

# REVIEW OF THE SPACE AFFAIRS ACT NO. 84 OF 1993

Parliamentary Portfolio Committee: Trade and industry,  
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Presenter: N Majaja, Department of Trade and Industry (the dti)

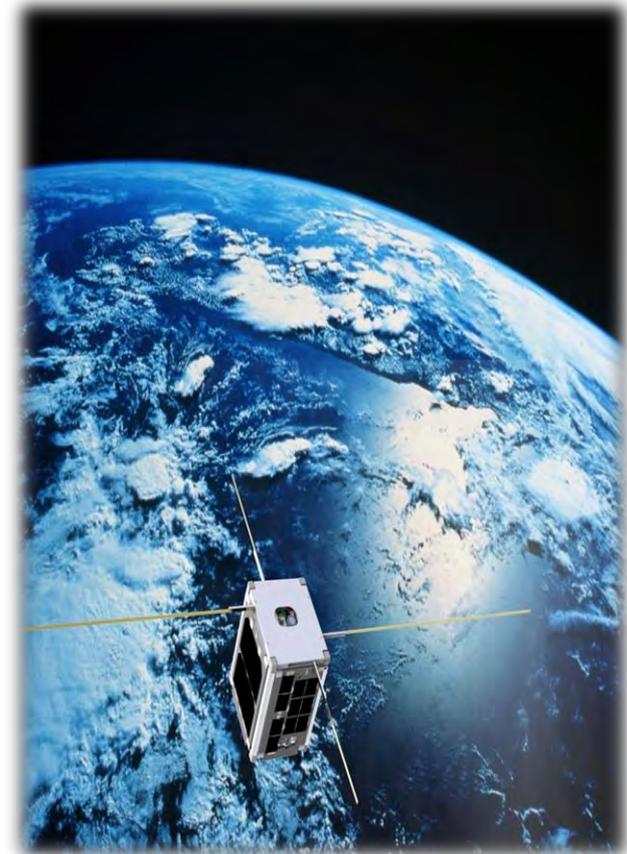


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# PRESENTATION OVERVIEW



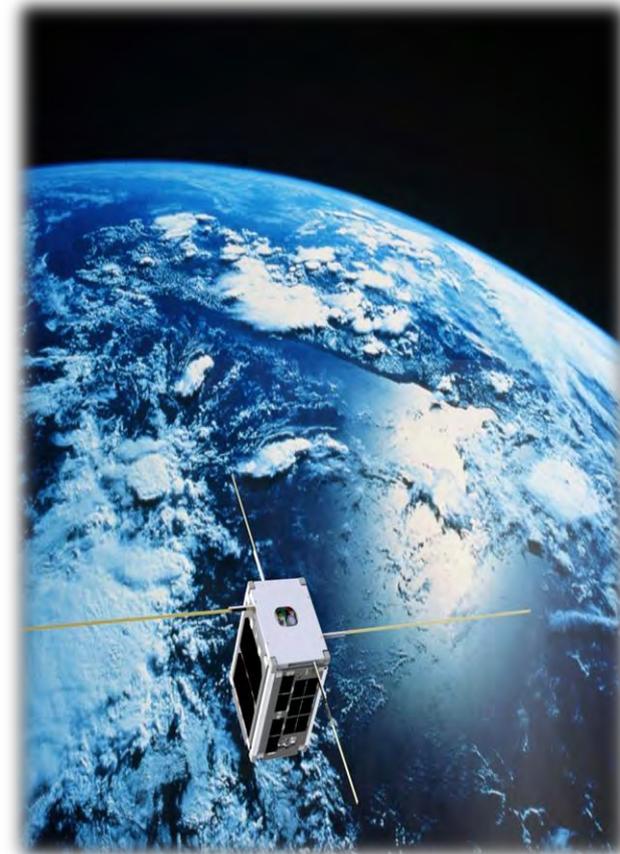
- ❑ **INTRODUCTION**
  - The Space Affairs Act as amended and its administration
  - The rationale and the need to review the current legislation
- ❑ **THE REVIEW PROCESS AND SIGNIFICANCE**
  - The study leading to the review
  - Establishment of the Ad hoc review committee
  - Public consultations
  - Summary Findings
- ❑ **THE SUBSTANTIVE PROVISIONS FOR CONSIDERATION AND SHORT COMINGS**
- ❑ **THE PRELIMINARY MATTERS FOR CONSIDERATION IN THE REVISED/NEW LEGISLATION**
- ❑ **CONCLUSION**



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# CURRENT LEGISLATION: SPACE AFFAIRS ACT NO. 84 OF 1993, AS AMENDED



## The main objectives are as follows:

- ❑ To establish the South African Council for Space Affairs (SACSA) to advise the Minister of Trade and Industry on international obligations in space affairs:
  - ❑ To authorise and supervise space activities of non-governmental entities;
  - ❑ To establish and maintain a national register of domestic space capabilities;
  - ❑ To ensure safety of space activities.



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# RATIONALE BEHIND THE REVIEW OF THE SPACE AFFAIRS ACT NO. 84 OF 1993

## ❑ BACKGROUND

- ❑ The Department of Trade and Industry (**the dti**) has embarked on a process to review the current legislative and regulatory prescripts governing space activities in South Africa. The review is motivated *inter alia*, by the following issues:
  - ❑ The developments in the national space arena since the enactment of the Act, which influencing changes on institutional mandates and responsibilities. Examples include the SANS Act, National Space Policy (2008), National Space Science and Technology Strategy (2007), ratification of the liability and registration conventions by South Africa.
  - ❑ The developments in the international space arena that needs to be taken into account when implementing the national obligations under the UN Treaties. Examples include the new guiding principles and guidelines on contents of national legislation, the Safety of national space activities Sustainability of outer space (Space debris mitigation guidelines) and others .
  - ❑ The need to put in place practical steps for industry participation in space activities.
- ❑ As a signatory to major United Nations treaties on outer space, South Africa is required to align its regulatory framework with these international space treaties. The regulation of space activities in South Africa is subject to international treaties.



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# CONTINUATION OF THE RATIONALE BEHIND THE REVIEW OF THE SPACE AFFAIRS ACT

- ❑ South Africa is party to the following treaties:
  - ❑ The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (the "Outer Space Treaty"), entered into force on 10 October 1967;
  - ❑ The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (the "Rescue Agreement"), entered into force on 3 December 1968;
  - ❑ The Convention on International Liability for Damage Caused by Space Objects (the "Liability Convention"), entered into force on 1 September 1972;
  - ❑ The Convention on Registration of Objects Launched into Outer Space (the "Registration Convention"), entered into force on 15 September 1976;
- ❑ There are also eleven (11) United Nations Principles on various aspects of space activities which are not legally binding, but are persuasive when considering international space law norms and regulation.
- ❑ South Africa is a member of the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS), a subsidiary body of the General Assembly of the United Nations. The Committee is the focal point for international co-operation in civilian space activities and has a membership of 69 countries, which includes developing countries.



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# THE REVIEW PROCESS

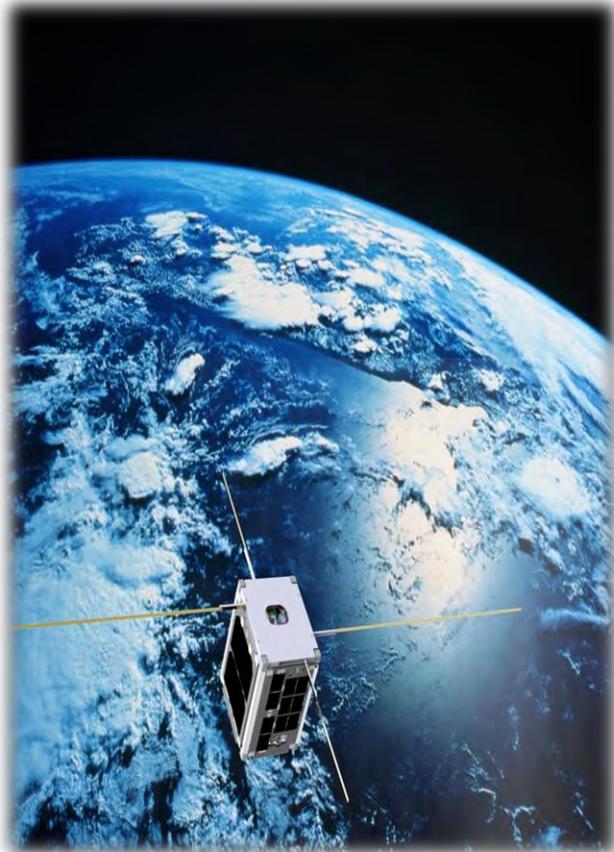
- ❑ In 2012 a Study leading to the review of the Act was commissioned to advise **the dti** on the following:
  - ❑ Scope the international best practices for the regulation of space activities and Implementation of the legislation.
  - ❑ Benchmark the current South African scenario with other countries.
  - ❑ Determine whether the enabling provisions are adequate to ensure the objectives of the Act can be met and are in line with the recent space developments in the country; and
  - ❑ Provide recommendations relating to possible amendments to strengthen the provisions of the Act and to add provisions where gaps have been identified for submission to **the dti** to take further required governmental procedures for the Review of the Act.
- ❑ Consultations with relevant stakeholders took place and comments were received and considered.
- ❑ SACSA established an Ad Hoc Committee for the Review of the Act.
- ❑ The process involves analyses of the suitability of the current legislative framework governing space activities in the Republic.
- ❑ Specifically, the enquiry centres on the relevance and comprehensiveness, or lack thereof, of the current Act to address contemporary developments and challenges facing the local space industry.



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# SUMMARY FINDINGS OF THE REVIEW



- ❑ South Africa's current space programme has outgrown the legislative framework foreseen in the SASAA;
- ❑ The Act does not cover the regulation of **functions** of space objects such as earth observation, communications or navigation or the use of satellite derived information;
- ❑ Space activities should include in particular the: launch, operation, guidance, and Re-entry of space objects into, in and from outer space;
- ❑ Distance between implementation and supervision to be maintained;
- ❑ Fall short on addressing national developments and needs;
  - To reflect domestic space needs: Policy objectives, commercialisation and industrialisation;
  - To reflect a strengthened secretariat compared to the current status quo;
  - To communicate with other relevant legislation. ICASA etc ; and
  - Other issues to be prescribed in the regulations.



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# STAKEHOLDER CONSULTATION

- **International Experts :**
  - Dr Tare Brisibe: Director – Regulatory Affairs at OnAir, a subsidiary of SITA (Société Internationale de Télécommunications Aéronautiques) and elected Chairman of the Legal Subcommittee of the UN COPUOS for the period 2012 – 2013; and
  - Prof Ram Jakhu: Associate Professor – Faculty of Law and Associate Director – Center for Research in Air and Space Law at the McGill University in Montreal, Canada.
- **National Stakeholders:**
- Members nominated from the following Departments / state agencies and industry association to form part of the Working Group for the review of the Act:
  - Department of Science and Technology (DST);
  - Department of International Relations and Cooperation (DIRCO);
  - Department of Defence (DoD);
  - Department of Justice and Constitutional Development (DoJ & CD);
  - South African National Space Agency(SANSA);
  - Aerospace Maritime & Defence Industries Association (AMD);
  - Department of Telecommunications and Postal Services (DTPS).



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# SUBSTANTIVE PROVISIONS OF THE ACT AND SHORTCOMINGS IDENTIFIED

There are shortcomings that have been identified in the current legislation which are summarised as follows:

## A. Definitions

- There is a need to define terms and redefine terms used in the Act such as: dual purpose technologies; Launching; License; Outer space; Space activities; Spacecraft; Space industry; Space-related technologies; Suborbital trajectory; Weapons of mass destruction.

## B. Scope of Application

- There is no actual provision on the scope and application of the Act. The general scope has to be deduced from Section 11 of the current Act.

## C. Authorisation and Licensing

- Section 4 Defines National Authority as SACSA while Sections 11-15 provides for Licensing Processes.
- Licence differentials to be taken into consideration including different types of licences (industry, R& D) and, different types of space objects and ownership.

## D. Continuing Supervision

- Section 10 provided for appointment, duties and powers of Inspectors. Section 15 provides for the role of SACSA in case of accidents while Section 9 provides for constitution of Boards of Inquiry.



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# SUBSTANTIVE PROVISIONS OF THE ACT AND SHORTCOMINGS

## E. Safety and Environmental Consideration

- Sections 11 and 15 refers to safety standards but not detailed sufficiently for effective clarity. These were left to be included in Regulations.
- To mention new UN Regulations such as the use of nuclear power sources, space debris mitigation guidelines, UN Regulations to be looked at.
- Section 11 imposes conditions arising out international obligations, such as Outer Space Treaty and the Liability Convention.

## F. Liability and Insurance

- Section 14 provides for Duties and Liabilities of licensee / insurance as Conditions of License. It also uses general language: liability arising out of Treaties. There is no specific third party liability expressed as a requirement.
- Security may be required to meet obligations incurred. There is also Limitation on liability: domestic vs. international liability.

## G. Registration

- There is no provision on registration of space objects.
- To mention space registry, the mandatory registration of space objects.

## H. In-Orbit Transfer of Ownership

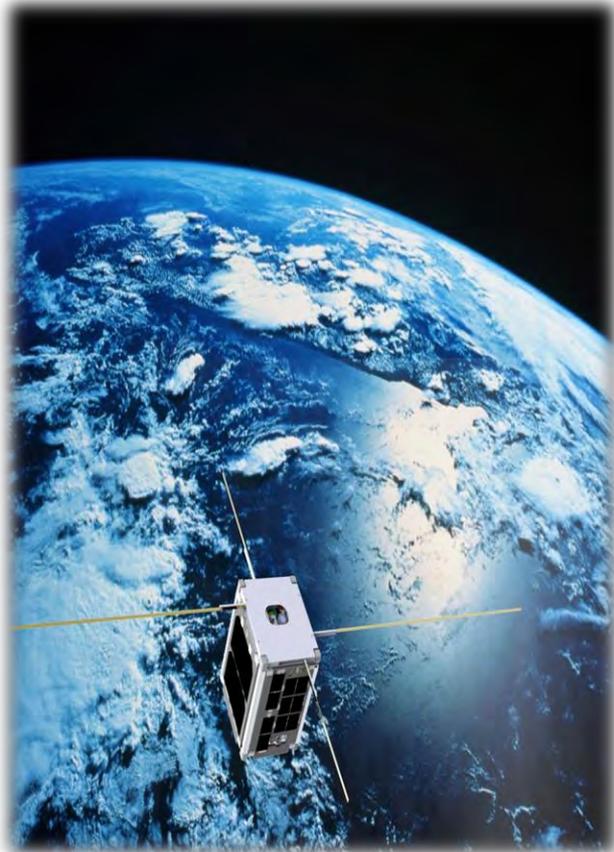
- There is no provision on transfer of space objects in orbit.
- To mention transfer issues, give a detailed process and when the regulator should be notified which will affect changes in the registry.



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# NEXT STEPS



- Continuation of Public consultations on the drafting of the Bill with relevant Stakeholders;
- Involvement of the State law Advisors, the dti, DIRCO and DOJ;
- Tabling of the Bill to the relevant bodies;
- Drafting of regulations.



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# CONCLUSION

- ❑ The review of the space legislation is critical for South in order to;
  - ❑ Expand and clarify the scope of the Act:
    - Dual Use technology; and
    - Civil and military applications.
  - ❑ Provide effective and responsive licensing procedure;
  - ❑ Streamline and strengthen the interface with other relevant government departments, agencies and legislation;
  - ❑ Safeguard public/national interests;
    - Improved regulatory and administrative support; and
  - ❑ Support for the development of a local space industry (high tech and capital Intensive).



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# THANK YOU



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