

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2021 (No. 1)***

### **Authority**

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2021 (No. 1)* (the **instrument**) under section 132 of the *Radiocommunications Act 1992* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Section 132 of the Act allows the ACMA, by legislative instrument, to issue class licences to authorise any person to operate a radiocommunications device of a specified kind or for a specified purpose.

Subsection 33(3) of the AIA relevantly provides that, where an Act confers a power to make, grant or issue an instrument of a legislative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

### **Purpose and operation of the instrument**

On 17 December 2020, the ACMA made the *Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2020 (No. 1)* and it was subsequently registered on the Federal Register of Legislation.

On 12 March 2021, the secretariat of the Senate Scrutiny of Delegated Legislation Committee raised the following concern:

The explanatory statement to the instrument explains that the instrument incorporates a number of documents by reference and specifies where the majority of these documents may be accessed free of charge. However, it does not specify where four International Organization for Standardisation standards, including ISO/IEC 18000-61:2012, ISO/IEC 18000-62:2012, ISO/IEC 18000-63:2012 and ISO/IEC 18000-64:2012, may be freely accessed.

Standards produced by the International Organization for Standardization may be accessed from their website ([www.iso.org](http://www.iso.org)) for a fee. The ACMA will also cause copies to be made available for viewing at an office of the ACMA, or a venue nominated by the ACMA, upon prior request and subject to licensing conditions.

The ACMA has undertaken to make this clear in the *Radiocommunications (Low Impact Potential Devices) Class Licence 2015* (the **LIPD Class Licence**).

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

The instrument is a disallowable legislative instrument for the purposes of the *Legislation Act 2003* (the **LA**).

### **Documents incorporated by reference**

The instrument does not incorporate any documents by reference.

*Explanatory Statement to the Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2021 (No. 1)*

## **Consultation**

The only amendment made by the instrument to the LIPD Class Licence is the addition of a note, which is for information only. Accordingly, no public consultation process has been necessary.

## **Regulatory impact assessment**

A preliminary assessment of the proposal to make the instrument was conducted by the Office of Best Practice Regulation (**OBPR**), based on information provided by the ACMA, for the purposes of determining whether a Regulation Impact Statement (**RIS**) would be required. OBPR advised that a RIS would not be required because the proposed regulatory change is minor or machinery in nature – OBPR reference number (43917).

## **Statement of compatibility with human rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

## ***Overview of the instrument***

The only effect of the instrument is to vary a note in Schedule 2 to the LIPD Class Licence..

## ***Human rights implications***

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

## ***Conclusion***

The instrument is compatible with human rights as it does not raise any human rights issues.

**Notes to the *Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2021 (No. 1)***

**Section 1 Name of instrument**

This section provides for the instrument to be cited as the *Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2021 (No.1)*.

**Section 2 Commencement**

This section provides that the instrument commences at the start of the day after the day it is registered on the Federal Register of Legislation.

**Section 3 Authority**

This section identifies the provision that authorises the making of the instrument, namely subsection 132(1) of the *Radiocommunications Act 1992*.

**Section 4 Variation**

This section provides that the legislative instrument specified in Schedule 1, the *Radiocommunications (Low Interference Potential Devices) Class Licence 2015*, is varied as set out in that Schedule.

**Schedule 1 Variation**

**Item 1 Schedule 2, Note 4**

This item omits the existing Note 4 and substitutes a note advising that copies of instruments produced by the International Organization for Standardization may be accessed for a fee from their website or viewed free of charge at an office of the ACMA (or another venue nominated by the ACMA) upon prior request and subject to licensing conditions.