example any static testing undertaken.

Paragraph 21(c) requires any measures taken to reduce the risk of any anomalies or failures identified in the safety record, to be provided in the application.

The information regarding the history of the kind of high power rocket is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act. In particular, this information will assist the Minister to determine whether, pursuant to subsection 6(2) of the Rules, the high power rocket is as effective and safe as is reasonably practicable.

Section 22—Information about facility

Section 22 sets out the information that the applicant must provide in relation to the facilities at the launch site.

Paragraphs 22(a) and (b) require information regarding the safety record of the facility and any measures taken to reduce the risk of any anomalies or failures identified in the safety record be provided in the application.

Paragraphs 22(c) and (d) require information regarding the licensing or accreditation of the facility, and the standards of the facility's design, build and operation to be provided in the application.

The information regarding the launch facility is relevant to the Minister's consideration on whether to grant an Australian high power rocket permit under section 38 of the Act, including that the probability of the launch causing substantial harm to public health or public safety or causing substantial damage to property is as low as is reasonably practicable under paragraph 38(2)(c) of the Act.

Section 23—Information about payload

Section 23 sets out the information that the applicant must provide in relation to each payload.

Paragraphs 23(1)(a) to (f) requires an applicant to provide a description of the payload and its purpose, who owns the payload/s, and a breakdown on the country and manufacturer of each payload subsystem.

Paragraph 23(d) and (e) specifies that the application must include information about the owner of the payload. If the owner of the payload is a corporation, the application must include information about significant shareholders in the corporation. If the owner of the payload is an individual, the application must include the address, date of birth and place of birth of the owner. This information is required to assist in determining if there are any reasons relevant to the security, defence or international relations of Australia that an Australian launch permit should not be granted. This is a matter the Minister must consider pursuant to paragraph 38(2)(d) of the Act.

Paragraph 23(g) of the Rules requires information on sensors or any information gathering devices attached to, or powered by, the payload.

Paragraph 23(h) requires an applicant to provide information on whether there are any hazardous materials and if so the amount of hazardous material.

Paragraph 23(i) applies to non-Australian payloads, and requires that if the payload owner has authorisation for the launch from their jurisdiction, a copy of that authorisation must be provided.

The information regarding the payload is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act.

Section 24—Launch management plan

Section 24 details the information that must be included in the launch management plan for the launch. The launch management plan is an important element in understanding the applicant's arrangements and procedures for managing the launch.

Subsection 24(2) requires the launch management plan to include information on arrangements and procedures for activities in relation to conducting the launch, including the launch countdown, how ground operations safety is assured, procedures to recover from launch anomalies or failures, as well as identifying and responding to adverse weather conditions.

Subsection 24(3) requires the launch management plan to include information on certain arrangements, such as procedures to identify and manage hazardous ground operations, the maintenance of the high power rocket, ensuring personnel are properly prepared, the overall communications arrangements, record management arrangements as well as the reporting arrangements to the Minister.

Subsection 24(4) requires the launch management plan to include a timeline identifying all safety-critical events for the launch and flight.

The information regarding the management of the launch is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act. In particular, it is relevant to whether the Minister can be satisfied that the probability of the launch causing substantial harm to public health or safety or causing substantial damage to property is as low as reasonably practicable, as required by paragraph 38(2)(c) of the Act.

Section 25—Risk hazard analysis

Section 25 specifies the requirements for the risk hazard analysis that must be included in the application. The purpose of section 25 is to ensure that the application contains a comprehensive risk hazard analysis confirmed by a suitably qualified, independent expert. This is to ensure that the risk hazard analysis is suitable to inform the Minister's consideration of whether to grant an Australian high power rocket permit under the Act.

Risk hazard analyses are conducted to measure the risk to the public from a potential launch or re-entry mishap and to ensure that operations meet the threshold of carrying as low of a risk of harm to public health, public safety and/or property as reasonably practicable. The risk hazard analysis is evidence of whether the launch, if carried out according to the information provided as part of the application, will satisfy the launch safety standards set out in the Flight Safety Code.

The information regarding risk hazard analysis is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act; in particular, whether the Minister can be satisfied in accordance with paragraph 38(2)(c) of the Act that the probability of the launch causing substantial harm to public health or safety or causing substantial damage to property is as low as reasonably practicable.

Subsection 25(2) of the Rules specifies that the methodology, assumptions and data used for the risk hazard analysis must be described in the application. The purpose of this subsection

is to provide the Minister with the information required to verify the reasoning and conclusions of the risk hazard analysis, if required.

Subsection 25(3) specifies that the methodology must use the launch vehicle probability of failure model within the risk hazard analysis methodology in the Flight Safety Code. The purpose of this subsection is to ensure that even if the applicant uses a different methodology for other parts of the analysis, the assessment of launch vehicle failure probability is consistent with the Flight Safety Code. Further, the information required by subsection 25(3) aids the Minister's understanding of the high power rocket's failure probability.

Subsection 25(4) specifies the content that must be included in the application if the methodology that is used is different from the risk hazard analysis methodology in the Flight Safety Code. The risk hazard analysis methodology includes more than just the launch vehicle probability of failure referred to in subsection 25(3); for example the probability of failure is one component of the failure response mode calculation which is a part of the larger casualty expectation equation. The purpose of this subsection is to allow an applicant to use a different risk hazard analysis methodology but to ensure the Minister has enough information to determine whether the other methodology is as robust as that outlined in the Flight Safety Code. The information provided under subsection 25(4) assists the Minister in understanding the methodology used to produce the risk hazard analysis in the application, and in determining whether the methodology is technically sound and the risk hazard analysis can be relied upon.

Subsection 25(5) specifies that the application must provide details of any software that was used to carry out the risk hazard analysis. Additional information is required if the software is not a generally available commercial product. The purpose of subsection 22(4) is to enable the Minister to be able to understand the reliability of the software that produces material included in risk hazard analyses, as software errors or user error may compromise the validity of a risk hazard analysis.

Subsection 25(6) requires that the application must be accompanied with a confirmation from a suitably qualified expert that the risk hazard analysis and the methodology used is technically sound. The purpose of this subsection is to give the Minister assurance of the reliability of the risk calculations and their underlying assumptions.

The information regarding risk hazard analysis is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act.

Section 26—Flight safety plan

Section 26 specifies the requirements for a flight safety plan which, pursuant to subsection 26(1), must be included in all Australian high power rocket permit applications. The purpose of section 26 is to ensure that the application contains a comprehensive and suitable flight safety plan.

The launch must be operated in accordance with the flight safety plan under subsection 9(3) of the Rules. An adequate flight safety plan assists in ensuring that the risks posed by a high power rocket activity are as low as reasonably practicable. Consideration of the flight safety plan is relevant to the Minister's decision on whether to grant an Australian high power rocket permit under section 38 of the Act, particularly whether the Minister can be satisfied under paragraph 38(2)(c) of the Act that the probability of the launch causing substantial harm to public health or safety or causing substantial damage to property is as low as reasonably practicable.

Subsection 26(2) of the Rules specifies the information that must be contained in the flight safety plan. It requires that the flight safety plan identify the strategies and arrangements that will ensure that the launch or return will be conducted in a way that reduces the level of risk to third parties to being as low as reasonably practicable, and that the launch activity complies with the launch safety standards set out in the Flight Safety Code. The applicant must also identify the arrangements for reporting, subsequent to the launch, the compliance of the launch in relation to the launch safety standards.

Subsection 26(3) specifies that the application must include a written confirmation by a suitably qualified expert who is approved by the Minister, and is not a related party of the applicant, that the launch will fall within the launch safety standards if carried out in accordance with the flight safety plan. "Related party" is defined in section 9 of the Act. Having this written confirmation undertaken by an expert who is not a related party is important to ensure there is not a risk of bias. Given the critical role that the flight safety plan plays in ensuring the overall safety of the activity, it is appropriate that the expert who reviews it is approved by the Minister. This is to ensure that the Minister is satisfied as to the competence and reliability of the person providing the confirmation.

Subsection 26(4) notes that the written confirmation under subsection 26(3) may be from the same suitably qualified expert who provided the written confirmation under subsection 25(6). Noting that the suitably qualified expert under subsection 25(6) does not need to be approved by the Minister, subsection 26(4) gives the applicant the choice of using a single suitably qualified expert to provide written confirmation under both subsections 25(6) and 26(3) if they desire.

Section 27—Emergency plan

The information described in section 27 is required in order to demonstrate that the applicant has a suitable emergency plan, and provides information to the Minister about the plan to respond to an accident, incident or other emergency involving the high power rocket.

Subsection 27(1) of the Rules specifies that the application must include an emergency plan for responding to accidents and incidents involving the high power rocket, and any other kind of emergency at or near the launch site. The terms 'accident' and 'incident' are defined in sections 85 and 86 of the Act. The reference to 'any other kind of emergency' refers to

emergencies that do not meet the definition of accident and incident. These may include a natural disaster, such as a bushfire or flood, or an explosion at the facility.

Subsection 27(2) outlines the information that the emergency plan must contain, including the procedures and action that will be undertaken in response to an emergency, the personnel who are responsible, the list of authorities to be notified, arrangements for interacting with those agencies, evacuation procedures, procedures to locate the rocket or wreckage, procedures to recover or remove the rocket or wreckage, as well as arrangements to ensure that any law in the event of an accident would be met.

The emergency plan is important so that the Minister can be satisfied that there is an appropriate plan for responding to an emergency, if one does occur. Given the nature of a high power rocket launch, any emergency that occurs can be significant.

The information regarding the emergency plan is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act; in particular, whether the Minister can be satisfied in accordance with paragraphs 38(2)(a) and (c) of the Act that the person who is to carry out the launch is competent to do so and the probability of the launch causing substantial harm to public health or safety or causing substantial damage to property as low as reasonably practicable.

Section 28—Environment

Section 28 specifies the evidence about the environmental impact or the environmental approvals that must be included in the application for Australian high power rocket permits. This will assist the Minister in determining whether there has been adequate planning to address the environmental impacts of the launch, as required by subsection 6(5) of the Rules. The information requirements are structured this way to ensure the applicant does not have to prepare a separate environmental plan if an existing relevant environmental plan or approval is already in place, as this would be an unnecessary regulatory burden for the applicant.

Pursuant to paragraph 28(a), if the launch is proposed to be from a licensed launch facility and the applicant's activity can be addressed by the environmental plan prepared for by the launch facility, then the applicant only needs to provide evidence of this.

Pursuant to paragraph 28(b) if the environmental impact is not addressed in a licensed launch facility's environmental plan but is addressed under one or more approvals required under another Commonwealth or State or Territory law, then the applicant only needs to provide information regarding the approvals.

Pursuant to paragraph 28(c), if the environmental impact is not addressed by an environmental plan or other law, then the applicant must provide information on how the likely environmental impact of the launch has been assessed, and how any adverse effects on the environment will be monitored and mitigated.

Section 29—Technology security

Section 29 requires the applicant to provide a technology security plan that is suitable for preventing unauthorised access to technology to be used for the launch. This includes all technology used in the launch and, in particular, sensitive technology that can affect the operation of a launch.

Subsection 29(1) requires that the application include a technology security plan for the Australian high power rocket permit.

Subsection 29(2) requires that the technology security plan provide details of the arrangements and procedures that the applicant will utilise to prevent unauthorised persons from having access to the technology to be used for conducting the launch, including the cybersecurity arrangements.

Under paragraph 29(2)(b), if all or part of the technology is protected by a technology security agreement between Australia and another country, the applicant must specify how the technology security plan addresses Australia's obligations under the agreement. This requirement is intended to ensure that Australia meets its international obligations in relation to safeguarding sensitive technology.

Identification of the cybersecurity strategy to be used is important, given the potential for malicious actors to gain access and potential control of the launch facility's network. Given the nature of some cyber-attacks, it may even be difficult to identify if a network has been breached. The defensive measures taken to protect the network are critical for preventing unauthorised access. This is why subsection 29(3) requires that the strategy be assessed by an independent person with suitable qualifications and experience in cybersecurity.

The information contained in the technology security plan, including the cybersecurity strategy is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act.

Section 30—Insurance/financial requirements

Paragraph 30(a) specifies that the application must include evidence of the applicant's ability to satisfy the insurance/financial requirements of the launch. Sections 47 and 48 of the Act set out the insurance requirements that need to be satisfied for the launch authorised by an Australian high power rocket permit.

Subsection 48(4) of the Act provides that the minimum amount of insurance is the lower of the values of paragraphs 48(4)(a) and (b) of the Act. Paragraph 48(4)(a) of the Act specifies that the total insurance amount for the launch is the amount specified in the rules, while paragraph 48(4)(b) specifies, if the rules set out a method for determining an amount for the purposes of this paragraph, the amount determined using that method. The rules referred to in paragraphs 48(4)(a) and 48(4)(b) are the *Space (Launches and Returns) (Insurance) Rules 2019* (the Insurance Rules).

Section 6 of the Insurance Rules includes a table that specifies a total insurance amount for the purposes of paragraph 48(4)(a) of the Act. Section 7 of the Insurance Rules provides a method for determining an amount for the purposes of paragraph 48(4)(b) of the Act.

Paragraph 30(b) of these Rules specifies that if an applicant chooses to use the method outlined in section 7 of the Insurance Rules, they must include the calculations used in determining the amount and the name of the person who made the calculations. This information is intended to assist the Minister in determining whether the calculations have been performed correctly.

The information provided by the applicant on insurance/financial requirements is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act; in particular, whether the criterion specified in paragraph 38(2)(b) of the Act is satisfied.

Section 31—Contracts

Section 31 requires the applicant to provide copies of contracts entered into, and information on contracts that the applicant proposes to enter into, in order to undertake the launch.

The purpose of section 31 is to satisfy the Minister that the contractual arrangements entered into, or proposed to be entered into, by the applicant in relation to the launch activity are appropriate for the grant of an Australian high power rocket permit and do not contain terms that are inconsistent with any of the conditions of the Australian high power rocket permit. Information on contractual arrangements will also be relevant to the criteria that the Minister must be satisfied of under subsection 38(2) of the Act.

The information required under section 31 of the Rules may include, but is not limited to, any contracts for the use or lease of facilities, for others to undertake activities connected with a launch or connected return or for contracts for carrying payloads. This section is intended to provide the Minister information relevant to their consideration on whether to grant an Australian high power rocket permit under section 38 of the Act.

Section 32—Outstanding approvals

The information described in section 32 is required to demonstrate that the applicant's launch will be compliant with all Commonwealth and/or State or Territory laws. It requires the applicant to provide information on any outstanding approvals required by Commonwealth and/or State or Territory law that relate to the launch.

The applicant must also describe their arrangements (including time frames) for obtaining the approvals. This section is intended to provide the Minister information on outstanding approvals and the process for obtaining them.

This information is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act.

Section 33:—Matters to be verified

Section 33 requires the applicant to provide information on any matters still required to be verified or validated as part of the launch management plan or technology security plan for the launch. This must include information on the arrangements for obtaining the verification or validation, such as what process needs to be followed. Matters could cover a range of different things, such as verifying that firewalls are operating to prevent unauthorised access to the network.

This information is relevant to the Minister's consideration of whether to grant an Australian high power rocket permit under section 38 of the Act.

Section 34—Application may include additional information

Section 34 allows the applicant to submit any other information that they consider relevant to demonstrating compliance with all requirements under subsection 38(2) of the Act, including the criteria prescribed by Division 1 of Part 3 of the Rules. The purpose of this section is to clarify that an applicant may submit additional information.

Section 35—Application may be updated

Section 35 specifies that the applicant may, prior to the Minister's decision, update a part of the application. The changes may include updates to any part of the application. Section 35 is to provide the applicant with the opportunity to ensure that an application is up-to-date at the time of the Minister's decision as to whether to grant an Australian high power rocket permit to the applicant, so that the Minister is basing their decision on current and accurate information.

Division 4—Application for variation of permit

Section 36—Variation of launch site or permit conditions

Section 36 specifies that, in order to apply for a variation of licence conditions pursuant to section 44 of the Act, the permit holder must provide an application with a description of the variation sought, the reason for requesting the variation and any supporting material that will assist the Minister in deciding the application.

This action is required when seeking to vary the launch facility or place specified in the permit, or one of the conditions on the permit itself. It is not needed if the permit holder is only amending plans under subsection 9(1) of the Rules.

The purpose of section 36 is to ensure that the Minister has sufficient information to assess whether the proposed variation is appropriate in the circumstances.

Section 37—Extension of permit period

Section 37 enables a permit holder to request an extension of their permit period from the Minister, who may extend a permit under subsection 39(3) of the Act.

Pursuant to subsection 37(2) of the Rules, the request must include the period of extension being requested and the reason for requesting the extension.

Pursuant to subsection 37(3), the request may include any supporting material the permit holder believes will assist the Minister to decide whether to extend the period of the permit.

The purpose of section 37 is to ensure that the Minister has sufficient information to assess whether to extend the permit period.

Division 5—Application for transfer of permit

Section 38—Purpose of Division

Under section 44 of the Act, an Australian high power rocket permit may be transferred to another person in accordance with the rules. Division 5 of Part 3 of the Rules sets out the requirements for the application to transfer of an Australian high power rocket permit.

Section 39—Application to be made by transferee

Section 39 specifies that the application to transfer a permit must be made by the person to whom the permit is proposed to be transferred.

Section 40—Application must be in writing and in English

Section 40 specifies that applications, and documents required to be included in applications, must be in writing and in English. The purpose of section 40 is to ensure that the Minister can have regard to all of the information that must be included in the transfer applications.

Section 41—Statement from current holder of permit

Section 41 specifies that the transfer application must include a statement by the current permit holder explaining why the transfer is being sought. The purpose of section 41 is so that the Minister is informed of why the transfer is taking place. It also confirms that the current permit holder is aware of the proposed transfer.

Section 42—Other contents of transfer application

Subsections 42(1) and (2) specify that the transfer application must include all of the material required for the grant of an Australian high power rocket permit under sections 16 to 33 of the Rules. This material must be included in the transfer application at the time that the transfer application is made.

The purpose of subsection 42(1) is to ensure that the Minister has enough information to be satisfied that the criteria set out in subsection 38(2) of the Act are satisfied. This is necessary because subsection 42(1) of the Act provides that the Minister may transfer an Australian high power rocket permit to a person if the Minister could grant the permit to that person under section 38 of the Act.

Subsection 42(2) allows a transfer applicant to provide a copy of the plans by the current holder of the permit and a statement they propose to conduct the launch under the same plan. Subsection 42(3) allows a transfer applicant to include a copy of the additional information or material included in the original application, provided it is still correct. This is not compulsory. An applicant can instead decide to create their own plans or provide different information or materials. The subsections are intended to simplify the application and assessment process.

Subsection 42(4) specifies that the application, and any document required to be included in the application, may include any other information relevant to demonstrating that the criteria in subsection 38(2) of the Act are met.

Section 43—Application may be updated

Section 43 specifies that the applicant for a transfer may, prior to the Minister's decision as to whether to transfer an Australian high power rocket permit, update a part of the application. Section 43 allows an application to be updated if necessary, so that the Minister's decision is based on current and accurate information.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Space (Launches and Returns) (High Power Rocket) Rules 2019

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Space Activities Amendment (Launches and Returns) Act 2018* was passed by parliament in August 2018 and amended provisions of the *Space Activities Act 1998*. The renamed *Space (Launches and Returns) Act 2018* (the Act) provides an improved and streamlined framework for the regulation of space activities in Australia or by Australians overseas, as well as arrangements for the launch of high power rockets. Section 110 of the Act includes powers for the Minister to make rules by legislative instrument. The rules are needed to support the effective operation of the Act. They are intended to provide clear information and a streamlined process relevant to the approval of an activity under the Act.

The purpose of the *Space (Launches and Returns) (High Power Rocket) Rules 2019* (the Rules) is to provide the detail on the definition of high power rocket, additional application criteria for Australian high power rocket permits, standard permit conditions for Australian high power rocket permits and application requirements for grant, variation or transfer of an Australian high power rocket permit.

Human rights implications

The Rules engage the following human rights:

- The right to privacy in Article 17 of the *International Covenant on Civil and Political Rights* (the ICCPR); and
- The right to equality and non-discrimination in Article 26 of the ICCPR.

Limiting the Right to Privacy

Article 17 of the ICCPR provides that no one is subject to arbitrary or unlawful interference with their privacy. The Rules require an applicant for the grant or transfer of an Australian high power rocket permit to provide personal information about certain individuals with involvement in the launch (section 17 of the Rules). The personal information requested is the name, birth date, birth place, current address and relevant work experience and qualifications of the relevant individuals.

Personal information is requested from those individuals who are in critical roles with regards to ownership or control of the applicant such as the chief executive or equivalent. Personal

information is also requested from those individuals who are in specific roles that give them authority or oversight of key elements of the relevant operation such as maintenance of the high power rocket, the integration of the payload with the high power rocket, or the operation of the high power rocket. Personal information is also requested from those individuals who have a specific role in more sensitive roles relevant to national security such as involvement in the implementation or monitoring of the technology security plan.

A condition on the Australian high power rocket permit (section 13 of the Rules) requires the permit holder to update the Minister of any changes to the identity of the individuals in the critical roles. Additionally, in the application for an Australian high power rocket permit, paragraph 23(e) of the Rules specifies that an applicant must provide certain information about the owner of a payload they propose to include in their high power rocket. This includes the name, current address, date of birth and place of birth of the owner/s.

The personal information required under the Rules is necessary for achieving the purposes of the Act. In order to determine the competence of the organisation/person to undertake the activity it is necessary to collect the information on qualifications and experience. A lack of relevant experience and qualified personnel in key positions could result in activities not being conducted safely, increasing the risk of damage to persons or property. The Minister cannot grant an approval unless they are satisfied that the activity will be undertaken competently under paragraph 38(2)(a) of the Act.

The information is also required to assist in determining if there are any reasons relevant to the security, defence or international relations of Australia that the Minister should not grant an Australian high power rocket permit. This is a criterion the Minister must consider subject to paragraph 38(2)(e) of the Act. The activities that may be authorised under the Act could, if subverted or influenced by malicious actors, result in significant damage, injury or potential loss of life. The name, date of birth, place of birth and address of relevant persons are necessary for the Australian Government to accurately identify people in order to determine if there are any national security concerns with particular personnel. A rigorous consideration of this matter could not be made without access to this information.

The personal information requested has been limited to only that required to accurately identify an individual. This information is not requested of all personnel within the applicant's organisation, only those who have access, control or provide direction on critical tasks in undertaking the activity.

The specifics concerning the personal information needed to be included in the Rules and not the Act to maintain the flexibility required to respond to changes in technology. The particular roles that are critical for the purposes of the collection of this information may need to be updated as there are changes in the technology concerning the launch of objects to space and the building of space objects.

The personal information collected will only be used for the purpose of the Rules and the Act. It will be protected in line with the requirements under the *Privacy Act 1998*. The limitation is reasonable, necessary and proportionate as the objects of the Act could not be achieved without access to the personal information required to be provided under the Rules.

Limiting the Rights to equality and non-discrimination

Article 26 of the ICCPR provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

The identification of the nationality of a person occurs in the Rules when information is sought on the birth place of people undertaking critical roles in the activities as part of the application for the grant or transfer of an Australian high power rocket permit (section 17 of the Rules). A condition on the Australian high power rocket permit (section 13 of the Rules) requires the permit holder to update the Minister of any changes to the identity of the individuals in the critical roles. Additionally, in the application for an Australian high power rocket permit, paragraph 23(e) of the Rules requires an applicant to provide information including the birth place of the owner of a payload.

The personal information is requested from those individuals who are in critical roles with regards to ownership or control of the applicant such as the chief executive or equivalent. The personal information is also requested from those individuals who are in specific roles that gives them authority or oversight of key elements of the relevant operation such as the operation of the launch facility, the building of the payload or the integration of the payload with the high power rocket. Finally, the personal information is requested from those individuals who have a specific role in more sensitive roles relevant to national security such as operation of the high power rocket itself or involved in the implementation or monitoring of the technology security plan.

The nationality of individuals in critical positions then forms part of the comprehensive information that the Minister considers when making a decision as to whether to grant an application or transfer for a permit. The Rules therefore limit this right by indirectly drawing a distinction between people based on different nationalities. The consideration of the Minister may be affected by the identification of non-Australian nationals in critical roles. What impact the nationality information has will depend on the many different factors, including what the nationality is, the role they are playing in the activity and whether any other Commonwealth agencies have security concerns based on this information.

This limitation is reasonable, proportionate and necessary in order to achieve the objects of the Act. In particular this information is required in identifying if there are any reasons relevant to the security, defence or international relations of Australia that the activities should not be approved under the Act. This is a criterion the Minister must consider subject to paragraph 38(2)(e) of the Act.

This information is not requested of all personnel within the applicant's organisation, only those who have access, control or provide direction on critical tasks in undertaking the activity. Given the potential negative impact of malicious actors being involved in high power rocket activities, the indirect limitation on this right is proportionate and necessary.

Conclusion

The Rules are compatible with human rights because to the extent they may limit human rights, those limitations are reasonable, necessary and proportionate.

The Hon Karen Andrews MP
Minister for Industry, Science and Technology