

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Interpretation) Determination 2015

Australian Communications and Media Authority 2005

Purpose

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Interpretation) Determination 2015* (the **Determination**). The Determination revokes and replaces the *Radiocommunications (Interpretation) Determination 2000* (the **2000 Determination**) without making any significant changes to the regulatory arrangements created by the 2000 Determination.

The ACMA has made the Determination because the 2000 Determination was due to “sunset” (i.e. automatically be repealed) on 1 April 2015 in accordance with Part 6 of the *Legislative Instruments Act 2003* (the **LIA**). Following review, and consultation as described below, the ACMA formed the view that the 2000 Determination was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. To preserve the effect of the 2000 Determination, the ACMA has revoked the 2000 Determination before its sunset date and remade it with only minor changes as the Determination.

Legislative Provisions

Subsection 64(1) of the *Australian Communications and Media Authority Act 2005* provides that the ACMA may make a written determination defining one or more expressions used in specified instruments, being instruments that are made by the ACMA under one or more specified laws of the Commonwealth.

The Determination is made under subsection 64(1) and is a legislative instrument for the purposes of the LIA.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make a legislative instrument, the power shall be construed to include 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.

Operation

The Determination contains the definitions of expressions found in specified legislative instruments made by the ACMA. The legislative instruments to which the definitions apply are set out in section 3 of the Determination.

Section 3 also provides that a definition of an expression in the Determination applies to each use of that expression in the Determination itself. The expressions and their definitions are set out in the dictionary in Schedule 1 to the Determination.

Further details regarding the Determination are set out in Attachment A.

Consultation

Subsection 17(1) of the LIA requires that, before the ACMA makes a legislative instrument, it must be satisfied that any consultation that the ACMA considers is appropriate and reasonably practicable to undertake has been undertaken.

The ACMA published a draft instrument and consultation paper on its website between 17 November 2014 and 2 January 2015. The consultation paper explained the sunseting process and the ACMA's preliminary view that the existing arrangements should be saved from automatic repeal and remade without any significant changes. Interested parties were invited to comment.

The ACMA received two submissions in response to the consultation paper. Both submissions were taken into account in making the Determination.

Regulation Impact

The Office of Best Practice Regulation (OBPR) applies streamlined administrative processes to sunseting legislative instruments. As the ACMA has determined that the 2000 Determination was fit for purpose and should be remade without any significant changes, and has certified those matters to OBPR, no Regulation Impact Statement is required in relation to the making of the Determination. The OBPR reference number is 17279.

Documents Incorporated in the Determination by Reference

The Determination incorporates the following documents by reference, or otherwise refers to them:

- > *Australian Communications and Media Authority Act 2005*
- > *Broadcasting Services Act 1992*
- > *Navigation Act 2012*
- > *Radiocommunications Act 1992*
- > *Radiocommunications (Receiver Licence Tax) Act 1983*
- > *Radiocommunications (Spectrum Licence Tax) Act 1997*
- > *Radiocommunications (Transmitter Licence Tax) Act 1983*
- > *Telecommunications Act 1997*
- > *Marine Orders made by the Australian Maritime Safety Authority*
- > *Radiocommunications (Citizen Band Radio Stations) Class Licence 2002*
- > *Radiocommunications (Qualified Operators) Determination 2005*
- > *Radiocommunications Regulations 1993*
- > *VHF High Band Frequency Band Plan (148 to 174 MHz) 1991*
- > Radio Regulations of the International Telecommunication Union
- > IEC 61097-14

Acts and legislative instruments mentioned above can be found on the Australian Government's ComLaw website (<http://www.comlaw.gov.au/>).

The Radio Regulations can be obtained from the International Telecommunication Union website (<http://www.itu.int/en/about/Pages/default.aspx>).

Copies of IEC 61097-14 can be obtained from the SAI Global Limited website (<http://saiglobal.com>).

Statement of Compatibility with Human Rights

As required under the *Human Rights (Parliamentary Scrutiny) Act 2011*, a Statement of Compatibility with Human Rights has been prepared by the ACMA and is attached as Attachment B.

Attachment A

NOTES ON THE DETERMINATION

Section 1 Name of Determination

Section 1 provides that the Determination is the *Radiocommunications (Interpretation) Determination 2015*.

Section 2 Commencement

Section 2 provides that the Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 2A Revocation of previous Determination

Section 2A provides that the *Radiocommunications (Interpretation) Determination 2000* is revoked.

Section 3 Definitions—the dictionary etc

Section 3 provides that the dictionary in Schedule 1 defines certain expressions. The section also provides that, unless the contrary intention appears, the definition of an expression in the dictionary applies to each use of that expression in the Determination itself.

Section 4 Definition—instruments made under the *Radiocommunications Act 1992*

Section 4 provides that, unless the contrary intention appears, a reference to ‘the Act’ in the Determination and in other legislative instruments referred to in section 4 of the Determination means the *Radiocommunications Act 1992*.

Section 5 Interpretation—references to interpretation determination

Section 5 provides that, unless the contrary intention appears, a reference to the *Radiocommunications (Interpretation) Determination 2000* in a legislative instrument referred to in section 5 is a reference to the Determination.

Section 6 Interpretation—frequency bands and ranges

Section 6 explains that, for the purposes of the Determination, a frequency band or range described in the dictionary in Schedule 1 using 2 frequencies starts immediately above the lower frequency and ends at the higher frequency.

Section 7 Interpretation—references to spectrum plans

Section 7 explains that, unless the contrary intention appears, a reference to a spectrum plan in the Determination itself or in determinations, class licences or standards made under specified provisions of the Act, is a reference to the spectrum plan in force from time to time under the Act.

Schedule 1—Dictionary

Schedule 1 contains expressions set out in alphabetical order together with their respective definitions.

Attachment B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Radiocommunications (Interpretation) Determination 2015

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Radiocommunications (Interpretation) Determination 2015* (the **Determination**) revokes and replaces the *Radiocommunications (Interpretation) Determination 2000* without making any significant changes to the regulatory arrangements made by that instrument.

The Determination is made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005*. It defines expressions found in specified legislative instruments made by the ACMA.

Human rights implications

The Determination does not engage any of the applicable rights or freedoms.

Conclusion

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

Australian Communications and Media Authority