

Radiocommunications (Police Forces – Disruption of Unmanned Aircraft) Exemption Determination 2020

The Australian Communications and Media Authority makes the following determination under subsection 27(2) of the *Radiocommunications Act 1992*.

Dated: 8 October 2020

James Cameron

[signed]

Member

Cathy Rainsford

[signed]

~~Member~~/General Manager

Australian Communications and Media Authority

1 Name

This is the *Radiocommunications (Police Forces – Disruption of Unmanned Aircraft) Exemption Determination 2020*.

2 Commencement

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

Note: The Federal Register of Legislation may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

**3 Authority**

 This instrument is made under subsection 27(2) of the *Radiocommunications Act 1992*.

4 Repeal of this instrument

 This instrument is repealed at the start of the day two years after it commences.

5 Definitions

 In this instrument:

***Act*** means the *Radiocommunications Act 1992*.

***police force*** means the:

1. Australian Federal Police established under the*Australian Federal Police Act 1979*;
2. NSW Police Force established under the *Police Act 1990* (NSW);
3. Police Force of the Northern Territory established under the *Police Administration Act 1978* (NT);
4. Queensland Police Service maintained by the *Police Service Administration Act 1990* (QLD);
5. South Australia Police established by the *Police Act 1998* (SA);
6. Police Service established by the *Police Service Act 2003* (TAS);
7. Victoria Police established under the *Victoria Police Act 2013* (VIC);
8. Police Force of Western Australia established under the *Police Act 1892* (WA).

***relevant contractor*** means a person who has entered into a contract with a police force to perform a function or duty in relation to that police force that consists of one or both of the following:

1. testing of a device that is to be operated to disrupt or disable a UA or a UAS; or
2. maintenance of a device that is to be operated to disrupt or disable a UA or a UAS.

***relevant frequency bands***means the frequency bands mentioned in:

1. items 12—23A, 36—41, and 54—63 (all inclusive) in Schedule 1 to the *Radiocommunications (Low Interference Potential Devices) Class Licence 2015* as in force at the commencement of this instrument; and
2. footnote number 150 in Part 4 of the *Australian Radiofrequency Spectrum Plan 2017* as in force at the commencement of this instrument.

Note: The *Radiocommunications (Low Interference Potential Devices) Class Licence 2015* and the *Australian Radiofrequency Spectrum Plan 2017* are available on the Federal Register of Legislation which may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

***relevant period*** means the period beginning immediately after this instrument commences and ending immediately before this instrument is repealed.

***relevant person***means a member of a police force.

***UA*** means an unmanned aircraft, commonly known as a drone.

***UAS*** means unmanned aircraft systems which includes the UA, the ground-based controller, and the system of communications connecting the two.

Note: A number of terms used in this instrument are defined in the Act, including:

* + device; and
	+ frequency band.

6 References to other instruments

 In this instrument, unless the contrary intention appears:

(a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and

(b) a reference to any other kind of instrument or writing is a reference to that other instrument or writing as in force or existing from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 190*1 to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Note 3: For paragraph (b), see section 314A of the Act.

7 Exemption in relation to certain police activities

 (1) Any act or omission by a relevant person, in relation to the use, operation, possession or supply of a device, is exempt from Parts 3.1, 4.1 and 4.2 of the Act in the circumstances specified in subsection (3).

 (2) Any act or omission by a relevant contractor, in relation to the use, operation, possession or supply of a device, is exempt from Parts 3.1, 4.1 and 4.2 of the Act in the circumstances specified in subsection (4).

 (3) For the purpose of subsection (1), all the following circumstances must exist:

(a) the act is done, or the omission occurs, in the performance of the relevant person’s functions or duties in relation to the promotion of safety, security or protection of persons or property; and

(b) the act is done, or the omission occurs, during the relevant period; and

(c) the act is done, or the omission occurs, in relation to one or more of the following activities:

(i) the procurement or supply of a device that is to be operated, in the relevant frequency bands, to disrupt or disable a UA or a UAS;

(ii) the provision of training to a relevant person relating to the operation of a device, in the relevant frequency bands, to disrupt or disable a UA or a UAS;

(iii) the testing or maintenance of a device, that is to be operated, in the relevant frequency bands, to disrupt or disable a UA or a UAS; or

(iv) the operation of a device, in the relevant frequency bands, to disrupt or disable a UA or a UAS; and

(d) if the act or omission involves the operation of a device by the relevant person– the relevant person complies with section 8 and section 9 in relation to the act or omission.

 (4) For the purpose of subsection (2), all the following circumstances must exist:

(a) the act is done, or the omission occurs, in the performance of the relevant contractor’s functions or duties; and

(b) the act is done, or the omission occurs, during the relevant period; and

(c) the act is done, or the omission occurs, in relation to the testing or maintenance of a device, that is to be operated, in the relevant frequency bands, to disrupt or disable a UA or a UAS; and

(d) if the act or omission involves the operation of a device by a relevant contractor – a relevant person complies with section 8 and section 9 in relation to the act or omission.

8 Device operation record

 (1) If a relevant person operates a device, the relevant person must keep a record of:

1. the date, time and location of the operation; and
2. the purpose for which the device was operated.

 (2) If a relevant contractor operates a device in accordance with a contract with a police force, a relevant person who is a member of that police force must keep a record of:

1. the date, time and location of the operation; and
2. the purpose for which the device was operated.

9 Provision of records to the ACMA

 If the ACMA gives a police force or a relevant person a written request for a copy of a record kept under subsection 8(1) or 8(2), a copy of the record must be given to the ACMA by a member of the police force with responsibility for management of police operations involving the device.