**EXPLANATORY STATEMENT**

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

***Radiocommunications (Low Interference Potential Devices) Frequency Band Plans Amendment Instrument (No. 1) 2025***

**Authority**

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Low Interference Potential Devices) Frequency Band Plans Amendment Instrument (No. 1) 2025* (the **instrument**) under subsection 32(1) of the *Radiocommunications Act 1992* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Subsection 32(1) of the Act provides that the ACMA may, by written instrument, prepare frequency band plans, each relating to one or more frequency bands.

Subsection 33(3) of the AIA relevantly provides that, where an Act confers a power to make, grant or issue an instrument of a legislative character, 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 instruments**

The instrument amends the *Radiocommunications (Mobile-Satellite Service) (1980–2010 MHz and 2170–2200 MHz) Frequency Band Plan 2022* (the **MSS frequency band plan**) and the *Radiocommunications (Television Outside Broadcasting) (2010–2110 MHz and 2200–2300 MHz) Frequency Band Plan 2022* (the **TOB frequency band plan**) (collectively,the **relevant frequency band plans**).

The ACMA issues class licencesunder section 132 of the Act. The *Radiocommunications (Low Interference Potential Device) Class Licence 2025* (the **LIPD class licence**) will come into effect on 1 October 2025, when the *Radiocommunications (Low Interference Potential Device) Class Licence 2015* sunsets. The LIPD class licence authorises the operation of a wide range of low interference radiocommunications transmitters in various segments of the radiofrequency spectrum. The LIPD class licence sets out the conditions under which these transmitters may be operated. These transmitters do not require individual frequency coordination because of their low interference potential characteristics. Examples of transmitters covered by the LIPD class licence include garage door openers, radiofrequency identification (**RFID**) transmitters, WiFi equipment and personal alarms.

Under section 137 of the Act, the ACMA must not issue a class licence that is inconsistent with a frequency band plan. Each of the relevant frequency band plans specifies the purposes for which certain frequency bands may be used. Before the instrument was made, none of those purposes included the operation of the kind of devices authorised by the LIPD class licence. Consequently, the instrument amends the frequency band plans, to ensure that operation of devices under the LIPD class licence in the frequency bands covered by the relevant frequency band plans is consistent with those plans.

Under subsection 32(3) of the Act, a frequency band plan must not be inconsistent with the spectrum plan prepared under section 30 of the Act. The amendments to the relevant frequency band plans do not make them inconsistent with the spectrum plan.

It is a condition of a transmitter licence that the licensee, and any person authorised by the licensee to operate a radiocommunications transmitter under the licence, must not operate, or permit operation of, the transmitter for a purpose that is inconsistent with a purpose of a kind specified in the appropriate frequency band plan (if any) (paragraph 108(2)(a) of the Act).

Operation of a radiocommunications device is not authorised by a transmitter licence if it is not in accordance with the conditions of the licence (subsection 97(4) 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 a 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 and the relevant frequency band plans are legislative instruments for the purposes of the *Legislation Act 2003* (the **LA**), and are disallowable. Each of the relevant frequency band plans is subject to the sunsetting provisions in Part 4 of Chapter 3 of the LA.

**Documents incorporated by reference**

Section 314A of the Act provides that an instrument under the Act may make provision in relation to a matter by applying, adopting or incorporating (with or without modifications) matters contained in any other instrument or writing as in force or existing at a particular time, or from time to time.

The instrument amends each of the relevant frequency band plans to incorporate by reference the LIPD class licence and the *Radiocommunications (Science and Research) Class Licence 2023* (the **Science and Research class licence**), as in force from time to time.

The LIPD class licence and the Science and Research class licence are available, free of charge, from the Federal Register of Legislation (www.legislation.gov.au).

**Consultation**

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

Under section 33 of the Act, before preparing a frequency band plan, the ACMA must, by notice published on the ACMA’s website, state that a draft of the plan is available for public comment, set out the draft plan, and invite interested parties to make representations about the draft plan on or before the day specified in the notice. The day specified must be at least one month later than the day on which the notice is published. The ACMA must give due consideration to any representations so made, and may, having considered the representations, alter the draft plan. Under subsection 33(3) of the AIA, this requirement also applies to a variation of a frequency band plan.

Between 7 May 2025 and 20 June 2025, the ACMA consulted on the proposed amendments to the relevant frequency band plans.

The ACMA published a consultation paper and draft of the instrument to invite comments on the proposed amendments. The consultation paper and the draft of the instrument were published on the ACMA website.

The ACMA received 4 submissions. Submissions to the consultation did not object to the proposed amendments to the relevant frequency band plans.

**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 with human rights set out below has been prepared to meet that requirement.

***Overview of the instrument***

The instrument amends the relevant frequency band plans to ensure that the operation of radiocommunications devices under the LIPD class licence in the frequency bands covered by the relevant frequency band plans is consistent with those frequency band plans.

***Human rights implications***

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

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 instruments are compatible with human rights as they do not raise any human rights issues.

**Attachment A**

**Notes to the *Radiocommunications (Low Interference Potential Devices) Frequency Band Plans Amendment Instrument (No. 1) 2025***

**Section 1 Name**

This section provides for the instrument to be cited as the *Radiocommunications (Low Interference Potential Devices) Frequency Band Plans Amendment Instrument (No. 1) 2025*.

**Section 2 Commencement**

This section provides for the instrument to commence on 30 September 2025.

**Section 3 Authority**

This section identifies the provision of the Act that authorises the making of the instrument, namely subsection 32(1) of the Act.

**Section 4 Amendments**

This section provides that the instruments that are specified in Schedule 1 are amended as set out in the applicable items in that Schedule.

**Schedule 1–Amendments**

***Radiocommunications (Mobile-Satellite Service) (1980–2010 MHz and 2170–2200 MHz) Frequency Band Plan 2022* (F2022L00843)**

**Item 1**

Item 1 inserts a new paragraph 6(1)(e) into the MSS frequency band plan.

New paragraph 6(1)(e) has the effect that the 1980 MHz to 2010 MHz frequency band may be used for the purpose of the operation of a radiocommunications device in accordance with the LIPD class licence, or with another instrument that replaces the LIPD class licence.

**Item 2**

Item 2 inserts a new paragraph 6(2)(e) into the MSS frequency band plan.

New paragraph 6(2)(e) has the effect that the 2170 MHz to 2200 MHz frequency band may be used for the purpose of the operation of a radiocommunications device in accordance with the LIPD class licence, or with another instrument that replaces the LIPD class licence.

***Radiocommunications (Television Outside Broadcasting) (2010–2110 MHz and 2200–2300 MHz) Frequency Band Plan 2022* (*F2022L00842*)**

**Item 3**

Item 3 inserts a new paragraph 7(1)(g) into the TOB frequency band plan.

New paragraph 7(1)(g) has the effect that the 2010 MHz to 2110 MHz frequency band may be used for the purpose of the operation of a radiocommunications device in accordance with the LIPD class licence, or with another instrument that replaces the LIPD class licence.

**Item 4**

Item 4 inserts a new paragraph 7(2)(g) into the TOB frequency band plan.

New paragraph 7(2)(g) has the effect that the 2200 MHz to 2300 MHz frequency band may be used for the purpose of the operation of a radiocommunications device in accordance with the LIPD class licence, or with another instrument that replaces the LIPD class licence.