

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Communication with Space Object) Class Licence Consequential Amendments Instrument 2015

Radiocommunications Act 1992

Purpose

The Australian Communications and Media Authority (the ACMA) has made the *Radiocommunications (Communication with Space Object) Class Licence Consequential Amendments Instrument 2015* (the consequential amendments instrument) to vary the *Radiocommunications (Prohibited Device) (RNSS Jamming Devices) Declaration 2014* (the jamming prohibition) and the *Radiocommunications (Foreign Space Objects) Determination 2014* (the foreign space objects determination).

Legislative Provisions – the jamming prohibition

Under section 190 of the *Radiocommunications Act 1992* (the Act), the ACMA may, by notice published in one or more newspapers circulating generally in the capital city of each State or Territory, declare that operation or supply, or possession for the purpose of operation or supply, of a specified device is prohibited for the reasons set out in the notice. The jamming prohibition is a legislative instrument and may be subject to disallowance in accordance with section 42 of the *Legislative Instruments Act 2003* (LIA).

Section 189 of the Act prohibits the operation or supply, or possession for the purpose of operation or supply, of devices for which a declaration is in force under section 190.

Subsection 33(3) of the *Acts Interpretation Act 1901* (AIA) 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.

Legislative Provisions – the foreign space objects determination

Subsection 16(1)(ca) of the Act gives the ACMA the power to specify in a determination the circumstances in which foreign space objects are subject to the Act.

A determination made under paragraph 16(1)(ca) of the Act is a legislative instrument and may be subject to disallowance in accordance with section 42 of the LIA.

Subsection 33(3) of the AIA has the effect described above.

Background

The ACMA has made the *Radiocommunications (Communication with Space Object) Class Licence 2015* and the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015*, and has revoked the previous *Radiocommunications (Communication with Space Object) Class Licence 1998*. As a result, the foreign space objects determination and the jamming prohibition each require minor consequential amendments.

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. In addition, before the ACMA may make a declaration under section 190(1) of the Act (or, by operation of subsection 33(3) of the AIA, amend such a declaration), subsection 191(1) requires the ACMA to publish a notice on its website inviting interested persons to make representations in relation to the declaration or amendment to the declaration within a period of at least one month.

Between 3 August 2015 and 3 September 2015, the ACMA conducted a formal public consultation process in relation to the consequential amendments instrument. A consultation paper was made available on the ACMA website. Interested parties were notified of the release of the consultation paper and invited to comment.

The ACMA received 4 written submissions in response to the consultation paper and all submissions were considered before the ACMA made the consequential amendments instrument.

Regulation Impact

The Office of Best Practice Regulation (OBPR) has considered the matter and formed the opinion that the proposed amendments have no more than a minor regulatory impact. Accordingly, OBPR advised that a Regulation Impact Statement was not required. The OBPR exemption number is ID 18253.

Detailed description of the instrument

Details of the consequential amendments instrument are set out in **Attachment A**.

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 at **Attachment B**.

Attachment A

Detailed description of the *Radiocommunications (Communication with Space Object) Class Licence Consequential Amendments Instrument 2015*

Section 1 Name of Instrument

Section 1 provides that the instrument is the *Radiocommunications (Communication with Space Object) Class Licence Consequential Amendments Instrument 2015*.

Section 2 Commencement

Section 2 provides that the instrument commences on the day that the *Radiocommunications (Communication with Space Object) Class Licence 2015* commences.

Section 3 Amendment – *Radiocommunications (Foreign Space Objects) Determination 2014*

Section 3 provides that Schedule 1 amends the foreign space objects determination.

Section 4 Amendment – *Radiocommunications (Prohibited Device) (RNSS Jamming Devices) Declaration 2014*

Section 4 provides that Schedule 2 amends the jamming prohibition.

Schedule 1

Schedule 1 amends the foreign space objects determination. These amendments are to update definitions and references to refer to the *Radiocommunications (Communication with Space Object) Class Licence 2015* (see items 1 and 3). Amendments are also made by items 2, 4, 5 and to remove references to certain foreign space objects operating in frequency ranges mentioned in the previous *Radiocommunications (Communications with Space Object) Class Licence 1998* that are now authorised by the *Radiocommunication (Radionavigation-Satellite Service) Class Licence 2015*.

The changes made through the *Radiocommunications (Communications with Space Object) Class Licence 2015* and the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015* to the licensing regime for the radionavigation-satellite service, mean that there is no longer a requirement for the inclusion of Schedule 2 in the foreign space objects determination.

Schedule 2

Schedule 2 amends the jamming prohibition to update the definition of RNSS radiocommunications to refer to the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015* and to update a note to the definitions section.

Attachment B

Statement of Compatibility with Human Rights

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

Radiocommunications (Communication with Space Object) Class Licence Consequential Amendments Instrument 2015

The 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 (Communication with Space Objects) Class Licence Consequential Amendments Instrument 2015* (the consequential amendments instrument) makes minor and consequential amendments to the *Radiocommunications (Prohibited Device) (RNSS Jamming Devices) Declaration 2014* (the jamming prohibition) and the *Radiocommunications (Foreign Space Objects) Determination 2014* (the foreign space objects determination) without making any significant changes to the regulatory arrangements created by those instruments.

The jamming prohibition prohibits the operation and supply, or the possession for the purpose of operation or supply, of radio-navigation satellite service jamming devices. The changes made by the consequential amendments instrument are minor and machinery, updating references to RNSS radiocommunications to be consistent with the class licence arrangements for RNSS receivers under the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015*. They do not change the effect or operation of the jamming prohibition.

The foreign space objects determination lists the foreign space objects to which the *Radiocommunications Act 1992* (the Act) applies and the circumstances in which the the Act applies to them. The changes made by the consequential amendments instrument are minor, updating references and definitions and removing unnecessary references to certain foreign space objects operated to provide GPS in particular frequency ranges.

Human Rights Implications

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

Conclusion

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