

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications Licence Conditions (Amateur Licence) Determination 2025

Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications Licence Conditions (Amateur Licence) Determination 2025* (the **instrument**) under subsection 110A(2) of the *Radiocommunications Act 1992* (the **Act**), and under subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Subsection 110A(2) of the Act provides that the ACMA may, by legislative instrument, determine that each apparatus licence included in a specified class of apparatus licences is taken to include one or more specified conditions.

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

An apparatus licence may be either a transmitter licence or a receiver licence. An ‘amateur licence’ is a type of transmitter licence specified by the ACMA in a determination made under section 98 of the Act. The current determination made under section 98 is the *Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2024*.

Amateur licences generally authorise the operation of one or more radiocommunications transmitters, which form part of an amateur station, for the purposes of self-training in radiocommunications, two-way communication between amateur stations (**intercommunication**), technical investigations of radiocommunications, and transmitting news and information related to the operation of amateur stations, as a means of facilitating intercommunication.

The purpose of the instrument is to repeal and replace the *Radiocommunications Licence Conditions (Amateur Licence) Determination 2015* (the **Amateur Licence LCD 2015**) without making any significant changes to the regulatory arrangements created by the Amateur Licence LCD 2015. The Amateur Licence LCD 2015 imposed conditions on amateur licences.

The ACMA has made the instrument because the Amateur Licence LCD 2015 was due to ‘sunset’ (that is, to be automatically repealed) on 1 October 2025 under Part 4 of Chapter 3 of the *Legislation Act 2003* (the **LA**). Following review, and consultation as described below, the ACMA formed the view that the Amateur Licence LCD 2015 was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. Accordingly, the ACMA has made the instrument so that the on-going effect of the Amateur Licence LCD 2015 is preserved.

The instrument specifies the conditions regarding the operation of radiocommunications transmitters under the following kinds of amateur licence:

- amateur licence (amateur foundation station);
- amateur licence (amateur standard station);

- amateur licence (amateur advanced station);
- amateur licence (amateur beacon station);
- amateur licence (amateur repeater station).

Amateur licences for the operation of amateur foundation, amateur standard, and amateur advanced stations do not have assigned frequencies on which those amateur stations are permitted to operate (operators of these types of amateur stations are known as ‘non-assigned’ amateur operators). On 19 February 2024, the *Radiocommunications (Amateur Stations) Class Licence 2023* (the **Class Licence**) commenced, which changed the regulatory framework applicable to non-assigned amateur operators from apparatus licensing to class licensing. To coincide with the beginning of the class licensing framework, the ACMA made the *Radiocommunications (Amateur Licence – Renewal Statement) Determination 2023*, the effect of which is that non-assigned amateur operators who hold an apparatus licence cannot have the licence renewed. The ACMA also intends not to issue any more amateur licences for the operation of amateur foundation, amateur standard and amateur advanced stations. As a result, the ACMA expects the last non-assigned amateur licence subject to the instrument will expire in June 2028.

As the regulatory framework for the non-assigned amateur operators subject to the instrument will transition to the regulatory framework established under the Class Licence, the conditions in the instrument are drafted to closely align with those in the Class Licence. This is to ensure that when a non-assigned amateur operator transitions from the instrument to the Class Licence, at expiry of their amateur licence, there should be minimal change in compliance requirements.

Section 28C of the Act requires the ACMA to have regard to any relevant Ministerial policy statements when performing its spectrum management functions, which includes its functions under section 110A of the Act. The ACMA has had regard to the *Radiocommunications (Ministerial Policy Statement – 3.4–4.0 GHz) Instrument 2022* in making the instrument. The instrument includes conditions that specify that some amateur stations may be operated in parts of the 3400–4000 MHz frequency band (the **3.4 GHz band**), subject to other conditions that affect the operation of these stations. This helps support access to the 3.4 GHz band for a range of use cases and users, in circumstances where other users of the band are unlikely to be affected by the operation of these amateur stations.

Operation of a radiocommunications device is not authorised by an apparatus licence (including an amateur 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.

In addition, an apparatus licensee, or a person authorised under section 114 of the Act in relation to an apparatus licence, must not contravene a condition of the licence. Contravention is subject to a civil penalty (section 113 of the Act). The Act prescribes a maximum civil penalty of 100 penalty units (\$33,000).

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 in Part 4 of Chapter 3 of the LA.

Documents incorporated by reference

Subsection 314A(1) 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) provisions of any Act as in force at a particular time, or from time to time. Subsection 314A(2) 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) matter contained in any other instrument or writing as in force or existing at a particular time, or from time to time.

The instrument incorporates part of the *Radiocommunications (Amateur Stations) Class Licence 2023*, as existing from time to time. This legislative instrument is available, free of charge, from the Federal Register of Legislation at www.legislation.gov.au.

The instrument also incorporates the following, as existing from time to time:

- hierarchical cell identification scheme identifiers from the Australian Spectrum Map Grid 2012 (the **ASMG**), as existing from time to time. The ASMG is published by the ACMA and available, free of charge, from the ACMA's website at www.acma.gov.au.
- the Tables of Equivalent Qualifications and Licences, published by the ACMA on its 'Overseas amateurs visiting Australia' webpage of the ACMA's website and available, free of charge, at www.acma.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 Part 4 of Chapter 3 of the LA, the Amateur Licence LCD 2015 was due to sunset on 1 October 2025. The ACMA analysed the Amateur Licence LCD 2015 and identified that it was a necessary and useful part of the regulatory framework. Given this, the ACMA decided to remake the Amateur Licence LCD 2015 to ensure its effect would continue to apply.

A proposal for the remaking of the Amateur Licence LCD 2015 was released for public consultation on 14 April 2025, together with the proposed draft instrument. Relevant stakeholders were notified about the consultation by ebulletin. The consultation closed on 26 May 2025. This provided an opportunity for stakeholders and members of the public to comment on the proposal.

The ACMA received 8 submissions on the proposal.

None of the submissions expressed any objection to the proposal to make the instrument.

An issue raised in relation to the draft instrument, which has resulted in a change to the final instrument, related to a condition which prohibited an amateur advanced station from operating within the 472 kHz to 479 kHz frequency band in the Timor Non Directional Beacon (**NDB**) Area. A submission noted that the affected beacon service is no longer operational and an equivalent condition was not included in the Class Licence.

The ACMA considered the submission and decided to omit the condition which related to the Timor NDB Area. There are no NDBs registered in Australia in the 472 kHz to 479 kHz frequency band, and no NDBs appear to be operating in Timor Leste, Indonesia, or Papua New Guinea. Therefore, the risk of interference to radionavigation services in Australia and countries neighbouring the Timor NDB Area is very low.

The final instrument does include an emission mode limitation for amateur advanced stations operating in the 472-479 kHz frequency band (in item 2, Table C of Schedule 1 of the instrument), which aligns with the approach to amateur advanced stations operating in the 472 kHz to 479 kHz frequency band in the Class Licence and with the use of the 472 kHz to 479 kHz frequency band under the International Telecommunication Union's Radio Regulations (see International Footnote 80A in the *Australian Radiofrequency Spectrum Plan 2021*).

Other matters raised in response to the consultation were comments that related to:

- the removal of a provision which restricted amateur stations from transmitting messages that contain any form of entertainment.
- the provision which prohibits a person from using a repeater output frequency that the person is not authorised to operate on. This provision was said to be unnecessary by a submitter.
- Schedule 1 to the instrument. A submitter said that Schedule 1 to the instrument is overly complex.
- the use of artificial intelligence (**AI**) to falsely represent a natural person. One submission suggested that the instrument should include a provision to prohibit the use of AI to falsely represent a natural person.
- the AX call sign prefix. One submission suggested that the instrument should include a provision for the Minister to approve the use of the special event AX call sign for non-assigned amateur operators in exceptional circumstances, in addition to the 3 dates specified in the instrument.

The ACMA considered these other matters raised in response to the consultation; however, it decided not to make further changes to the instrument, for reasons which include:

- Ensuring the instrument remains consistent with the Class Licence. As non-assigned amateur operators subject to the conditions in the instrument will eventually transition to the regulatory framework in place under the Class Licence, there is benefit in ensuring the conditions in the instrument align with the Class Licence. Some of the suggested changes to the draft instrument raised in response to the consultation, if placed into the final instrument, would result in the instrument departing from the regulatory approach established by the Class Licence.
- There is benefit to other users of the radiofrequency spectrum in clearly prohibiting a person from using a repeater output frequency that the person is not authorised to operate on.

- A suitably qualified amateur operator should be able to comprehend the information contained in Schedule 1 to the instrument. Further explanation is provided by this explanatory statement to aid suitably qualified amateur operators in understanding the information in Schedule 1 to the instrument.
- Offences involving misrepresentation (including the use of AI to falsely represent a natural person) are more appropriately to be considered under the statutory condition found in subparagraphs 108(2)(d)(i) and (ii) of the Act, which provides that a transmitter must not be operated in a way that would likely cause a reasonable person to be seriously alarmed or seriously affronted; or for the purpose of harassing a person.
- empowering the Minister to approve the use of special event AX call signs in exceptional circumstances is not a matter appropriate for the instrument.

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 in **Attachment B** has been prepared to meet that requirement.

Notes to the *Radiocommunications Licence Conditions (Amateur Licence) Determination 2025*

Part 1 – Preliminary

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications Licence Conditions (Amateur Licence) Determination 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 under which the instrument is made, namely subsection 110A(2) of the Act.

Section 4 Repeal of instrument

This section repeals the Amateur Licence LCD 2015.

Section 5 Interpretation

This section defines several key terms used throughout the instrument. Some of these terms are defined in the *Radiocommunications (Amateur Stations) Class Licence 2023 (Class Licence)*, and several other terms used in the instrument are defined in the Act, or in an instrument made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005*.

Section 6 References to other instruments

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

- a reference to any other 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.

Part 2 – Conditions – every amateur licence

Section 7 Application of Part 2

This section provides that every amateur licence is subject to the conditions in Part 2 of the instrument, except when a condition is specified in the licence under paragraph 107(1)(g) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act that is inconsistent with a condition in Part 2.

An amateur licence is a type of transmitter licence that authorises the operation of an amateur station, which is one or more radiocommunications transmitters that are operated for an amateur purpose.

Section 8 Condition – qualification

This section imposes a condition prohibiting the operation of an amateur station unless the operator of the amateur station is a qualified person or is supervised by a qualified person. The qualifications required to be a qualified person are set out in section 5.

Section 9 Conditions – purposes and transmissions

This section imposes conditions in relation to the purpose and nature of transmissions made using amateur stations.

Subsection 9(1) prohibits the operation of an amateur station unless it is for an amateur purpose. An *amateur purpose* is defined to be any of the following:

- self-training in radiocommunications;
- intercommunication;
- technical investigations of radiocommunications;
- transmitting news and information related to the operation of amateur stations, as a means of facilitating intercommunication.

Subsection 9(2) prohibits the operation of an amateur station for specified purposes, including for the purpose of obtaining a financial gain or reward. The subsection also prohibits the transmission of a message that is, or includes, an advertisement; or the transmission of an encoded signal to obscure the meaning of the signal; or the transmission of a signal that is unintelligible.

Subsection 9(3) specifies the circumstances in which a person may transmit an encoded signal. The circumstances include transmission for the purposes of an emergency services operation, or for controlling a space station or an unattended amateur station.

Subsection 9(4) specifies the circumstance in which a person may transmit a signal that is unintelligible. This circumstance is if the transmission is for the purposes of conducting a brief test or making an adjustment to the amateur station.

Subsection 9(5) specifies the circumstances in which a person can operate an amateur station to retransmit a transmission originating from another amateur station. The circumstances include obtaining the consent of the person making the transmission and transmitting the other station's call sign at the beginning and the end of each transmission.

Subsection 9(6) prohibits a person from operating an amateur station remotely, except in certain circumstances where the remote operation is sufficiently controlled. These circumstances include where the amateur station is an amateur repeater station or an amateur beacon station.

Subsection 9(7) prohibits a person from operating an amateur station to transmit a signal to another amateur station in certain circumstances. These circumstances include where the transmission is through an amateur repeater station, or through two or more amateur repeater stations, unless the person is authorised to transmit on the repeater/s output.

Section 10 Conditions – emergency services operations and training

Section 10 applies to a person who takes part in emergency services operations or training exercises for emergency services operations. It imposes a condition requiring a person who operates an amateur station in the course of such operations or exercises to transmit their call sign at specified times or have an arrangement in place to meet the obligation if there are 2 or more qualified persons operating a group of amateur stations.

Section 11 Conditions – interference and spurious emissions

Section 11 imposes conditions about causing interference and the spurious emissions of amateur stations.

Subsection 11(1) prohibits the operation of an amateur station if the operation causes harmful interference to radiocommunications.

Subsection 11(2) prohibits the operation of an amateur station if its operation causes interference to radiocommunications due to transmissions that vary from a frequency on which the station is authorised to operate; have radio emissions as a side effect of Morse code transmission; contain harmonics; or cause an emission outside the necessary bandwidth of the transmission.

Subsection 11(3) requires a person to take measures that are reasonably practicable to erect, fix, place and use an amateur station in a way that avoids interference to the efficient and convenient working of other stations.

Under subsection 11(4), a person must not operate an amateur station if the radio emissions of the station include spurious emissions that are not attenuated below the power of the wanted emission supplied to the antenna transmission line. This subsection specifies the different limits for spurious emissions that apply for frequencies equal to or greater than 30 MHz, and for frequencies less than 30 MHz.

Section 12 Condition – restriction in ARQZWA

Section 12 prohibits a person from operating an amateur station in the Australian Radio Quiet Zone Western Australia.

Part 3 – Conditions – amateur licence (amateur foundation station), amateur licence (amateur standard station), and amateur licence (amateur advanced station)

Section 13 Application of Part 3

This section provides that every amateur licence (amateur foundation station), amateur licence (amateur standard station), and amateur licence (amateur advanced station) is subject to the conditions in Part 3, except when a condition is specified in the licence under paragraph 107(1)(g) of the Act or imposed on the licence under paragraph 111(1)(a) of the Act and that condition is inconsistent with a condition in Part 3. However, the conditions in subsection 14(4) and section 16 of the instrument prevail over any conditions specified in the licence.

An amateur licence (amateur foundation station), amateur licence (amateur standard station), and amateur licence (amateur advanced station) are types of amateur licence that authorise the operation of an amateur foundation station, an amateur standard station, or an amateur advanced station, respectively. These types of stations operate on common or shared frequencies. Whether a station is an amateur foundation standard, amateur standard station or amateur advanced station depends on the qualifications of the person licensed to operate the station.

A note to the section explains that the Class Licence commenced on 19 February 2024 and the ACMA does not intend to issue any further amateur licences authorising the operation of an amateur foundation station, an amateur standard station, or an amateur advanced station.

Section 14 Conditions – using call signs

This section imposes conditions that deal with the use of call signs.

Subsection 14(1) requires a person, when operating an amateur station, to transmit the station's call sign at specified times during each transmission. These times are at the beginning of a transmission, at the end of a transmission and, if a transmission lasts more than 10 minutes, at least once every 10 minutes during the transmission.

Subsection 14(2) requires a person, when operating an amateur station to make a series of transmissions from an amateur station to another station, to transmit the call sign of the station being called or communicated with, followed by the call sign of the transmitting station at specified times during each transmission. These times are at the beginning of a transmission, at the end of a transmission and, if a transmission lasts more than 10 minutes, at least once every 10 minutes during the transmission.

Subsection 14(3) provides that where a person is operating an amateur station under the supervision of a second person (**supervisor**), then the person may transmit the supervisor's call sign or the call sign of a station specified in an amateur licence issued to the supervisor, to satisfy the requirements in subsection (1) and (2).

Subsection 14(4) permits a person with an Australian call sign that commences with VK to substitute AX for VK on 3 specified dates each year (Australia Day, ANZAC Day and World Telecommunication Day).

Subsection 14(5) provides that if section 10 applies to a person in relation to a transmission, then section 14 does not apply to that person in relation to that transmission. Section 10 sets out conditions about the use of call signs in relation to emergency services organisations.

Section 15 Conditions – permitted frequencies, emission modes and power limits

This section imposes conditions relating to permitted frequencies, maximum power limits and other limitations that apply to the operation of amateur foundation stations, amateur standard stations, and amateur advanced stations, by reference to Schedule 1 to the instrument.

Subsection 15(1) prohibits the operation of an amateur foundation station except in accordance with Table A of Schedule 1.

Subsection 15(2) prohibits the operation of an amateur standard station except in accordance with Table B of Schedule 1.

Subsection 15(3) prohibits the operation of an amateur advanced station except in accordance with Table C of Schedule 1.

Subsection 15(4) imposes a condition preventing the operation of an amateur advanced station in particular locations (specified in Schedule 2) and particular parts of the 3.4 GHz band.

Section 16 Condition – location of station

This section imposes a condition which prohibits the operation of an amateur station at a location not mentioned in a condition of the amateur licence for a continuous period longer than 4 months.

Section 17 Condition – restrictions in spectrum covered by a spectrum licence

This section prohibits the operation of an amateur station in a part of the spectrum and in a geographic area where a spectrum licence authorises the operation of radiocommunications devices. Section 105 generally prevents the ACMA from issuing apparatus licences (including amateur licences) in locations and parts of the spectrum covered by spectrum licences.

Part 4 – Conditions – amateur licence (amateur beacon station)

Section 18 Application of Part 4

This section provides that every amateur licence (amateur beacon station) is subject to the conditions in Part 4, except when a condition is specified in the licence under paragraph 107(1)(g) of the Act or imposed on the licence under paragraph 111(1)(a) of the Act and that condition is inconsistent with a condition in Part 4. However, the condition in section 21 of the instrument prevails over any conditions specified in the licence.

An amateur licence (amateur beacon station) is a licence that authorises a person to operate an amateur beacon station. An amateur beacon station is a station used principally for the purpose of identifying propagation conditions.

Section 19 Condition – using call signs

This section imposes a condition that deals with the use of call signs. The condition requires a person, when operating an amateur beacon station, to transmit the person's call sign at least once every 10 minutes during the transmission.

Section 20 Condition – restriction in the 50-52 MHz frequency band

This section prohibits the operation of an amateur beacon station in the frequency band 50 MHz to 52 MHz, if the operation causes interference to radiocommunications specified to be a primary service in that frequency band in the *Australian Radiofrequency Spectrum Plan 2021* (**spectrum plan**).

Section 21 Condition – location of station

This section imposes a condition which prohibits the operation of an amateur beacon station at a location not mentioned in a condition of the amateur licence for a continuous period longer than 7 days.

Part 5 – Conditions – amateur licence (amateur repeater station)

Section 22 Application of Part 5

This section provides that every amateur licence (amateur repeater station) is subject to the conditions in Part 5, except when a condition is specified in the licence under paragraph 107(1)(g) of the Act or imposed on the licence under paragraph 111(1)(a) of the Act and that condition is inconsistent with a condition in Part 5. However, the condition in section 28 of the instrument prevails over any conditions specified in the licence.

An amateur licence (amateur repeater station) is a licence that authorises a person to operate an amateur repeater station. An amateur repeater station is a station that automatically retransmits signals from other amateur stations.

Section 23 Condition – using call signs

This section imposes a condition that deals with the use of call signs. The condition requires a person, when operating an amateur repeater station, to transmit the person's call sign at least once every 10 minutes during the transmission.

Section 24 Conditions – purposes and transmissions

This section imposes conditions in relation to the purpose and nature of transmissions made using amateur repeater stations.

Subsection 24(1) prohibits the operation of an amateur repeater station unless it is to receive signals and retransmit those signals, or to transmit a signal that identifies the station.

Subsection 24(2) prohibits the operation of an amateur repeater station unless the station is incapable of transmitting a signal in the absence of a received signal.

Subsection 24(3) prohibits the operation of an amateur repeater station to transmit a signal from another amateur station (**originating station**) to a third amateur station if the person authorised to operate the originating station is not authorised to operate the originating station on the repeater output of the amateur repeater station.

Section 25 Conditions – repeater links

Subsection 25(1) prohibits the operation of a repeater link for an amateur repeater station unless a signal is being retransmitted from the station to another amateur repeater station, or the operation is to make a transmission that identifies the station.

Subsection 25(2) requires a person, when operating a repeater link for an amateur repeater station, to transmit the person's call sign at least once every 10 minutes during the transmission.

Section 26 Conditions – access control system

This section imposes conditions which require the use of an access control system in certain circumstances.

Subsection 26(1) provides that a person must operate an amateur repeater station using an access control system which satisfies subsection (3), where the person (the **originator**) operates an amateur station (the **originating station**) that transmits a signal to an amateur repeater station, and the amateur repeater station uses a repeater output that is not the same frequency as the amateur repeater station's repeater input, and is a frequency on which the originator is not authorised to operate the originating station.

Subsection 26(2) provides that a person must operate an amateur repeater station using an access control system which satisfies subsection (3), where the person (the **originator**) operates an amateur station (the **originating station**) that transmits a signal to an amateur repeater station (the **transmitting repeater station**), the transmitting repeater station transmits that signal to another amateur repeater station (the **receiving repeater station**), whether directly or through one or more other amateur repeater stations; and the receiving repeater station uses a repeater output on a frequency on which the originator is not authorised to operate the originating station.

Subsection 26(3) provides the circumstances in which an access control system would satisfy the subsection for the purposes of subsections (1) and (2). These circumstances require the access control system to be one of the 4 systems listed in paragraph (a), and when the system is used with an amateur repeater station, the system must prevent transmission by the station on the repeater output when the system's access control signals are not received.

Subsection 26(4) defines terms used in the section.

Section 27 Condition – restriction in the 50-52 MHz frequency band

This section prohibits the operation of an amateur repeater station in the frequency band 50 MHz to 52 MHz, if the operation causes interference to radiocommunications specified to be primary service in that frequency band in the spectrum plan.

Section 28 Condition – location of station

This section imposes a condition which prohibits the operation of an amateur repeater station at a location not mentioned in a condition of the amateur licence for a continuous period longer than 7 days.

Schedule 1 Permitted frequencies, and limits on operation

This schedule includes 3 tables that specify the permitted frequencies and limits of operation that persons operating amateur foundation stations, amateur standard stations and amateur advanced stations must comply with. The tables, which are set out for each type of amateur station to which section 15 applies, are:

- Table A for amateur foundation stations;
- Table B for amateur standard stations;
- Table C for amateur advanced stations.

For each item number in each table, column 1 lists the frequency bands permitted to be used by the specified amateur station, column 2 sets the power limits, and column 3 specifies any restrictions on transmission that apply.

Schedule 2 Excluded areas (amateur advanced station)

Schedule 2 describes areas in the 3.4 GHz to 3.6 GHz frequency band in which the operation of an amateur advanced station is prohibited. The areas are described using the Hierarchical Cell Identification Scheme (**HCIS**). The HCIS is a naming convention developed by the ACMA that applies unique ‘names’ to each of the geographic cells of the Australian Spectrum Map Grid 2012, available on the ACMA website.

Schedule 3 Access control systems (amateur repeater station)

Schedule 3 provides the frequencies that an access control system mentioned in sub-paragraphs 26(3)(a)(ii) and (iii) must use. Part 1 of Schedule 3 lists the frequencies a ‘continuous tone coded squelch system’ must use, and Part 2 provides the tones a ‘dual tone multi frequency system’ must use.

Statement of compatibility with human rights

Prepared by the Australian Communications and Media Authority under subsection 9(1) of the Human Rights (Parliamentary Scrutiny) Act 2011

Radiocommunications Licence Conditions (Amateur Licence) Determination 2025

Overview of the instrument

The ACMA has made the *Radiocommunications Licence Conditions (Amateur Licence) Determination 2025* (the **instrument**) under subsection 110A(2) of the *Radiocommunications Act 1992* (the **Act**).

Amateur stations are radiocommunications devices operated for the following purposes:

- self-training in radiocommunications;
- intercommunication using radiocommunications;
- technical investigation of radiocommunications; and
- transmitting news and information related to the operation of amateur stations, as a means of facilitating intercommunication.

These purposes are known as the ‘amateur purposes’.

The Act requires that the operation of a radiocommunications device, or the possession for the purposes of operation of a radiocommunications device, must be licensed by one of 3 types of licence: spectrum, apparatus or class. Relevantly, an apparatus licence may be either a transmitter licence or a receiver licence. An ‘amateur licence’ is a type of transmitter licence specified by the ACMA in a determination made under section 98 of the Act. The current determination made under section 98 is the *Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2024*.

Amateur licences are subject to statutory conditions in both section 107 (conditions of apparatus licences) and section 108 (additional conditions for transmitter licences) of the Act. Subsection 110A(2) of the Act provides that the ACMA may, by legislative instrument, determine that each apparatus licence included in a specified class of apparatus licences is taken to include one or more specified conditions.

The instrument specifies, for the purposes of subsection 110A(2) of the Act, the conditions to which the following types of amateur licence are subject:

- amateur licence (amateur foundation station)
- amateur licence (amateur standard station)
- amateur licence (amateur advanced station)
- amateur licence (amateur beacon station)
- amateur licence (amateur repeater station).

Conditions set by the instrument include conditions relating to the purpose of operation of an amateur station; qualification requirements of individuals who seek to operate an amateur station; interference

protections; use of call signs; and permitted frequencies, emission modes, and power limits of amateur stations.

Operation of a radiocommunications device is not authorised by an apparatus licence (including an amateur 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.

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*.

Article 19 of the International Covenant on Civil and Political Rights provides:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as provided by law and are necessary:
 - a. For respect of the rights or reputations of others;
 - b. For the protection of national security or of public order (*ordre public*), or of public health or morals.

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 engages the right to freedom of expression. The operation of amateur stations under amateur licences allows individuals to exercise the right to freedom of expression. The instrument maintains the ability of persons to exercise this right by operating amateur stations in accordance with the specified licence conditions in authorised parts of the radiofrequency spectrum, while balancing the need to regulate access to spectrum for these purposes so that other spectrum users' rights are respected.

The instrument places a limitation on the exercise of the right to freedom of expression by prohibiting a person from operating an amateur station if the operation of the amateur station is not in accordance with the conditions of the amateur licence. Moreover, a licence condition contained in the instrument places a limitation on the exercise of the right to freedom of expression by prohibiting messages that enable any person to obtain financial gain or reward, or messages which contain advertisements from being transmitted by amateur stations. The United Nations Human Rights Committee has observed that freedom of expression may also include commercial advertising (Human Rights Committee, General Comment No. 34, note 4, paragraph 11).

The ACMA has formed the view that the limitations on the exercise of the right to freedom of expression, imposed by the instrument, are necessary as these are in pursuit of achieving the legitimate objective of ensuring the long-term public interest in the use of the radiofrequency spectrum. This is an object of the Act and includes facilitating the efficient planning, allocation and use of the spectrum. To avoid interference between spectrum users, and balance the needs of all spectrum users, the operation of a radiocommunications device, such as an amateur station, or possession of equipment for the purposes of operation of a radiocommunication device, must be

licensed under the Act and be subject to licence conditions. Having access to well-planned and allocated spectrum ensures individuals have greater access to freedom of expression when using the radiofrequency spectrum, including for example amateur purposes, mobile phone communications, and defence and emergency services purposes.

Regarding the specific limitation placed on a person's exercise of the right to freedom of expression when operating an amateur station by prohibiting messages for financial gain, including advertising, this restriction is also aimed at ensuring the long-term public interest in the use of the radiofrequency spectrum. The radiofrequency spectrum is a finite public resource and is subject to competing demands. Access to spectrum is therefore necessarily limited and managed under the Act, and in accordance with Australia's international obligations, with this access customarily being subject to conditions, including the purposes to which particular parts of spectrum can be used. To use an amateur station to seek financial gain or reward, including through the transmission of advertisements, seeks to profit from a scarce public resource allocated for non-pecuniary amateur purposes. This would undermine the efficient planning, allocation and use of the radiofrequency spectrum.

Australia is also obliged to implement the measures put in place by the instrument under the *Radio Regulations*, an international treaty. The *Radio Regulations* require amateur operators to be duly authorised and to carry out their amateur operations with a personal aim and without pecuniary interest.

The restrictions on the right to freedom of expression by the instrument are reasonable and proportionate as the instrument is limited to persons who seek to operate amateur stations on frequencies allocated for amateur purposes.

Conclusion

The instrument is compatible with human rights because the restrictions on the right to freedom of expression when operating amateur stations are necessary, reasonable and proportionate to achieve the legitimate objective of ensuring the long-term public interest in the efficient planning, allocation and use of the radiofrequency spectrum, including ensuring Australia meets its international obligations under the *Radio Regulations*.