

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

*Radiocommunications (Emergency Locating Devices) Class Licence Variation 2008
(No. 1)*

Radiocommunications Act 1992

Legislative Basis

Section 134 of the *Radiocommunications Act 1992* (the Act) allows the Australian Communications and Media Authority (ACMA) to vary a class licence by publishing a notice in the *Australian Government Notices Gazette* (the Gazette). Subject to section 136 of the Act, ACMA may vary a class licence by including one or more further conditions or revoking or varying any conditions of the licence.

Section 56 of the *Legislative Instruments Act 2003* (the LIA) provides that the requirement for publication in the Gazette is satisfied by registration on the *Federal Register of Legislative Instruments* (FRLI).

A variation made under paragraph 134 of the Act is a disallowable instrument for the purposes of the LIA.

Purpose

The *Radiocommunications (Emergency Locating Devices) Class Licence Variation 2008 (No. 1)* (the Class Licence Variation) implements changes to the *Radiocommunications (Emergency Locating Devices) Class Licence 2006* (the Class Licence). The changes are intended to:

- 1 accommodate the cessation of satellite monitoring of satellite distress beacons operating on the 121.5 and 243 MHz frequencies;
- 2 define more accurately the types of emergency locating devices; and
- 3 implement licensing arrangements for new deployments of Automatic Identification Systems (AIS), particularly for Search and Rescue (SAR) purposes.

The Class Licence Variation is one of a number of amending legislative instruments forming part of the radiocommunications regulatory framework that seek to accommodate developments in relation to emergency locating devices, aeronautical mobile stations at airports and deployments of AIS stations. The other amending legislative instruments are the:

- *Radiocommunications (Aircraft and Aeronautical Mobile Stations) Class Licence Variation 2008 (No. 1)*;
- *Radiocommunications (Maritime Ship Station — 27 MHz and VHF) Class Licence Variation 2008 (No. 1)*;
- *Radiocommunications (Interpretation) Amendment Determination 2008 (No. 1)*;
- *Radiocommunications Licence Conditions (Maritime Ship Licence) Amendment Determination 2008 (No. 1)*; and
- the *Radiocommunications Licence Conditions (Maritime Coast Licence) Amendment Determination 2008 (No. 1)*.

Background

Satellite Distress Beacons

By international agreement, the International Satellite System for Search and Rescue (COSPAS-SARSAT) will no longer monitor transmissions made from Emergency Position-Indicating Radio Beacons (EPIRBs) on the 121.5 MHz and 243 MHz frequency bands from 1 February 2009. This is because these analogue devices are being phased out and replaced with digital distress beacons operating in the 406–406.1 MHz band.

Automatic Identification System (AIS)

AIS is an automatic broadcast system used primarily for vessel identification, safety-of-navigation and vessel traffic services. Vessels equipped with AIS transmitters signal their identity, position and other information at varying intervals to coastal stations and ships in the vicinity.

The 2007 World Radiocommunication Conference (WRC-07) resulted in some changes to the operation of AIS stations. These changes included provision for:

- satellite detection of AIS transmissions;
- the deployment of AIS transmitters on aircraft and survival craft (for search and rescue (SAR) purposes); and
- the deployment of AIS Aids to Navigation (AtoN) stations.

Classification of Devices

The need to distinguish between the various types of emergency locating devices has been around for a while. The changes to the operation of AIS transmitters– in particular, satellite detection of AIS transmissions– has further potential to blur the distinction, particularly between locating aids and distress beacons.

Accordingly, the Class Licence Variation more explicitly defines the types of emergency locating devices. This includes more explicit reference to locating aids and satellite distress beacons.

Consultation

Section 136 of the Act requires ACMA to conduct a public consultation process via publishing a Gazette Notice before a class licence can be varied. The consultation requirements of section 17 of the LIA are also applicable.

ACMA published the applicable Gazette Notice on 6 November 2008. A consultation paper was released on the same date, covering the Class Licence Variation and the other amending legislative instruments. The consultation period lasted for one month and ended on Monday 8 December 2008. Comments were received from Airservices Australia, the Australian Maritime Safety Authority (AMSA) and the Australian Radio Communications Industry Association. The submissions supported the proposed changes.

The Class Licence Variation facilitates global changes occurring to the operation of emergency locating devices. Any compliance costs to industry are the result of these global changes. The Class Licence Variation has no effect on competition.

Accordingly, ACMA's Best Practice Regulation Coordinator determined that the Class Licence Variation and the other amending legislative instruments were minor and machinery in nature and a Regulation Impact Statement (RIS) and Business Cost Calculator (BCC) Report were not required. The Office of Best Practice Regulation (OBPR) was consulted during this process and issued ACMA with reference number 073 for the Class licence Variation and the other amending legislative instruments.

NOTES ON THE INSTRUMENT

Section 1 Name of Variation

Section 1 provides that the Class Licence Variation is the *Radiocommunications (Emergency Locating Devices) Class Licence Variation 2008 (No. 1)*

Section 2 Commencement

Section 2 provides that the Class Licence Variation commences on the day after it is registered on the FRLI.

Section 3 Variation of *Radiocommunications (Emergency Locating Devices) Class Licence 2006*

Section 3 provides that Schedule 1 varies the *Radiocommunications (Emergency Locating Devices) Class Licence 2006*.

Schedule 1 Variations

[1] Subsection 3(1), after definition of Act

Item [1] inserts four new definitions into the Class Licence. These definitions are required to define new terms used in the Class Licence. The relevant definitions name the standards applicable to the operation of certain emergency locating devices.

[2] Subsection 3(1), definition of *distress beacon*

Item [2] removes the definition of *distress beacon* from the Class Licence. This is because this definition is being replaced by other terms that more accurately define the applicable type of emergency locating device.

[3] Subsection 3(1), definition of *emergency locating device*, paragraph (a) and (b)

Item [3] amends the definition of *emergency locating device* to:

- (a) reflect the change introduced by Items [2] and [7] of the Class Licence Variation (the use of the term *satellite distress beacon* instead of *distress beacon*); and
- (b) incorporate the term *AIS-SART (Automatic Identification System – Search and Rescue Transmitter)* within the definition. AIS-SART was inserted as a definition into the *Radiocommunications (Interpretation) Determination 2000* by the *Radiocommunications (Interpretation) Amendment Determination 2008 (No. 1)*.

[4] Subsection 3(1), after definition of *emergency locating device*

Item [4] inserts two new definitions into the Class Licence. These definitions are required to define new terms used in the Class Licence. These definitions: *homing signal* and *locating aid* are primarily required to more accurately define the types and uses of emergency locating devices.

[5] Subsection 3(1), definition of *MSLS (maritime survivor locating system)*, paragraph (b)

Item [5] amends the definition of *MSLS (maritime survivor locating system)* to reflect the change introduced by Items [2] and [7] of the Class Licence Variation.

[6] Subsection 3(1), definition of *MSLS (maritime survivor locating system)*, paragraph (e)

Item [6] amends the definition of *MSLS (maritime survivor locating system)* to incorporate other types of MSLS equipment. The use of this equipment under the Class Licence requires reference to standard applicable to that equipment.

[7] Subsection 3(1), after definition of *MSLS transmitter*

Item [7] inserts a new definition into the Class Licence: *satellite distress beacon*. This definition distinguishes a *satellite distress beacon* from a *locating aid* to more accurately define the types of emergency locating devices.

[8] Subsection 3(2), note

Item [8] inserts an additional note (Note 1) into subsection 3(2) of the Class Licence. This note directs readers to the *Radiocommunications (Interpretation) Determination 2000* for definitions of certain terms used in the Class Licence. Apart from the order in which legislative instruments are identified, Note 1 does not vary the Note that currently appears in the Class Licence.

[9] After section 3, Part 1

Item [9] inserts additional section 3A into the Class Licence. Section 3A sets out the purpose of the Class Licence and includes notes that explain the uses of the different types of emergency locating devices.

[10] Paragraph 4 (2) (a)

Item [10] amends paragraph 4 (2) (a) of the Class Licence to reflect the change introduced by Items [2] and [7] of the Class Licence Variation.

[11] Paragraph 4 (2) (b)

Item [11] amends paragraph 4 (2) (b) of the Class Licence to accommodate the change introduced by Item [12].

[12] Paragraph 4 (2) (b)

Item [12] amends paragraph 4 (2) (b) of the Class Licence to authorise the operation of AIS-SART under the Class Licence. AIS-SART is a term that is introduced into the Class licence Variation by Item [3].

[13] Section 5

Item [13] substitutes existing section 5 of the Class Licence with a new section 5 in order to:

- (a) reflect the change introduced by Items [2] and [7] of the Class Licence Variation;
- (b) accommodate the cessation of COSPAS-SARSAT monitoring of satellite distress beacons operating on the 121.5 and 243 MHz frequencies; and
- (c) provide for the continued operation of certain EPIRBs for limited purposes until 31 January 2010.

[14] After section 5, Part 2

Item [14] inserts new section 5A in order to:

- (a) reflect the inclusion of AIS-SART transmitters within the definition of *locating aid*; and
- (b) authorise the operation of types of MSLS that operate on different frequencies to existing MSLS (e.g. on 156.8 and 1.56.525 MHz).