

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Radionavigation - Satellite Service) Class Licence 2015

Radiocommunications Act 1992

Purpose

The Australian Communications and Media Authority (the ACMA) has made the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015* (the class licence) to maintain regulatory arrangements for the class licensing of radionavigation-satellite services (RNSS).

The ACMA made the class licence following consultation on a proposal to excise the frequencies used for RNSS from the *Radiocommunications (Communication with Space Object) Class Licence 1998* (the space object class licence), due to be automatically repealed on 1 October 2015, in accordance with Part 6 of the *Legislative Instruments Act 2003* (the LIA). Following the consultation, the ACMA decided to remake the space object class licence, but to excise the frequencies used for RNSS services from the space object class licence and authorise the provision of RNSS services under a new class licence.

Legislative Provisions

Subsection 132(1) of the *Radiocommunications Act 1992* (the Act) authorises the ACMA, by notice published in the Gazette, to issue class licences.¹

A class licence made under subsection 132(1) of the Act is a legislative instrument (subsection 139 of the Act) and may be subject to disallowance in accordance with section 42 of the LIA.

Background

It is a general requirement of the Act that the operation of all radiocommunications devices within Australia be authorised by a radiocommunications licence.

A class licence is one type of licence available to authorise the operation of a radiocommunications device. It is an effective and efficient means of spectrum management for services where a limited set of common frequencies is employed, and equipment is operated under a common set of conditions. A class licence sets out the conditions under which any person is permitted to operate any device to which the class licence is applicable. It is not issued to an individual user and does not involve the payment of licence fees.

Operation

The Class Licence authorises the operation of RNSS receivers for the purpose of receiving RNSS radiocommunications by any person, provided that they comply with the conditions set out in the class licence.

¹ The registration of a legislative instrument on FRLI will satisfy any existing requirement in the instrument's enabling legislation in force before 1 January 2005 to publish the instrument in the *Gazette* (see subsection 56(1) of the LIA). However, if the enabling legislation is enacted or amended at any time on or after 1 January 2005 and requires publication of the instrument in the *Gazette*, that requirement is in addition to the requirement to register the instrument (see subsection 56(2) of the LIA). Subsection 132(1) of the Act was amended on 1 July 2005, and so the requirement to publish the instrument in the *Gazette* is in addition to the requirement to register the instrument.

RNSS radiocommunications are radiocommunications transmitted at a frequency allocated to RNSS under the *Australian Radiofrequency Spectrum Plan 2013*, made by the ACMA.

The decision to excise the frequencies of the radionavigation-satellite service from the space object class licence and to authorise their use under a new class licence will ensure compliance with the Act and enhance the public benefit of the radionavigation-satellite service and the range of applications these systems support.

The class licence sets out the conditions under which the RNSS receivers must operate. The conditions include that the RNSS receiver must comply with any applicable standard and the RNSS receiver must operate only in the frequency ranges listed in the class licence.

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.

Between 21 April 2015 and 29 June 2015, the ACMA conducted a formal public consultation process in relation to the making of the class licence and the remaking of the space object class licence. A consultation paper was made available on the ACMA website. The consultation paper explained the sunseting (automatic repeal) process in relation to the space object class licence and the ACMA's preliminary view that the regulatory arrangements for the radionavigation-satellite service should be moved into a separate class licence. Interested parties were notified of the release of the consultation paper and invited to comment.

The ACMA received 12 written submissions in response to the consultation paper and all submissions were considered when making the class licence. All submissions received were supportive of the proposals contained in the consultation paper.

Regulation Impact

The Office of Best Practice Regulation (OBPR) has considered the matter and formed the opinion that the proposal will have a minor impact on the economy and a minor beneficial impact on competition. Accordingly, OBPR advised that a Regulation Impact Statement was not required. The OBPR reference number is 18547.

Detailed description of the class licence

Details of the class licence are set out in **Attachment A**.

Documents Incorporated by Reference

The class licence refers to the following Acts and legislative instruments as in force from time to time (as permitted by section 314A of the Act):

- *Australian Radiofrequency Spectrum Plan 2013*
- *Radiocommunications Act 1992*
- *Radiocommunications (Communication with Space Object) Class Licence 2015*.
- *Radiocommunications (Interpretation) Determination 2015*

Acts and legislative instruments mentioned above can be found on ComLaw at www.comlaw.gov.au.

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 (Radionavigation-Satellite Service) Class Licence 2015*

Section 1 Name of class licence

Section 1 provides that the class licence is the *Radiocommunications (Radionavigation-Satellite Service) Class Licence 2015*.

Section 2 Commencement

Section 2 provides that the class licence commences on the latest of the day after it is registered on the Federal Register of Legislative Instruments, the day on which it is published in the Gazette or the day that the *Radiocommunications (Communication with Space Object) Class Licence 2015* commences. Each of these things must occur in order for the class licence to commence. Publication in the Gazette is a requirement under subsection 132(1) of the Act.

Section 3 Interpretation

Section 3 defines various terms used in the class licence. The note at the end of this section provides that expressions not defined in the class licence may be defined in the Act or the *Radiocommunications (Interpretation) Determination 2015*.

Section 4 Class Licence

Subsection 4(1) authorises any person to operate a RNSS receiver for the purpose of reception of radionavigation-satellite service radiocommunications. This authorisation is subject to the conditions set out in sections 5 and 6.

The authorisation in subsection 4(1) does not apply to RNSS receivers located on a space object or RNSS receivers that are authorised by an apparatus licences to operate for a purpose that is substantially the same as the purpose authorised by the class licence. .

Section 5 Standards

Section 5 sets out that the operation of RNSS receivers will not be authorised under the class licence unless the RNSS receiver complies with any standard applicable to the RNSS Receiver as in force on the day the RNSS receiver was manufactured, imported, or altered or modified. Standards are made by the ACMA under section 162 of the Act.

Section 6 Authorised frequencies

Section 6 lists the frequencies authorised for reception of RNSS radiocommunications by RNSS receivers under the class licence.

Attachment B

Statement of Compatibility with Human Rights

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

Radiocommunications (Radionavigation-Satellite Service) Class Licence 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 (Radionavigation-Satellite Service) Class Licence 2015* (the class licence) implements a new regulatory regime for the licensing of ubiquitous radionavigation-satellite service Earth stations.

The class licence lists the frequencies authorised for reception of radio emissions in the radionavigation-satellite service by a RNSS receiver and the conditions applicable to use of a RNSS receiver for this purpose.

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.