

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Emergency Locating Devices) Class Licence Amendment 2016 (No.1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Emergency Locating Devices) Class Licence Amendment 2016 (No. 1)* (**the instrument**) under subsection 132(1) of the *Radiocommunications Act* (**the Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (**the AIA**).

Subsection 132(1) of the Act provides that the ACMA may, by legislative instrument, issue class licences.

Subsection 33(3) of the AIA 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.

Purpose and operation of the instrument

The instrument amends the *Radiocommunications (Emergency Locating Devices) Class Licence 2016* (**the Class Licence**) by making it clear that a particular document that has been incorporated by reference into the Class Licence has been incorporated as in force from time to time. The document in question is the *Radio Regulations Articles* made by the International Telecommunication Union (**ITU**). The *Radio Regulations Articles* are referenced for the purpose of defining the term 'radar' in subsection 5(1) of the Class Licence.

The instrument also adds a note under the definition of 'radar' to indicate that the *Radio Regulations Articles* may be accessed at www.itu.int, being the website address of the ITU.

A provision-by-provision description of the instrument is set out in **Attachment A**.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (**LA**).

Document incorporated by reference

The *Radio Regulations Articles*, published by the ITU, and as in force from time, to time are incorporated by reference in the instrument. The *Radio Regulations Articles* can be found on the ITU's website at www.itu.int.

Consultation

Before making the instrument the ACMA formed the view that, given the minor and machinery nature of the amendment, consultation was not appropriate. The instrument does not amend any of the substantive obligations contained in the Class Licence.

From 4 May 2016 to 10 July 2016 the ACMA conducted public consultation on the making of the Class Licence itself. The ACMA published a draft version of the instrument and a consultation paper on its website, and notified maritime and emergency services bodies about the consultation.

Regulatory impact assessment

The ACMA considered whether a regulatory impact analysis process was required. The Office of Best Practice Regulation (OBPR) advised that this proposal is not likely to result in regulatory impacts as the changes being made are to assist with clarification of the instrument and do not alter the operation of the class licence. No regulatory impact statement is required. (OBPR reference 21607).

Statement of compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

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

Notes to the *Radiocommunications (Emergency Locating Devices) Class Licence Amendment 2016 (No. 1)*

Section 1 Name

Section 1 provides for the citation of the instrument as the *Radiocommunications (Emergency Locating Devices) Class Licence Amendment 2016 (No. 1)*.

Section 2 Commencement

The instrument commences on the day after it is registered.

Section 3 Authority

Section 3 provides that the instrument is made under subsection 132(1) of the *Radiocommunications Act 1992*.

Section 4 Amendment

Section 4 has the effect that the instrument specified in Schedule 1 is amended as set out in Item 1 of that Schedule.

Schedule 1 Amendment

Schedule 1 amends subsection 5(1) of the *Radiocommunications (Emergency Locating Devices) Class Licence 2016 (F2016L01399)* by substituting a new definition of 'radar' in that subsection. The new definition differs from the previous definition only by it being made clearer that a document being incorporated by reference is incorporated as it is in force from time to time, and by insertion of a note to indicate where that document may be obtained.