

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications (Radionavigation-Satellite Service) Class Licence 2025***

### **Authority**

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2025* (the **instrument**) under section 132 of the *Radiocommunications Act 1992* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Subsection 132(1) of the Act provides that the ACMA may, by legislative instrument, issue class licences. A class licence authorises any person to operate a radiocommunications device of a specified kind or for a specified purpose, or to operate a radiocommunications device of a specified kind for a specified purpose.

Under section 137 of the Act, the ACMA must not issue a class licence that is inconsistent with the *Australian Radiofrequency Spectrum Plan 2021* (the **spectrum plan**) or a frequency band plan. Subsection 9(2) of the spectrum plan provides that any frequency band specified in the spectrum plan may be used by a device that operates in accordance with a class licence, which includes the instrument. Subsection 9(5) of the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023* provides that the frequency bands covered by that band plan may be used for services provided under, and in accordance with, the conditions of a class licence, which includes the instrument.

Under section 138 of the Act, before issuing a class licence that authorises the operation of radiocommunications devices at frequencies that are within a part of the spectrum covered by a spectrum licence or a marketing plan, the ACMA must be satisfied that:

- issuing the class licence would not result in unacceptable levels of interference to the operation of radiocommunications devices operated, or likely to be operated, under spectrum licences; and
- issuing the class licence would be in the public interest.

The ACMA must also consult with all affected spectrum licensees. The instrument does not authorise the operation of radiocommunications devices on frequencies that are covered by spectrum licences.

Subsection 33(3) of the AIA relevantly provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### **Purpose and operation of the instrument**

It is generally a requirement of the Act that the operation of all kinds of radiocommunications transmitters, and specified radiocommunications receivers as determined by the ACMA, be authorised by a radiocommunications licence. Radiocommunications transmitters include earth stations, and specified radiocommunications receivers include earth receive stations.

A class licence is one kind of licence available to authorise the operation of radiocommunications devices. It is an effective and efficient means of spectrum management for services where a limited set of common frequencies is employed, and equipment is operated under a common set of conditions.

A class licence sets out the conditions under which any person is permitted to operate any device to which the class licence is applicable; it is not issued to an individual user and does not involve the payment of licence tax or charges. Class licences are issued by the ACMA as legislative instruments and are registered on the Federal Register of Legislation.

The purpose of the instrument is to regulate the reception of radio emissions by radionavigation-satellite service (RNSS) receivers (commonly known as Global Positioning System (GPS) devices). It authorises any person to operate an RNSS receiver for the purpose of reception of RNSS radiocommunications.

The instrument only authorises an RNSS receiver to be operated in the specified frequency ranges.

The instrument does not authorise operation of an RNSS receiver:

- located on a space object; or
- where the operation is authorised by a receiver licence and the receiver is authorised to be operated for the purpose of reception of RNSS radiocommunications.

The instrument repeals and replaces the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015* (the **2015 class licence**).

The ACMA has made the instrument because the 2015 class licence was due to “sunset” on 1 October 2025, in accordance with Part 4 of Chapter 3 of the *Legislation Act 2003* (the **LA**). The instrument replicates the purpose and practical effect of the 2015 class licence with some minor changes.

Section 5 of the 2015 class licence, concerning compliance with standards and equipment rules, has been removed. These provisions are now covered by the *Radiocommunications Equipment (General) Rules 2021* and section 160 of the Act. The removal of section 5 is intended to eliminate unnecessary duplication and avoid any risk of a person being penalised twice for the same act or omission.

In addition, several expressions used in the 2015 class licence that were defined in section 3 are now defined in the *Radiocommunications (Interpretation) Determination 2025* (the **interpretation determination**) which applies to the instrument. Accordingly, these definitions are not included in the instrument.

Operation of a radiocommunications device is not authorised by a class licence (including the instrument) if it is not in accordance with the conditions of the licence (subsection 132(3) of the Act). Under section 46 of the Act, it is an offence, and subject to a civil penalty, to operate a radiocommunications device otherwise than as authorised by a spectrum licence, apparatus licence or class licence. The Act prescribes the following maximum penalties for the offence:

- if the radiocommunications device is a radiocommunications transmitter, and the offender is an individual – imprisonment for 2 years;
- if the radiocommunications device is a radiocommunications transmitter, and the offender is not an individual – 1,500 penalty units (which is \$495,000 based on the current penalty unit amount of \$330);
- if the radiocommunications device is not a radiocommunications transmitter – 20 penalty units (\$6,600).

The Act prescribes the following maximum civil penalties:

- if the radiocommunications device is a radiocommunications transmitter – 300 penalty units (\$99,000);

- if the radiocommunications device is not a radiocommunications transmitter – 20 penalty units (\$6,600).

It is an offence, and subject to a civil penalty, to possess a radiocommunications device for the purpose of operating the device otherwise than as authorised by a spectrum licence, apparatus licence or class licence (section 47 of the Act). The Act prescribes the same penalties for this offence and civil penalty contravention as for the offence and civil penalty contravention in section 46.

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

The instrument is a legislative instrument for the purposes of the LA, and is disallowable.

The instrument is subject to the sunset provisions of the LA.

### **Documents incorporated by reference**

This instrument does not incorporate any document by reference.

### **Consultation**

Before making the instrument, the ACMA was satisfied that the consultation undertaken was appropriate and reasonably practicable, in accordance with section 17 of the LA.

Subsections 136(2) and (2A) of the Act require that, before revoking a class licence, a written notice outlining the details of the revocation be published on the ACMA's website, and in one or more other forms that are readily accessible by the public. The notice must allow for a period of at least one month to be provided for public comment.

On 7 April 2025, the ACMA published a written notice under subsections 136(2) and (2A) of the Act about the proposed revocation of the 2015 class licence on its website and in the Government Notices Gazette, and invited interested persons to make representations about the proposed revocation.

On the same day, the ACMA commenced a public consultation on a proposal to remake the 2015 class licence. The ACMA published a page on its website describing the proposal, the process for contributing to the consultation and provided a draft of the instrument.

The consultation closed on 9 May 2025. The ACMA received 2 written submissions in response to the consultation, which are available on the ACMA website. While the respondents supported the proposal to remake the 2015 class licence, they sought clarification about the proposed changes to compliance requirements.

The ACMA made minor changes to the draft instrument to remove definitions of expressions that are now defined in the interpretation determination.

### **Statement of compatibility with human rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

### **Overview of the instrument**

Subsection 132(1) of the Act provides that the ACMA may, by legislative instrument, issue a class licence. A class licence authorises any person to operate a radiocommunications device of a specified

kind or for a specified purpose, or to operate a radiocommunications device of a specified kind for a specified purpose.

The purpose of the instrument is to regulate the reception of radio emissions by radionavigation-satellite service (RNSS) receivers (commonly known as Global Positioning System (GPS) devices. It authorises any person to operate an RNSS receiver for the purpose of reception of RNSS radiocommunications.

The instrument only authorises an RNSS receiver to be operated in the specified frequency ranges.

The instrument does not authorise operation of an RNSS receiver:

- located on a space object; or
- where the operation is authorised by a receiver licence and the receiver is authorised to be operated for the purpose of reception of RNSS radiocommunications.

### ***Human rights implications***

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared in the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

### ***Conclusion***

The instrument is compatible with human rights as it does not raise any human rights issues.

## **Notes to the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2025***

### **Section 1      Name**

This section provides for the instrument to be cited as the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2025*.

### **Section 2      Commencement**

This section provides for the instrument to commence at the start of the day after the day it is registered on the Federal Register of Legislation.

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

### **Section 3      Authority**

This section identifies the provision of the Act that authorises the making of the instrument, namely section 132.

### **Section 4      Repeal**

This section repeals the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015* [F2015L01510].

### **Section 5      Interpretation**

This section provides that a reference to a part of the spectrum or a frequency band includes all frequencies that are greater than, but not including, the lower frequency, up to and including the higher frequency.

A number of expressions used in the instrument are defined in the Act or in the interpretation determination.

### **Section 6      References to other instruments**

This section provides that in the instrument, unless the contrary intention appears:

- a reference to another legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- 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.

### **Section 7      Class licence**

This section sets out the circumstances in which operation of an RNSS receiver, for the purpose of reception of RNSS radiocommunications, is authorised.

This section provides that operation of an RNSS receiver is not authorised by the instrument if:

- the RNSS receiver is located on a space object; or
- the operation of the receiver is authorised by a receiver licence and it is authorised to be operated for the purpose of reception of RNSS radiocommunications.

## **Section 8      Condition – permitted frequencies**

This section sets out the frequencies authorised for operation of an RNSS receiver. A person must not operate an RNSS receiver otherwise than on a frequency in one of the following frequency bands:

- 1164 MHz to 1300 MHz;
- 1559 MHz to 1610 MHz.