

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2017 (No.1)***

### **Authority**

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2017 (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 varies the *Radiocommunications (Citizens Band Radio Stations) Class Licence 2015* (**the Class Licence**).

The Class Licence replaced and revoked the *Radiocommunications (Citizen Band Radio Stations) Class Licence 2002* (**the 2002 Class Licence**). A number of changes were made to the 2002 Class Licence by the *Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2011 (No. 1)*. These changes included the introduction of provisions that would remove authorisation of 25 kHz equipment beyond 30 June 2017, and that prevented the use of citizen band (CB) stations to interlink CB repeaters and CB channels.

However, monitoring by the ACMA in 2016 indicated that the Citizen Band Radio Service (CBRS) was operating effectively and provided sufficient access to CB channels for users. The ACMA therefore considers that the 2011 changes have already led to a reduction in congestion, and will continue to do so as 25 kHz equipment is progressively replaced by the 12.5 kHz equipment mandated in the current technical standard (the *Radiocommunications (UHF CB Radio Equipment) Standard 2011 (No.1)*). In these circumstances, imposition of a time limit on the use of legacy 25 kHz CBRS equipment already in use is seen as an unnecessary imposition on CB users.

In relation to CB repeater interlinking, the ACMA considers that other compliance mechanisms may be more appropriately used to manage interference that may arise from the interlinking of repeaters.

The purpose of the instrument is therefore to remove the 30 June 2017 limitation on the use of 25 kHz equipment, and to remove the limitation on the use of CB stations to interlink CB repeaters and CB channels.

The ACMA has also re-worded the definition of CB repeater station to improve clarity, and improved the formatting of Items 5 and 8 of Schedule 1.

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

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

## Documents incorporated by reference

The following Act and legislative instrument are incorporated by reference or otherwise mentioned in the instrument:

- the *Radiocommunications Act 1992*; and
- the *Radiocommunications (Citizen Band Radio Stations) Class Licence 2015*.

The Commonwealth Act and the legislative instrument referenced in the instrument can be found on the Australian Government's Federal Register of Legislation website at <http://www.legislation.gov.au>.

References to the Act and legislative instrument are to the Act or legislative instrument as in force from time to time in accordance with section 10 of the AIA, subsection 13(1) of the LA and section 314A of the Act.

## Consultation

Before the instrument was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA and section 136 of the Act.

From 3 February to 10 March 2017 the ACMA conducted public consultation on the making of the instrument. The ACMA published a draft version of the instrument and a consultation paper on its website, and published a notice of the consultation and link to the ACMA website on the business.gov.au website.

Twenty submissions were received. Most submissions were in favour of the changes proposed in the draft version of the instrument, although some contrary views were expressed. Contrary views were based on an assessment of the risk of interference arising from operating 12.5kHz equipment and 25kHz equipment in the same spectrum, or of interlinking repeaters, or on the fact that submitters had already purchased new equipment.

Following consideration of submissions, the ACMA considered that the proposed changes were necessary and appropriate.

## Regulatory impact assessment

A preliminary assessment of the proposal to make the instrument was conducted by the Office of Best Practice Regulation (OBPR), based on information provided by the ACMA, for the purposes of determining whether a Regulation Impact Statement (RIS) would be required. OBPR advised that a RIS would not be required because the instrument was not expected to have a regulatory impact on businesses, community organisations or individuals (OBPR reference number 21642).

## 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 with human rights to be prepared in respect of that legislative instrument.

## Overview of the instrument

The Class Licence replaced and revoked the *Radiocommunications (Citizen Band Radio Stations) Class Licence 2002 (the 2002 Class Licence)*. Changes were made to the 2002 Class Licence by the *Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2011 (No. 1)*, including

introduction of provisions that would remove authorisation of 25 kHz equipment beyond 30 June 2017, and that prevented the use of CB stations to interlink CB repeaters and CB channels.

The 2011 changes have already led to a reduction in congestion, and will continue to do so as 25 kHz equipment is progressively replaced by 12.5 kHz equipment. Accordingly, imposition of a time limit on the use of legacy 25 kHz CBRS equipment already in use is seen as an unnecessary imposition on CB users.

In relation to CB repeater interlinking, the ACMA considers that other compliance mechanisms may be more appropriately used to manage interference that may arise from the interlinking of repeaters.

The ACMA has therefore made the *Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2017 (No.1)* to remove the 30 June 2017 limitation on the use of 25 kHz equipment, and to remove the limitation on the use of CB stations to interlink CB repeaters and CB channels.

### ***Human rights implications***

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.

### ***Conclusion***

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

## **Attachment A**

### **Notes to the *Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2017 (No.1)***

#### **Section 1      Name**

Section 1 provides that the name of the instrument is the *Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2017 (No. 1)*.

#### **Section 2      Commencement**

Section 2 provides that the instrument commences on the day after it is registered on the Federal Register of Legislation.

#### **Section 3      Authority**

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

#### **Section 4      Amendments**

Section 4 provides that the Class Licence is varied as set out in Schedule 1 of the instrument.

#### **Schedule 1 - Variations**

##### **Item 1            Subsection 4(1), definition of *CB repeater station*, paragraph (a)**

Item 1 replaces the term ‘established’ with the term ‘operating’, in the definition of *CB repeater station* in the Class Licence. This is to account for the fact that some CB repeater stations are transportable, and are not permanently established at a location.

##### **Item 2            Subsection 5(1)**

Item 2 removes the 30 June 2017 limit on the use of 25 kHz equipment in the Class Licence.

##### **Item 3            Paragraph 6(i)**

Item 3 removes the limitation on the use of CB stations to link CB repeater stations and CB channels in the Class Licence.

##### **Item 4            Schedule 1, Item 5**

Item 4 includes the automatic retransmission channels and frequencies used by CB repeaters in the list of channels and frequencies used for reception by CB repeaters. CB repeater retransmission channels were previously mentioned in a note in Item 5, Schedule 1.

##### **Item 5            Schedule 1, Item 8**

Item 5 includes the automatic retransmission channels and frequencies used by CB repeaters in the list of channels and frequencies used for reception by CB repeaters. CB repeater retransmission channels were previously mentioned in a note in Item 8, Schedule 1.