

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority
Radiocommunications (Interpretation) Amendment Determination 2011 (No. 1)
Radiocommunications Act 1992

Purpose

The purpose of the *Radiocommunications (Interpretation) Amendment Determination 2011 (No. 1)* (the Amendment Determination) is to amend the *Radiocommunications (Interpretation) Determination 2000* (the Determination) to include additional definitions of expressions used in the management of the radiofrequency spectrum.

The amendments to the Determination are associated with amendments to the *Radiocommunications Regulations 1993* (the Regulations) being implemented by the making of the *Radiocommunications Amendment Regulations 2011 (No. 1)* (the Amendment Regulations).

Legislative Provisions

Subsection 64(1) of the *Australian Communications and Media Authority Act 2005* provides that the Australian Communications and Media Authority (the ACMA) may make a written determination defining one or more expressions used in specified instruments, being instruments that are made by the ACMA under one or more specified laws of the Commonwealth.

Background

Prior to the commencement of the Amendment Determination, radiocommunications expressions were defined in the *Radiocommunications Act 1992* (the Act), the Regulations, the Determination, and a number of other legislative instruments made by the ACMA.

Operation

The purpose of the Amendment Determination is to improve efficiency in the management of the radiofrequency spectrum by:

- improving public access to the definitions of terms by minimising cross-referencing between the Regulations and the Determination - this is achieved by relocating defined terms from the Regulations to the Determination;
- removing definitions that are no longer in use in any determination or class licence made under the Act;
- removing a number of duplicated definitions appearing in both the Regulations and the Determination;
- amending several definitions to provide consistency with the definitions contained in related legislative instruments;
- including the following new definitions:
 - geostationary satellite
 - point to multipoint systems (drawn from the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2)*)

- radiodetermination
- radionavigation
- scientific station (drawn from the *Radiocommunications Licence Conditions (Scientific Licence) Determination 1997*);
- ultra wideband stations (drawn from the *Radiocommunications Licence Conditions (Scientific Licence) Determination 1997*);
- replacing references to the Australian Communications Authority (ACA) with the ACMA; and
- replacing references to the *Australian Communications Authority Act 1997* (the ACA Act) with the ACMA Act.

These changes improve access to information and improve efficiencies in managing the radiofrequency spectrum by consolidating the definitions of common expressions within the Determination.

The proposed changes set out in the Amendment Determination work in parallel with the changes to the Regulations set out in the Amendment Regulations.

The Amendment Regulations make the following minor changes to the Regulations:

- remove obsolete definitions;
- amend several definitions to provide consistency with definitions contained in other legislative instruments; and
- update references from the former ACA to its successor the ACMA.

The co-dependency of the Amendment Determination and the Amendment Regulations means that both instruments will have the same commencement date. The Amendment Determination and the Amendment Regulations commence on the day after their registration on the Federal Register of Legislative Instruments (the FRLI).

Consultation

On 1 September 2011, the ACMA released an Information Paper and exposure drafts of the Amendment Determination and the Amendment Regulations for a period of public consultation in accordance with section 17 of the *Legislative Instruments Act 2003* (the LIA). The consultation period ended on 30 September 2011.

The ACMA received one submission which queried the use of the term “low power” in the proposed definition for *ultra wideband station*. The ACMA has considered the information contained in the submission and formed a view that the words may be removed. By removing the words “low power” from the definition, it is the ACMA’s view that the definition remains consistent with the definition of ultra wideband applied by the Radiocommunications sector of the International Telecommunications Union (ITU-R).

The ACMA’s licensing frameworks will continue to be used to apply particular conditions to radiocommunications licences issued authorising the use or deployment of ultra wideband stations. For example, the use of the term “low power” will remain in the definition of ultra wideband in the *Radiocommunications Licence Conditions (Scientific Licence) Determination 1997*. In addition, other conditions applicable to the operation of ultra wideband technologies used in vehicular radar devices in the 24 GHz and 78 GHz bands are included in the *Radiocommunications (Low Interference Potential Devices) Class Licence 2000*.

Regulatory Impact

The Office of Best Practice and Regulation (OBPR) has considered the matter and formed the opinion that no regulatory impact analysis is required for the proposal. The OBPR reference number is 2011/12948.

Determination Details

Details of the Amendment Determination are provided in the Attachment.

Notes on Amendment Determination

Section 1 **Name of Determination**

Section 1 provides the name of the Amendment Determination.

Section 2 **Commencement**

Section 2 provides for the commencement of the Amendment Determination to be the day after it is registered.

Section 3 **Amendment of *Radiocommunications (Interpretation) Determination 2000***

Section 3 provides that Schedule 1 amends the *Radiocommunications (Interpretation) Determination 2000*.

Schedule 1 **Amendments**

[1] **Subparagraph 3 (2)(a)(i) and regulation 5**

Item 1 reflects the establishment of the Australian Communications and Media Authority in 2005 by updating references to the appropriate enabling legislation.

[2] **Schedule 1, before definition of *900 MHz studio to transmitter link station***

Item 2 inserts a definition of '27 MHz maritime frequencies'. This definition sets out a list of frequencies ranging from 27,680 kHz through to 27,980 kHz (27.68 - 27.98 MHz) which are frequencies authorised for use for maritime services by the Radiocommunications sector of the International Telecommunications Union (ITU-R).

This definition was previously included in the Regulations but has been relocated to the Interpretation Determination.

[3] **Schedule 1, definition of *aeronautical frequencies***

Item 3 replaces the existing definition of 'aeronautical frequencies', as referred to in the Regulations, with a definition explaining that the frequencies used for aeronautical purposes are specified in the Australian Radiofrequency Spectrum Plan (the Spectrum Plan).

[4] **Schedule 1, definitions of *aeronautical mobile-satellite frequencies*, *aeronautical mobile-satellite service* and *aeronautical mobile service***

Item 4 amends the existing definitions for 'aeronautical mobile-satellite frequencies' and 'aeronautical mobile-satellite service' by removing the references to the Regulations and replacing those references with the complete definitions from the Regulations.

The definition for 'aeronautical mobile service' is also amended by removing the references to the Australian Radiofrequency Spectrum Plan and including the complete definition from the Spectrum Plan.

[5] Schedule 1, definition of *aeronautical station*

Item 5 provides a new definition of this term which further explains the operation of an 'aeronautical station'. The definition also includes a provision allowing the operation of a station that is not located on an aircraft.

[6] Schedule 1, definition of *aircraft station*

Item 6 amends the existing definition for 'aircraft station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

[7] Schedule 1, definitions of *amateur frequencies* and *amateur intermediate station*

Item 7 amends the existing definition for 'amateur frequencies' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

Item 7 also omits the definition of the expression 'amateur intermediate station' as it is no longer in use.

[8] Schedule 1, definitions of *amateur limited station*, *amateur novice limited station* and *amateur novice station*

Item 8 omits definitions of these expressions which are no longer in use.

[9] Schedule 1, definitions of *amateur-satellite service* and *amateur service*

Item 9 amends the existing definitions for 'amateur-satellite service' and 'amateur service' by removing references to the Regulations and including the complete definitions from the Regulations.

[10] Schedule 1, definitions of *amateur station* and *amateur unrestricted station*

Item 10 amends the existing definition for 'amateur station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

Item 10 also omits the definition of the expression 'amateur unrestricted station' as it is no longer in use.

[11] Schedule 1, definition of *ambulatory station*

Item 11 amends the existing definition for 'ambulatory station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

[12] Schedule 1, definition of *CBRS repeater station*

Item 12 amends the definition of 'CBRS repeater station' by referring to a definition of that expression in another legislative instrument, the *Radiocommunications (Citizen Band Radio Stations) Class Licence 2002*.

Reference to the class licence is intended to remove a duplication in definitions which could cause potential confusion.

- [13] **Schedule 1, after definition of *connected***
- Item 13 inserts a definition of the expression 'connection'. The expression has been deleted from the Regulations and consolidated in the Interpretation Determination.
- [14] **Schedule 1, definition of *emergency position indicating radio beacon, and EPIRB***
- Item 14 substitutes the definition of 'emergency position indicating radio beacon, and EPIRB' by referring to an existing definition in the Spectrum Plan. This reference to the Spectrum Plan is intended to remove duplication in definitions which could cause potential confusion.
- [15] **Schedule 1, definition of *fixed licence*, subparagraph (b) (i)**
- Item 15 omits the word 'licence' and inserts 'transmitter licence', for clarity.
- [16] **Schedule 1, definition of *fixed licence* subparagraph (c) (ii)**
- Item 16 omits the word 'ship' and inserts 'maritime ship', for clarity.
- [17] **Schedule 1, definition of *fixed receive station***
- Item 17 substitutes the existing definition for 'fixed receive station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.
- [18] **Schedule 1, definition of *fixed station***
- Item 18 substitutes the existing definition for 'fixed station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.
- [19] **Schedule 1, after definition of *FM***
- Item 19 inserts a definition of the expression 'former regulations'; previously defined in the Regulations.
- Item 19 also inserts a new definition of the expression 'geostationary satellite'. This definition explains the fixed orbit of satellite stations in relation to the Earth.
- [20] **Schedule 1, after definition of *high frequency***
- Item 20 inserts a definition of the expression 'intercommunication'. This expression was previously defined in the Regulations and has been transferred to the Interpretation Determination as part of the process to consolidate the definitions in a single location.
- [21] **Schedule 1, definition of *land mobile frequency***
- Item 21 substitutes the existing definition for 'land mobile frequency' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

- [22] **Schedule 1, definitions of *land mobile service* and *land mobile station***
- Item 22 substitutes the existing definitions for 'land mobile service' and 'land mobile station' by removing the references to the Regulations and replacing them with the complete definitions from the Regulations.
- [23] **Schedule 1, definition of *land station***
- Item 23 substitutes the existing definition for 'land station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.
- Item 23 also inserts the definition of 'licence conditions determination', previously defined in the Regulations.
- [24] **Schedule 1, definition of *limited coast marine rescue station***
- Item 24 substitutes the existing definition for 'limited coast marine rescue station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.
- [25] **Schedule 1, definition of *maritime frequencies***
- Item 25 substitutes the existing definition for 'maritime frequencies' by removing reference to the Regulations and replacing it with the complete definition from the Regulations.
- [26] **Schedule 1, definition of *maritime mobile service***
- Item 26 substitutes a reference to the definition of 'maritime mobile service', an expression previously defined in the Regulations, with an amended definition. The amendment ensures consistency with other related definitions.
- [27] **Schedule 1, definition of *maritime ship station***
- Item 27 substitutes the existing definition for 'maritime ship station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.
- [28] **Schedule 1, definition of *message***
- Item 28 substitutes the existing definition for 'message' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.
- [29] **Schedule 1, definition of *mobile station***
- Item 29 substitutes the existing definition for 'mobile station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.
- [30] **Schedule 1, after definition of *point to multipoint station***
- Item 30 inserts an amended definition of 'point to multipoint station', an expression defined in the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No.2.)*. The amendment is intended to provide flexibility and clarity of use for new and emerging technologies and

services, particularly in relation to the use of mobile stations under this apparatus licence type.

[31] Schedule 1, definition of *public correspondence*

Item 31 substitutes the existing definition for 'public correspondence' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

[32] Schedule 1, definition of *radiodetermination frequencies*

Item 32 inserts a new definition of the expression 'radiodetermination'. This definition explains the meaning and purpose of technologies and services that use radiocommunications to measure the position, velocity or other characteristics of an object; or obtain information in relation to those characteristics.

Item 32 substitutes the existing definition of 'radiodetermination frequencies' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

[33] Schedule 1, after definition of *radiodetermination station*

Item 33 inserts a new definition of the expression 'radionavigation'. This definition explains the meaning and purpose of technologies and services that use radiocommunications to provide navigation, obstruction or warnings to the user or operator.

[34] Schedule 1, after definition of *scientific non assigned station*

Item 34 inserts the definition of 'scientific station', an expression defined in the *Radiocommunications Licence Conditions (Scientific Licence) Determination 1997*.

[35] Schedule 1, definitions of *ship, ship station Class A, ship station Class A group licences and ship station Class B*

Item 35 substitutes the existing definitions for 'ship' and 'ship station Class B' by removing the references to the Regulations and replacing them with the complete definitions from the Regulations.

Item 35 also omits the definitions of 'ship station Class A' and 'ship station Class A group licences' as those expressions are no longer used.

[36] Schedule 1, definition of *ship station Class C*

Item 36 substitutes the existing definition of 'ship station Class C' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

[37] Schedule 1, definition of *space station*

Item 37 substitutes a reference to the definition of 'space station', an expression previously defined in the Regulations, with a reference to a definition in the Spectrum Plan.

[38] Schedule 1, definition of *station*

Item 38 substitutes the existing definition for 'station' by removing the reference to the Regulations and replacing it with the complete definition from the Regulations.

[39] Schedule 1, after definition of *subscription narrowcasting service*

Item 39 inserts a definition of 'survival craft station', an expression previously defined in the Regulations. This expression has been deleted from the Regulations and consolidated in the Interpretation Determination.

[40] Schedule 1, after definition of *ultra high frequency*

Item 40 inserts a definition of 'ultra wideband station'. This definition is intended to explain how ultra wideband technology operates. Conditions related to the use or deployment of an ultra wideband station will continue to apply through the licensing arrangements administered by the ACMA.
