

# **Radiocommunications Regulations (Amendment) 1995 No. 62**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1995 No. 62**

Issued by the Authority of the Minister for Communications and the Arts

*Radiocommunications Act 1992*

Radiocommunications Regulations (Amendment)

Section 314 of the *Radiocommunications Act 1992* (the Act) provides that the Governor-General may make regulations, required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 97 of the Act provides for apparatus licences to be issued to enable persons to operate specified types of radiocommunications devices. Paragraph 107(1)(f) provides that conditions of these apparatus licences may be imposed by the Radiocommunications Regulations (the Regulations).

The two main purposes for the amending Regulations were to:

- amend regulation 37 of the Regulations to enable the Spectrum Management Agency (the SMA) to determine charges, under section 293 of the Act, for:
  - giving advice about resolving interference to a radiocommunications system; and
  - testing a device before an application for the issue, renewal or variation of a licence, permit, certificate or permission under the Act;

and

- amend, and insert new, terms and definitions relating to the setting of standard conditions primarily for amateur licences.

On 8 December 1993, the then, Minister for Communications, the Honourable David Beddall MP, acting under subsection 256(1) of the Act, directed the SMA to conduct a public inquiry into the apparatus licence system. In response to submissions made by the public, in the course of the inquiry, the SMA is in the process of effecting a number of reforms to the apparatus licence system. The amendments to the Regulations are a necessary element of the reforms and were to be made in conjunction with determinations made by the Spectrum Manager under the Act. The amending Regulations relate to definitions which were no longer to be used, or which related to matters now dealt with in determinations made by the Spectrum Manager, and therefore, had to be removed to those determinations.

The reform process has involved changes to apparatus licence types, and to licence conditions. To the extent that the Regulations deal with these matters, the amending Regulations were required. Some of these matters relate to the definitions in the Regulations, and some relate to regulations specifically dealing with imposing conditions for certain apparatus licence types.

The commencement date for the amending Regulations was critical in that they had to be in place before 3 April 1995 to enable the new apparatus licence regime to commence on that date. The importance of that commencement date was that it had been widely publicised as the

commencement date for the new licence system, including the introduction of a new computer controlled licensing management system.

For details of the amending Regulations, please see the Attachment.

## ATTACHMENT

### Details if Amending Regulations

Regulation 1 sets the commencement date for the Regulations.

Regulation 2 provides for the amendment of the Regulations.

Regulation 3 amends a number of definitions in regulation 3 of the Regulations.

Regulation 4 omits regulation 5 of the Principal Regulations and substitutes a new regulation with a new list of specified devices for the purposes of paragraph 7(1)(b) of the Act. The new list reflects the revision of the licence type structure.

Regulation 5 omits paragraph 8(a) of the Regulations and substitutes it with a new paragraph. The amendment has the effect of imposing a condition on amateur station licences that the operator must not solicit for "third party traffic", which is defined in regulation 3 as "a message passed to or on behalf of [a person who does not hold an amateur station licence]".

Regulation 6, amends regulation 9 by imposing an additional licence condition on amateur station licences. The new condition prohibits advertising or any, form of entertainment.

Regulation 7 amends regulation 10 of the Regulations. The amendment inserts a new paragraph that imposes a licence condition on amateur station licences that certain procedures must be adopted by a licensee where he or she retransmits another amateur licensee's transmission.

Regulation 7 also provides for the substitution of subparagraphs 10(b)(ii) and 10(c)(ii) to insert words relating to the licence condition in those subparagraphs to transmit the licensee's call sign. The licence condition now requires a licensee to transmit the call sign in the English language, visual image or an internationally recognised code.

Regulation 8 amends regulation 11 of the Regulations. The amendment replaced the previous licence condition on amateur station licences with 3 new conditions about the control of a transmitter by a licensee (including control where the licensee is operating a transmitter unattended).

Regulation 9 omits Division 3 of Part 3 of the Regulations. The regulation related to Citizen Band Radio Stations. These stations are now covered by a class licence issued under subsection 132 of the Act.

Regulation 10 amends regulation 15 of the Regulations by omitting paragraph 15(b)(5) and substituting a new subparagraph 15(b)(ii) which adds to the required content for an Amateur Operator's Examination by requiring knowledge of technical licence specifications that relate to the operation of an amateur station.

Regulation 11 amends regulation 16 of the Regulations by omitting paragraph 15(b)(ii) and substituting a new subparagraph 16(b)(5) which adds to the required content for a Limited Amateur Operator's Examination by requiring knowledge of technical licence specifications that relate to the operation of an amateur station.

Regulation 12 amends regulation 17 of the Regulations by omitting paragraph 15(b)(ii) and substituting a new subparagraph 17(b)(ii) which adds to the required content for a Novice Amateur Operator's Examination by requiring knowledge of technical licence specifications that relate to the operation of an amateur station.

Regulation 13 amends the Regulations by inserting a new regulation 17A which prescribes the required content for a Novice Limited Amateur Examination.

Regulation 14 amends regulation 23 of the Regulations by inserting a reference to subsection 300(4) of the Act. The effect of this amendment is to enable an infringement notice to be issued in respect of a minor offence under subsection 300(4).

Regulation 15 amends regulation 37 of the Regulations by adding to the list of matters for which the Spectrum Management Agency may impose charges related to its costs under paragraph 293(b) of the Act.

Regulation 16 amends paragraph 40(1)(a) of the Regulations by omitting the existing paragraph 40(1)(a) and substituting a new paragraph. The effect of the change is to allow a direction to be made by an inspector in respect of the operation of a station or service.

Regulation 17 omits the words "of 'marine' " from regulation 43 of the Regulations and the substitutes the words "of 'limited coast marine

Regulation 18 omits regulation 44 of the Regulations.

Regulation 19 amends Schedule 1 of the Regulations by omitting the Schedule and substituting a new Schedule 1 that specifies the examinations which relate to the stations as revised in the reform of the apparatus licence system.