



Radiocommunications (Limitation of Authorisation of Third Party Users and Transfer of Apparatus Licences) Determination 2015

Radiocommunications Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Determination under section 115 and section 131AC of the *Radiocommunications Act 1992*.

Dated 29th July 2015

Chris Chapman
[signed]
Member

Richard Bean
[signed]
Member / ~~General Manager~~

Australian Communications and Media Authority

1 Name of Determination

This Determination is the *Radiocommunications (Limitation of Authorisation of Third Party Users and Transfer of Apparatus Licences) Determination 2015*.

2 Commencement

This Determination commences on the day after it is registered.

Note All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.comlaw.gov.au>.

3 Revocation

The following Determinations are revoked:

- (a) *Radiocommunications (Limitation of Authorisation of Third Party Users) Determination 2000* [F2005B00280];
- (b) *Radiocommunications (Transfer of Apparatus Licences) Determination 2000* [F2005B00281].

4 Definitions

- (1) In this Determination, unless the contrary intention appears:

ABC means the Australian Broadcasting Corporation established under subsection 5 (1) of the *Australian Broadcasting Corporation Act 1983*.

broadcasting service has the meaning given by subsection 6 (1) of the *Broadcasting Services Act 1992*.

eligible person has the meaning given by the Dictionary to the *Radiocommunications (Transmitter Licence Tax) Determination 2015*.

exempt broadcasting service has the meaning given by subsection 18A (3) of the *Broadcasting Services Act 1992*.

exempt person means a person who is exempt, under regulation 5 of the *Radiocommunications Taxes Collection Regulations 1985*, from the payment of apparatus licence tax.

SBS means the Special Broadcasting Service Corporation established under subsection 5 (1) of the *Special Broadcasting Service Act 1991*.

Note 1 In accordance with paragraph 13(1)(b) of the *Legislative Instruments Act 2003*, other expressions in this Determination have the same meaning as in the Act, including:

- ACMA
- apparatus licence
- apparatus licence tax
- Australia
- international broadcasting licence
- international broadcasting service

**Section 5 Circumstances in persons must not be authorised to operate
radiocommunications devices (paragraph 115(c) of the Act)**

Note 2 In accordance with section 64 of the *Australian Communications and Media Authority Act 2005*, other expressions in this Determination have the same meaning as in the *Radiocommunications (Interpretation) Determination 2015*, including:

- Act

- (2) In this Determination, unless the contrary intention appears, a reference to another legislative instrument is a reference to that other legislative instrument as in force from time to time.

Note 1 For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislative Instruments Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2 All Commonwealth Acts and legislative instruments are available on the ComLaw website at <http://www.comlaw.gov.au>.

**5 Circumstances in persons must not be authorised to operate
radiocommunications devices (paragraph 115(c) of the Act)**

- (1) For paragraph 115 (c) of the Act, a licensee of an apparatus licence must not authorise another person to operate a radiocommunications device under the licence if:
- (a) the licensee is an exempt person; and
 - (b) the other person is not an exempt person.
- (2) For paragraph 115 (c) of the Act, a licensee of an apparatus licence must not authorise another person to operate a radiocommunications device under the licence if:
- (a) the licensee is an eligible person; and
 - (b) the other person is not:
 - (i) an eligible person; or
 - (ii) an exempt person.
- (3) For paragraph 115 (c) of the Act, a licensee of an apparatus licence must not authorise another person to operate a radiocommunications device under the licence if:
- (a) the apparatus licence authorises the operation of a radiocommunications device for the provision of an international broadcasting service; and
 - (b) there is no international broadcasting licence in force that authorises the provision of that service.
- (4) For paragraph 115 (c) of the Act, the ABC or the SBS, as licensee of an apparatus licence providing a broadcasting service to locations outside Australia, must not authorise another person to operate a radiocommunications device under the licence if:
- (a) the person intends to provide an international broadcasting service using the device; or
 - (b) the person intends to provide a broadcasting service within Australia using the device.

**Section 6 Circumstances in which apparatus licences are not transferable
(paragraph 131AC(b) of the Act)**

- (5) For paragraph 115 (c) of the Act, a licensee of an apparatus licence must not authorise another person to operate a radiocommunications device under the licence if:
- (a) the licence authorises the licensee to operate a radiocommunications device that is used in the provision of an exempt broadcasting service; and
 - (b) the person intends to use the device for a purpose other than the provision of an exempt broadcasting service.

**6 Circumstances in which apparatus licences are not transferable
(paragraph 131AC(b) of the Act)**

- (1) For paragraph 131AC (b) of the Act, an apparatus licence is not transferable under Division 8 of Part 3.3 of the Act if:
- (a) the licensee is an exempt person; and
 - (b) the proposed transferee is not an exempt person.
- (2) For paragraph 131AC (b) of the Act, an apparatus licence is not transferable under Division 8 of Part 3.3 of the Act if:
- (a) the licensee is an eligible person; and
 - (b) the proposed transferee is not:
 - (i) an eligible person; or
 - (ii) an exempt person.
- (3) For paragraph 131AC (b) of the Act, an apparatus licence is not transferable under Division 8 of Part 3.3 of the Act if:
- (a) the licence authorises the operation of a radiocommunications device for the provision of an international broadcasting service; and
 - (b) there is no international broadcasting licence in force that authorises the provision of that service.
- (4) For paragraph 131AC (b) of the Act, an apparatus licence that authorises the ABC or the SBS to operate a radiocommunications device to provide a broadcasting service to locations outside Australia is not transferable under Division 8 of Part 3.3 of the Act if:
- (a) the proposed transferee intends to operate a radiocommunications device under the licence to provide an international broadcasting service; or
 - (b) the proposed transferee intends to operate a radiocommunications device under the licence to provide a broadcasting service within Australia.
- (5) For paragraph 131AC (b) of the Act, an apparatus licence is not transferable under Division 8 of Part 3.3 of the Act if:

Section 6 **Circumstances in which apparatus licences are not transferable
(paragraph 131AC(b) of the Act)**

- (a) the licence authorises the licensee to operate a radiocommunications device that is used in an exempt broadcasting service; and
- (b) the proposed transferee intends to use the device for a purpose other than the provision of an exempt broadcasting service.