

### EXPLANATORY STATEMENT

**Issued by the Australian Communications and Media Authority**  
***Radiocommunications Licence Conditions (Amateur Licence) Amendment***  
***Determination 2010 (No. 1)***  
***Radiocommunications Act 1992***

#### **Purpose**

The purpose of the *Radiocommunications Licence Conditions (Amateur Licence) Amendment Determination 2010 (No. 1)* (the Amendment Determination) is to amend the *Radiocommunications Licence Conditions (Amateur Licence) Determination No. 1 of 1997* (the Amateur LCD) to facilitate general amateur (advanced category) use of the 135.7-137.8 kHz frequency band (the amateur LF band) in Australia.

#### **Legislative Provisions**

Paragraph 107(1)(f) of the *Radiocommunications Act 1992* (the Act) provides that the Australian Communications and Media Authority (the ACMA) may, by written instrument, determine conditions in relation to a particular type of apparatus licence.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that when an Act confers a power to make an instrument, that power shall, unless the contrary intention appears, be construed as including a power exercisable in a like manner and subject to like conditions, to amend that instrument.

A determination made under paragraph 107(1)(f) of the Act is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA).

#### **Background**

The amateur service facilitates qualified individuals (amateurs) to carry out communications with other amateurs and to carry out technical experimentation in radiocommunications using the low frequency spectrum.

The low frequency spectrum is of interest to the amateur radio community as it has propagation characteristics unlike those of higher frequency bands.

The World Radiocommunications Conference of 2007 (WRC-07) allocated the 135.7-137.8 kHz frequency band (the amateur LF band) for amateur service use on a secondary basis in most parts of the world, including Australia. The *Radio Regulations* of the International Telecommunication Union were amended to reflect this decision, with the inclusion of radio regulations 5.67A and 5.67B.

Radio Regulation 5.67A states that stations in the amateur service using frequencies in the band 135.7-137.8 kHz shall not exceed a maximum radiated power of 1 W (e.i.r.p) and shall not cause harmful interference to stations of the radionavigation service operating in countries listed in No. 5.67.

Radio Regulation 5.67B states that the use of the band 135.7-137.8 kHz in Algeria, Egypt, Iran (Islamic Republic of), Iraq, Libyan Arab Jamahiriya, Lebanon, Syrian Arab Republic, Sudan and Tunisia is limited to the fixed and maritime mobile services. The

amateur service shall not be used in the above-mentioned countries in the band 135.7-137.8 kHz, and this should be taken into account by the countries authorising such use.

On 10 December 2008, the ACMA made the *Australian Radiofrequency Spectrum Plan 2009* (the Spectrum Plan). This instrument provides for an amateur secondary allocation and associated footnotes 67A and 67B to reflect the WRC-07 amendments.

The Spectrum Plan provided the legislative basis to amend the Amateur LCD to give broad regulatory effect to the WRC-07 decision.

### **Operation**

The Amendment Determination amends the Amateur LCD to facilitate general amateur (advanced category) use of the amateur LF band in Australia.

The Amendment Determination also includes additional unrelated amendments to improve clarity and to harmonise Australia's approach in some areas with international arrangements, as follows:

- Regulatory provisions relating to certain communications with amateurs in foreign countries are clarified;
- A provision permitting repeater stations to employ a wider range of access control systems; and
- Other minor editorial amendments to reflect current legislative drafting practices.

### **Consultation**

For the purpose of section 17 of the LIA, the ACMA invited public submissions on a draft of the Amendment Determination. Public comment was sought through the publication of a *Gazette* notice. The *Gazette* notice was published on 29 September 2010, with accompanying information available on the ACMA website immediately thereafter. The public consultation period concluded on 1 November 2010.

The ACMA also consulted directly with those organisations that would most likely be affected by the proposed amendments. The ACMA provided the Wireless Institute of Australia and General Motors Holden with a draft of the Amendment Determination and accompanying documentation.

One submission was received in response to the direct consultation. The submission was generally supportive of the changes. No other submissions were received.

The ACMA considered the submission when making the Amendment Determination.

### **Regulatory Impact**

The Office of Best Practice and Regulation (OBPR) has considered the matter and formed the opinion that no further regulatory impact analysis is required for the proposal. The OBPR reference number is ID11996.

### **Amendment Determination Details**

Details of the Amendment Determination are provided at the Attachment.

## Notes on Determination

### Section 1 Name of Determination

Section 1 provides the name of the Amendment Determination.

### Section 2 Commencement

Section 2 provides that the Determination commences on the day after it is registered.

### Section 3 Amendment of *Radiocommunications Licence Conditions (Amateur Licence) Determination No.1 of 1997*

Section 3 provides that Schedule 1 amends the *Radiocommunications Licence Conditions (Amateur Licence) Determination No.1 of 1997*

### Schedule 1 Amendments

#### [1] Subsection 3 (1), before definition of *Act*

Item 1 inserts a definition of **ACMA** in subsection 3 (1), before the definition of **Act**.

#### [2] Subsection 3 (1), after definition of *qualified person*

Item 2 inserts a definition of **Radio Regulations** in subsection (3) (1), after the definition of **qualified person**.

#### [3] Subsection 3 (1), after definition of *repeater output*

Item 3 inserts a definition of **spectrum plan** in subsection 3 (1), after the definition of **repeater output**.

#### [4] Subsection 5 (2), at the foot

Item 4 inserts a note in subsection 5 (2), at the foot. The note was relocated from the foot of subsection 5(3) to improve the clarity of the provision.

#### [5] Subsection 5 (3), including the note

Item 5 substitutes subsection 5 (3) to improve the clarity of the provision in respect of certain communications with amateurs in foreign countries.

#### [6] After section 15B

Item 6 inserts section 15C after section 15B to provide for the permitted radiated power in the frequency band 135.7-137.8 kHz.

#### [7] Section 16

Item 7 omits each mention of 'Subject to section 15,' and inserts 'Subject to sections 15 and 15C' in section 16, to include an additional reference.

#### [8, 9] After subparagraph 42 (3) (a) (iii)

Items 8 and 9 extend the provision to permit repeater stations to employ a wider range of access control systems.

#### [10] Schedule 2, Part 1, before item 1

Item 10 inserts item 1A in Schedule 2, Part 1, before item 1 to provide for an additional frequency band and corresponding emission mode.

**[11] Schedule 2, Part 2, notes 2 and 3**

Item 11 substitutes Note 2, Note 3 and Note 4 in Schedule 2, Part 2, after Note 1 to improve the clarity of Note 2 and Note 3, and to include a note relating to the additional frequency band.

**[12] Further amendments**

Item 12 replaces each mention of 'ACMA' with 'the ACMA' and 'not exceeding' with 'no greater than'.