

Out of Scope

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**From:** s 9(2)(a)  
**Sent:** Wednesday, 30 March 2016 10:01 a.m.  
**To:** Kirsty Hutchison  
**Subject:** FW: High altitude: flight level 999

[UNCLASSIFIED]

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**From:** Chris Roblett s 9(2)(a)  
**Sent:** Thursday, 24 March 2016 5:12 p.m.  
**To:** s 9(2)(a)  
**Cc:** s 9(2)(a)  
**Subject:** RE: High altitude: flight level 999

Hi s 9(2)(a),

s 9(2)(f)(iv)

s 9(2)(h)

For what it is worth, the question of the vertical extent of national jurisdiction appears to be an open question internationally. We know that at the point we reach “outer space” (however defined) this has a status equivalent to the “high seas” on the earth. It is not subject to national appropriation, is “the province of all mankind”, and operations are to be conducted with regard to the interests of other parties. States of registration have jurisdiction and control over objects on their registry.

The 1944 Convention on International Civil Aviation (the Chicago Convention) is different. It:

- Aims to promote the development of international civil aviation in a ‘safe and orderly manner’ and that international air transport services may be developed (preamble)
- Recognises that the contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory (Article 1)
- Permits aircraft of contracting States engaged in scheduled international air services to make flights above the territory of other contracting states (Article 5)

The Chicago convention does not define “airspace”. s 9(2)(h)

s 9(2)(h)

s 9(2)(f)(iv)

For the sake of clarity, I am not suggesting that the Space Activities régime below outer space would be limited to aircraft – it should also capture any 'low altitude' rockets or other projectiles that may attain maximum altitude in 'near space', although there would be a different rationale for capturing these.

s 9(2)(f)(iv), s 9(2)(h)

Hope this helps and not hinders. I am conscious that there are considerations operating here that I am not aware of.

I am back in the office on Wednesday. Have a good break (if you can).

Regards,

Chris

**Chris Roblett**  
Principal Solicitor  
Ministry of Transport – Te Manatu Waka

s 9(2)(a)

| [www.transport.govt.nz](http://www.transport.govt.nz)

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**From:** s 9(2)(a)

**Sent:** Thursday, 24 March 2016 12:21 p.m.

**To:** 'Kirsty Hutchison'; 'Val Sim'; Chris Roblett; s 9(2)(a) 'Nelson Curry'

**Cc:** s 9(2)(a)

**Subject:** High altitude: flight level 999

**Importance:** High

Hi everyone,

s 9(2)(f)(iv)

s 6(a), s 9(2)(f)(iv)

DPMC will need to consult security partners on this point and revert. This is a crucial decision and we will need a few days to consider it. Given that most are away at Easter, we will revert on this point next week,

Regards,

s 9(2)(a)

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