

## EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

*Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 2015*

*Radiocommunications Act 1992*

### Purpose

The Australian Communications and Media Authority (ACMA) has issued the *Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 2015* (the Class Licence).

The Class Licence revokes and replaces the *Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 2008* (the 2008 Class Licence) with some amendments, including changes that limit amateur stations' access to the frequency ranges 3400-3425 MHz and 3492.5-3542.5 MHz (the relevant frequency ranges). These amendments provide the same interference protection to future PMTS Class B apparatus licences in the relevant frequency ranges as is provided to PMTS Class B licences in other parts of the spectrum. The Class Licence also incorporates some minor and machinery changes, such as changes to modernise the drafting style.

The 2008 Class Licence was due to 'sunset' (i.e. be automatically repealed) on 1 April 2018, by operation of Part 6 of the *Legislative Instruments Act 2003* (the LIA).

Following review, and consultation as described below, the ACMA formed the view that the 2008 Class Licence was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. To preserve the effect of the 2008 Class Licence, the ACMA has therefore revoked the 2008 Class Licence before its sunset date and remade it with some minor changes and other amendments to limit amateur access to the relevant frequency ranges, as the Class Licence. In order to ensure consistency with the *Radiocommunications Licence Conditions (Amateur Licence) Determination 2015* (which was made because the *Radiocommunications Licence Conditions (Amateur Licence) Determination No. 1 of 1997* was due to sunset on 1 October 2015) the Class Licence has been issued now, rather than closer to its sunset date of 1 April 2018.

### Legislative Provisions

Under section 132 of the *Radiocommunications Act 1992* (the Act), the ACMA may, by notice published in the *Gazette*, issue class licences. Under section 133 of the Act, the ACMA may include in a class licence such conditions as it thinks fit.

Subsection 33(3) of the *Acts Interpretation Act 1901* 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. The Class Licence revokes the 2008 Class Licence.

The Class Licence is a legislative instrument and may be subject to disallowance in accordance with section 42 of the LIA.

### Background

The Class Licence authorises visiting overseas qualified persons to operate amateur stations in Australia and applies common conditions to the operation of these stations. The Class Licence is aimed at reducing the interference potential of amateur services provided using amateur stations.

In parallel, but separately from the sunseting process, the Minister for Communications gave the ACMA the *Australian Communications and Media Authority (3.5 GHz frequency band) Direction 2014* (3.5 GHz Direction). The 3.5 GHz Direction required the ACMA to have completed all steps necessary to enable apparatus licences of a type which would be appropriate for use for the national broadband network (NBN) in the relevant frequency ranges to be issued by 30 April 2015. The ACMA has decided that PMTS Class B licences are the appropriate licence type to be used.

In order to manage the risk of interference from the use of amateur stations to future PMTS Class B licences in the relevant frequency ranges, the ACMA considered it desirable that amateur licensees be precluded from using the relevant frequency ranges in certain geographic areas. This will ensure that future PMTS Class B apparatus licences in the relevant frequency ranges, whether issued for use for the NBN or otherwise, will operate on the same interference protection basis as current users of the licence type in other spectrum. Consequently, the Class Licence limits the access of overseas amateur station operators to the relevant frequency ranges.

Section 138 of the Act requires that, before the ACMA issues a class licence that authorises the operation of radiocommunications devices at frequencies that are within a part of the spectrum designated for allocation by issuing spectrum licences, or specified for re-allocation by issuing spectrum licences (collectively, spectrum-licensed bands), 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 Class Licence authorises the use of devices in some spectrum-licensed bands.

The ACMA is satisfied that issuing the Class Licence would not result in unacceptable levels of interference to devices operated, or likely to be operated, under spectrum licences in these bands. The Class Licence largely replicates the 2008 Class Licence, and there were no reports of a systemic occurrence of unacceptable levels of interference in the spectrum licensed-bands as a result of the use of those bands by devices under the 2008 Class Licence.

The ACMA is also satisfied that issuing the Class Licence would be in the public interest, as it allows for efficient use of the spectrum-licensed bands by overseas operators, in circumstances where the risk of interference to devices operated under spectrum licences is low.

## **Operation**

The Class Licence authorises overseas people (overseas operators) visiting Australia, who have certain technical qualifications or radiocommunications licences, to operate amateur stations, and sets the licence conditions for the use of those stations. Some licence conditions are specific to overseas operators with particular qualifications.

## Incorporation by reference

The Class Licence refers to Acts and other legislative instruments as in force from time to time (as permitted by section 314A of the Act). Those Acts and legislative instruments are the:

- the Act;
- the *Australian Radiofrequency Spectrum Plan 2013*;
- the *Migration Act 1958*;
- the *Radiocommunications (Interpretation) Determination 2015*;
- the *Telecommunications Act 1997*.

These Acts and legislative instruments are available on the ComLaw website at <http://www.comlaw.gov.au>.

The Determination also refers to or incorporates the following documents, as in existence from time to time (as permitted by section 314A of the Act):

- the Australian Geodetic Datum (AGD66);
- the Australian Spectrum Map Grid 2012 (ASMG);
- the Tables of Equivalent Qualifications and Licences (Tables), which set out qualifications or licences required to be held by overseas operators who operate devices under the Class Licence.

AGD66 was gazetted in the *Gazette* on 6 October 1966; more information about it is available from the Geoscience Australia website at <http://www.ga.gov.au>. The ASMG and the Tables are available from <http://www.acma.gov.au>.

## 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. Section 138 of the Act requires that, before the ACMA issues a class licence that authorises the operation of radiocommunications devices at frequencies that are within a part of the spectrum designated for allocation by issuing spectrum licences, or specified for re-allocation by issuing spectrum licences, the ACMA must consult all licensees of spectrum licences who may be affected by the proposed class licence.

The ACMA published a consultation paper and draft instrument on its website between 13 March 2015 and 24 April 2015. The consultation paper explained:

- the sunseting process;
- the ACMA's preliminary view that the majority of existing arrangements under the Class Licence should be saved from automatic repeal at the same time as the arrangements under the *Radiocommunications Licence Conditions (Amateur Licence) Determination No. 1 of 1997*, and be remade without significant amendment (except as set out below); and
- the steps that the ACMA was taking to mitigate the risk of interference to future PMTS Class B licences in the relevant frequency ranges in the relevant frequency ranges.

Interested parties were invited to comment.

The ACMA received two submissions in response to the consultation paper, which it took into account when making the Class Licence. The ACMA made a minor amendment to remove the reference to the non-directional beacon at Exmouth WA in relation to the 472-479 kHz frequency range. This reduced the number of zones in which operation by amateurs is excluded.

## **Regulatory Impact**

The Office of Best Practice Regulation (OBPR) applies streamlined administrative processes to sunsetting legislative instruments. In respect of the sunsetting aspects of the instrument, the ACMA has determined that the 2008 Class Licence was fit for purpose, should be remade and has certified those matters to the OBPR. In respect of the amendments that will provide interference protection for the future issue of PMTS Class B licences in the relevant frequency ranges, the ACMA prepared a preliminary assessment. Based on this preliminary assessment the OBPR determined that the proposed regulatory change in the submission is minor and machinery in nature and that no further regulatory impact analysis was required for the making of the Class Licence (OBPR reference ID 18210).

## **Detailed Description of the Instrument**

Details of the Class Licence are set out in **Attachment A**.

## **Statement of Compatibility with Human Rights**

As required by subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* a Statement of Compatibility with Human Rights has been prepared by the ACMA and is at **Attachment B**.

**DETAILS OF THE RADIOCOMMUNICATIONS (OVERSEAS AMATEURS VISITING AUSTRALIA) CLASS LICENCE 2015**

**PART 1- Preliminary**

**Section 1 – Name of Class Licence**

Section 1 provides that the Class Licence is the *Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 2015*.

**Section 2 – Commencement**

Section 2 provides that the Class Licence commences on the later of the day after it is registered and the day on which it is published in the *Gazette*. Both of those events must occur before the Class Licence commences.

**Section 2A – Revocation**

Section 2A provides that the *Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 2008* is revoked.

**Section 3 – Interpretation**

Section 3 defines the terms used in the Class Licence. New terms that are defined include those related to the ASMG, which is a method for describing areas in Australia. The ASMG is available from the ACMA's website. The ASMG has been used to identify the areas in which PMTS Class B licences may require interference protection.

The definition of the Exmouth non-directional beacon (NDB) has been removed, as it is no longer required. Airservices Australia advised the ACMA that the Exmouth NDB has been decommissioned, and therefore no longer requires interference protection.

Subsection 3(1A) provides a definition of the word 'operate' for the purposes of the Class Licence. Some minor uses of an amateur station, including some uses by a person under instruction of a qualified operator, are effectively removed from the scope of the conditions in the Class Licence by this definition, although these minor uses remain authorised by the Class Licence.

**Part 2 – Class Licence**

**Section 4 – Class Licence – what is permitted?**

Section 4 provides the authorisation for an overseas operator to operate an amateur station, in accordance with the conditions of the Class Licence, and for a person to perform one of the minor uses set out in subsection 3(1A).

**Part 3 – Conditions**

**Division 1 – Conditions applying to all stations operated under this Class Licence**

**Section 5 – Operation subject to conditions**

Section 5 provides that operation of an amateur station under the Class Licence is subject to all of the conditions in Division 1.

## **Section 6 – Who may operate under this Class Licence?**

This section sets out the overseas operators whose use of amateur stations is authorised by the Class Licence. The overseas operators (called ‘qualified persons’ in the Class Licence) must not be resident in Australia and must not have been present in Australia for more than 90 days in a row. The overseas operators must also hold an overseas licence or qualification specified in the Tables of Equivalent Qualifications and Licences published by the ACMA (the Tables), and must have been issued with a call sign.

## **Section 7 – Production of evidence – length of stay and qualifications**

This section requires that a person must provide evidence of qualifications and length of stay in Australia if asked by an inspector. The person is not authorised to operate an amateur station under the Class Licence between the making of the request and the production of the evidence.

## **Section 8 – Communication by an amateur station**

This section provides that an overseas operator must not solicit a message that is to be transmitted on behalf of another person unless the message relates to a disaster. An overseas operator must also not transmit a message on behalf of a person for reward. Certain other uses of the amateur station are also prohibited, such as using it in a way that would be seriously alarming or for the purpose of harassing any person.

## **Section 9 – Use of an amateur station**

This section prohibits certain uses of an amateur station. Broadly speaking, an amateur station must only be used for certain, limited purposes, related to intercommunication and training in radiocommunications. ‘Intercommunication’ is the two-way communication between amateur stations (see the *Radiocommunications (Interpretation) Determination 2015*). An amateur station must also not be used for, or for the purpose of, financial gain, or to transmit advertisements or entertainment, and must not be used as an amateur beacon station or amateur repeater station. It also cannot be used for the automatic reception or retransmission of signals from a public telecommunications network.

## **Section 10 – Interference**

This section provides that an amateur station must not be operated if its operation causes harmful interference to radiocommunications. It also provides that an overseas operator must not operate an amateur station if the emission of the station includes spurious emissions that are not attenuated below the power of the wanted emission supplied to the antenna transmission. Different limits for spurious emissions apply for frequencies equal to or greater than 30 MHz, and frequencies less than 30 MHz.

## **Section 11 – Use of call signs**

This section requires the use of call signs for an amateur station during, before and after certain transmissions.

## **Section 12 – Transmission of carrier waves and encoded signals**

This section sets out requirements in relation to matters such as content intelligibility and encoding.

## **Section 13 – Retransmission of other amateur stations’ transmissions.**

This section provides that an amateur station must not be operated to retransmit the transmission of another amateur station unless the consent of the operator of the other amateur station is obtained, and the retransmission includes specified information.

## **Section 14 – Control of equipment at an amateur station**

This section requires that an amateur station must not be operated unless the qualified person operating it is in attendance at the site of the amateur station.

### **Section 15 – Transmission on authorised frequency bands**

This section describes the circumstances in which an overseas operator must not operate an amateur station when transmitting to a second amateur station for the purpose of transmitting, through the second amateur station, to a third amateur station. In each case the overseas operator must be authorised to transmit on the interim frequencies used to transmit to the third amateur station.

### **Section 16 – Connection to a public telecommunications network**

This section imposes a condition limiting the circumstances under which an overseas operator may directly or indirectly connect the station to a public telecommunications network. It also imposes a condition requiring an overseas operator whose amateur station has connected to a public telecommunications network, and who can, using that network, communicate with another person, to notify the other person that their conversations may be heard by other persons.

### **Section 17 – Directions from inspectors and other officers**

This section requires an overseas operator to comply with a written direction that relates to interference as issued by an inspector, and a direction given by certain other authorised officers in an emergency.

### **Section 18 – Category of station under other Divisions**

This section requires that an amateur station must not be operated unless it is operated in accordance with all of the applicable conditions specified in one of the other Divisions of Part 3.

## **Division 2 – Additional conditions – stations operated by a person with a qualification or licence listed in Table C (i) of the Tables of Equivalent Qualifications and Licences**

### **Section 19 – Operation subject to conditions – qualification or licence listed in Table C(i)**

Section 19 states that operation of an amateur station under the Class Licence is subject to the conditions set out in Division 2 if that operation is by a person whose qualification or licence is listed in Table C(i) of the Tables.

### **Section 20 – Permitted frequency bands**

Section 20 provides that an overseas operator may only operate on certain frequencies specified in Table 1A, and must not operate on particular frequencies specified in Table 1B if operating within the Timor Non-Directional Beacon Area (as defined).

### **Section 21 – Permitted emission modes**

This section provides that an overseas operator may only operate on a frequency specified in Table 1A if the station is operated using a specified emission mode for that frequency, and only if the transmissions remain entirely within the specified frequency band.

### **Section 22 – Operation in the frequency band 50 MHz to 52 MHz**

This section limits the operation of an amateur advanced station in the frequency band 50 MHz to 52 MHz, preventing the station from causing interference to services that are specified to be primary services for those frequencies in the *Australian Radiofrequency Spectrum Plan 2013*.

### **Section 22A – Operating an amateur station in the frequency bands 3.400 GHz to 3.425 GHz or 3.4925 GHz to 3.5425 GHz**

Section 22A provides that, if an overseas operator uses an amateur advanced station in the relevant frequency ranges, the overseas operator must not operate the station in an ASMG block specified in Schedule 1A if a PMTS Class B licence authorises the use of a transmitter in that block. Unless and until a PMTS Class B licence is issued, authorising the use of a transmitter in the relevant frequency ranges in one of those ASMG blocks, an overseas operator can continue to transmit on those

frequencies in those ASMG blocks. Overseas operators should check the ACMA's website and the Register of Radiocommunications Licences to check whether a PMTS Class B licence has been issued for the relevant frequency ranges in an ASMG block before transmitting on those frequencies in that ASMG block.

**Section 23 – Operation in the frequency bands 3.425 GHz to 3.4425 GHz or 3.475 GHz to 3.4925 GHz**

This section requires that the amateur station must not be operated in the specified frequency ranges in a designated area described in Schedule 2 to the Class Licence.

**Section 24 – Operation in the frequency bands 3.4425 GHz to 3.475 GHz or 3.5425 GHz to 3.575 GHz**

This section requires that the amateur station must not be operated in the specified frequency ranges in a designated area described in Schedule 3 to the Class Licence.

**Section 24A – Operation in the frequency band 135.7 kHz to 137.8 kHz**

This section prohibits the use of an amateur station in the specified frequency band with an antenna above a radiated power of more than 1 watt pX EIRP.

**Section 24B – Operation in the frequency band 472 kHz to 479 kHz**

This section requires that the amateur station must not be operated in the specified frequency range if an antenna is used with or as part of the station and the antenna uses a radiated power of more than 5 watts pX EIRP.

**Section 25 – Permitted transmitter output power**

Section 25 requires amateur stations that are operated with specified emission modes to be operated using a transmitter output power no greater than 400 watts pX. With any other emission mode, the transmitter output power must be no more than 120 watts pY.

**Division 3 – Additional conditions – station operated by a person with a qualification or licence listed in Table C(ii) of the Tables of Equivalent Qualifications and Licences**

**Section 26 – Operation subject to conditions – qualification or licence listed in Table C(ii)**

Section 26 states that operation of an amateur station under the Class Licence is subject to the conditions set out in Division 3 if that operation is by a person whose qualification or licence is listed in Table C(ii) of the Tables.

**Section 27 – Permitted frequency bands**

This section provides that the overseas operator may only operate on certain frequencies specified in Table 2.

**Section 28 – Permitted emissions**

This section provides that the overseas operator may only operate on a specified in Table 2 if the station is operated using a specified emission mode for that frequency, and only if the transmissions remain entirely within the specified frequency band.

**Section 29 – Permitted transmitter output power**

Section 29 requires amateur stations that are operated with specified emission modes to be operated using a transmitter output power no greater than 100 watts pX. With any other emission mode, the transmitter output power must be no more than 30 watts pY.



## **Division 4 – Additional conditions – station operated by a person with a qualification or licence listed in Table C (iii) of the Tables of Equivalent Qualifications and Licences**

### **Section 30 – Operation subject to condition - qualification or licence listed in Table C (iii)**

Section 30 states that operation of an amateur station under the Class Licence is subject to the conditions set out in Division 4 if that operation is by a person whose qualification or licence is listed in Table C(iii) of the Tables.

### **Section 31 – Restrictions on operation**

Section 31 prohibits the operation of the amateur station in automatic or computer controlled mode, and provides that the station must not be operated if connected directly to a public telecommunications network.

### **Section 32 – Transmission equipment restrictions**

Section 32 provides that an overseas operator must not use the amateur station if it has not been commercially manufactured (for example, the operator may not create the station).

### **Section 33 – Permitted frequency bands**

This section provides that the overseas operator may only operate on certain frequencies specified in Table 3.

### **Section 34 – Permitted emissions.**

This section provides that the overseas operator may only operate on a frequency specified in Table 3 if the station is operated using a specified emission mode for that frequency, and only if the transmissions remain entirely within the specified frequency band. For one particular emission mode, the information to be transmitted must be sent by the use of a manually operated morse key.

### **Section 35 – Permitted transmitter output power**

Section 35 requires the amateur station to be operated using a transmitter output power no greater than 10 watts pX.

## **Division 5 – Additional Conditions – station operated by a person with a qualification or licence listed in Table C (iv) of the Tables of Equivalent Qualifications and Licences**

### **Section 36 – Operation subject to conditions – qualification or licence listed in Table C (iv)**

Section 36 states that operation of an amateur station under the Class Licence is subject to the conditions set out in Division 5 if that operation is by a person whose qualification or licence is listed in Table C(iv) of the Tables.

### **Section 37 – Restrictions on operation**

Section 37 prohibits the operation of the amateur station in automatic or computer controlled mode, and provides that the station must not be operated if connected directly to a public telecommunications network.

### **Section 38 – Permitted frequency bands**

This section provides that the overseas operator may only operate on certain frequencies specified in Table 4A.

### **Section 39 – Permitted emissions**

This section provides that an overseas operator may only operate on a frequency specified in Table 4A if the station is operated using a specified emission mode for that frequency, and only if the transmissions remain entirely within the specified frequency band.

### **Section 40 – Operation in the frequency band 50 MHz to 52 MHz**

This section limits the operation of the amateur station in the frequency band 50 MHz to 52 MHz, preventing the station from causing interference to services that are specified to be primary services for those frequencies in the *Australian Radiofrequency Spectrum Plan 2013*.

### **Section 40A – Operating an amateur station in the frequency bands 3.400 GHz to 3.425 GHz or 3.4925 GHz to 3.5425 GHz.**

Section 40A provides that if an overseas operator uses the amateur station in the relevant frequency ranges, the overseas operator must not operate the station in an ASMG block specified in Schedule 1A if a PMTS Class B licence authorises the use of a transmitter in that block. Unless and until a PMTS Class B licence is issued, authorising the use of a transmitter in the relevant frequency ranges in one of those ASMG blocks, an overseas operator can continue to transmit on those frequencies in those ASMG blocks. Overseas operators should check the ACMA's website and the Register of Radiocommunications Licences to check whether a PMTS Class B licence has been issued for the relevant frequency ranges in an ASMG block before transmitting on those frequencies in that ASMG block.

### **Section 41 – Operation in the frequency bands 3.425 GHz to 3.4425 GHz or 3.475 GHz to 3.4925 GHz**

This section requires that the amateur station must not be operated in the specified frequency ranges in a designated area described in Schedule 2 to the Class Licence.

### **Section 42 – Operation in the frequency bands 3.4425 GHz to 3.475 GHz or 3.5425 GHz to 3.575 GHz**

This section requires that the amateur station must not be operated in the specified frequency ranges in a designated area described in Schedule 3 to the Class Licence.

### **Section 43 – Permitted transmitter output power**

Section 43 requires the amateur station to be operated using a transmitter output power no greater than 10 watts pX.

## **Division 6 – Additional conditions – station operated by a person with a qualification or licence listed in Table C (v) of the Tables of Equivalent Qualifications and Licences**

### **Section 44 – Operation subject to conditions – qualification or licence listed in Table C(v)**

Section 44 states that operation of an amateur station under the Class Licence is subject to the conditions set out in Division 6 if that operation is by a person whose qualification or licence is listed in Table C(v) of the Tables.

### **Section 45 – Restrictions on operation**

Section 45 prohibits the operation of the amateur station in automatic or computer controlled mode, and provides that the station must not be operated if connected directly to a public telecommunications network.

### **Section 46 – Permitted frequency band**

This section provides that an overseas operator subject to the conditions in Division 6 may only operate an amateur station on the frequency band 146 MHz to 148 MHz.

### **Section 47 – Permitted emission mode**

This section limits the emission mode for transmissions by an overseas operator to whom Division 6 applies.

### **Section 48 – Permitted transmitter output power**

Section 48 requires the amateur station to be operated using a transmitter output power no greater than 10 watts pX.

### **Schedule 1 – Emission modes**

This schedule describes the permitted emission modes.

An emission mode for a transmission consists of four elements – the necessary bandwidth of the transmission, the modulation of the main carrier of the transmission, the nature of the signals modulating the main carrier of the transmission, and the kind of information that may be transmitted.

### **Schedule 1A – 3.4 GHz bands – HCIS identifiers for sections 22A and 40A.**

This schedule provides the details of the ASMG blocks in which qualified operators must not use amateur stations in the relevant frequency ranges, if a PMTS Class B licence authorises the use of a transmitter in that block in those frequency ranges.

### **Schedule 2 – 3.4 GHz bands – designated areas for sections 23 and 41**

This schedule provides the detail of the geographic designated areas, by reference to AGD66, in which certain operators must not use amateur stations in the 3.425 GHz to 3.4425 GHz and 3.475 GHz to 3.4925 GHz frequency ranges.

### **Schedule 3 – 3.4 GHz bands – designated areas for sections 24 and 42**

This schedule provides the detail of the geographic designated areas, by reference to AGD66, in which certain operators must not use amateur stations in the 3.4425 GHz to 3.475 GHz and 3.5425 GHz to 3.575 GHz frequency ranges.

### **Schedule 5 – Authorised officers**

This schedule sets out which officers of various State and Territory emergency services are authorised officers for the purposes of the Class Licence.

## **Statement of Compatibility with Human Rights**

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

### ***Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 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 Instrument engages the following human rights:

##### *Freedom of expression*

Subsection 8(4) of the Instrument requires that an amateur station must not be operated in a way that would be likely to cause a reasonable person to be seriously alarmed, affronted or harassed. This paragraph limits the content of transmissions of an amateur station and so engages Article 19 (2) of the International Covenant on Civil and Political Rights (ICCPR). Article 19(2) of the ICCPR guarantees freedom of expression, including the right to impart and receive information orally.

However, Article 19(3) of the ICCPR provides that the rights in Article 19(2) of the ICCPR may be subject to restrictions as are provided by law and necessary for respect of the rights or reputations of others. The requirement in subsection 8(4) of the Instrument is consistent with this restriction.

#### **Conclusion**

The Instrument is compatible with human rights.

**Australian Communications and Media Authority**