

# **Radiocommunications Amendment Regulations 1999 (No. 1) 1999 No. 271**

## EXPLANATORY STATEMENT

### STATUTORY RULES 1999 NO. 271

Issued by the Authority of the Minister for Communications, Information Technology and the Arts.

#### *Radiocommunications Act 1992*

#### Radiocommunications Amendment Regulations 1999 (No. 1)

Under subsection 314(1) of the *Radiocommunications Act 1992* ('the Act') the Governor-General may make regulations prescribing matters required or permitted to be prescribed under the Act or necessary or convenient to be prescribed for carrying out or giving effect to the Radiocommunications Act.

The Radiocommunications Amendment Regulations (No. 1) amend the *Radiocommunications Regulations 1993* ('the Regulations') to facilitate the licensing of certain proposed satellite services and generally improve legislative provisions in respect of the payment of penalties and the appointment of authorised persons.

#### Licensing Australian Satellites

A new generation of communications services is being provided by means of satellites communicating with large numbers of transceivers in Australia. The number and nature of the transceivers make it impractical to licence them individually and therefore, impose licence tax on the spectrum that they use. An alternative approach is to licence, and impose licence tax on, the transmitters and receivers on the satellites used to provide the services.

However, under section 23 of the Act, the Australian Communications Authority ('the ACA') is unable to licence a transmitter or a receiver on a satellite, unless the satellite is declared to be an 'Australian satellite' in Regulation 4 of the Regulations.

At present, satellites operated by six companies have been declared to be 'Australian satellites'. The ACA is therefore able to issue radiocommunications licences, to either those companies or their service providers, to authorise the operation of space and space receive stations on those satellites (that is, for transmitters and receivers).

Now, in addition to these six companies, another four companies intend to provide or already provide satellite services to places in Australia. These companies are:

- \* ORBCOMM Global L.P.;
- \* Globalstar L.P.;
- \* ICO Global Communications (Holdings) Ltd; and
- \* Inmarsat Limited.

Accordingly, the satellites operated by these companies also need to be declared, under Regulation 4, to be 'Australian satellites'. Once this has been done, it will be possible for the ACA to issue radiocommunications licences to authorise the operation of space and space receive stations on those satellites.

#### Payment of Penalties

Under paragraph 314 (2)(d) of the Act, regulations may be made enabling a person to pay a penalty in lieu of prosecution in relation to offences mentioned in Section 315 of the Act.

Regulation 23 implements this provision by providing that authorised persons may serve infringement notices in relation to certain offences of a minor nature. The Regulation refers directly to the relevant subsections of the Act. These references unnecessarily duplicate references made in section 315 of the Act.

Regulation 3, in defining the term 'penalty' also unnecessarily duplicates the reference to the offence provisions.

The amendments to Regulations 3 and 23 remove the duplication of wording by referring generally to the offence provisions mentioned in section 315 of the Act rather than specifying every offence provision listed in section 315.

#### Authorised Persons

Regulation 42 provides that authorised persons may only be appointed by the Chairman of the ACA. The power to make other similar appointments under the Act is delegated to other senior staff of the ACA. The amendment to Regulation 42 provides a consistent approach to making appointments under the Act by allowing the ACA, instead of the Chairman of the ACA, to make the appointments of authorised persons.

Details of the amending regulations are set out in the Attachment.

The Regulations commenced on gazettal.

## Attachment 1

### Notes on the Instrument

#### Section 1 - Name of Regulations

Section 1 provides that the instrument may be cited as the *Radiocommunications Amendment Regulations 1999 (No. 1)*

#### Section 2 - Commencement

Section 2 provides that the proposed regulations commence on gazettal.

#### Section 3 - Amendment of *Radiocommunications Regulations 1993*

Section 3 provides that Schedule 1 amends the *Radiocommunications Regulations 1993*.

#### Schedule 1 - Amendments

##### Item 1. Regulation 3, definition of penalty

Substitutes a new definition that refers to the offence provisions mentioned in section 315 of the Act instead of duplicating the offence provisions listed in section 315 of the Act.

##### Item 2. Paragraph 4(1)(b)

Inserts "(incorporated in the United States of America)" after "Iridium LLC".

##### Item 3. Paragraph 4(1)(d)

Inserts "(incorporated in the United States of America)" after "PanAmSat Corporation".

##### Item 4. Paragraph 4(1)(e)

Inserts "(incorporated in the United States of America)" after "Mobile Communications Holdings, Inc".

##### Item 5. Paragraph 4(1)(f)

Inserts "(incorporated in the United States of America)" after "Teledesic LLC" and substitutes the full stop with a semi colon.

Inserts new paragraphs 4(1)(g),( h), (i) and (j) to provide for space satellites operated by ORBCOMM Global L.P., Globalstar L.P., ICO Global Communications (Holdings) Ltd and Inmarsat Limited to be declared to be 'Australian satellites' for the purposes of the Act.

##### Item 6. Regulation 23

Substitutes a new regulation that refers to the offence provisions mentioned in section 315 of the Act instead of duplicating the offence provisions listed in section 315 of the Act.

**Item 7. Regulation 42**

Omits "The Chairman may, by signed instrument" and instead inserts "The ACA may, by written instrument".