

## EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

### *Radiocommunications Act 1992*

*Radiocommunications (Register of Radiocommunications Licences) Determination 2017*

#### Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Register of Radiocommunications Licences) Determination 2017* (**the RRL Determination**) under sections 144, 147 and 149 of the *Radiocommunications Act 1992* (**the Act**).

#### Purpose and operation of the instrument

Under section 143 of the Act, the ACMA is to establish and maintain a Register of Radiocommunications Licences (**the RRL**). Under sections 144, 147 and 149 of the Act the ACMA is empowered to determine, in writing, details about spectrum, apparatus and class licences that are to be contained in the RRL.

In making the RRL Determination, the ACMA has determined that a range of information about spectrum, apparatus and class licences be included in the RRL for the purposes of mitigating the potential of interference between radiocommunications services, facilitating the coordination of radiocommunications services and assisting the ACMA in the performance of its regulatory functions related to managing the radiofrequency spectrum.

The ACMA has made the RRL Determination because the *Radiocommunications (Register of Radiocommunications Licences) Determination 1997* (**the 1997 RRL Determination**) was due to 'sunset' (i.e. be automatically repealed) on 1 October 2017, by operation of Part 6 of the *Legislation Act 2003* (**the LA**). Following review and consultation, the ACMA formed the view that the 1997 RRL Determination was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. To preserve the effect of the 1997 RRL Determination, the ACMA has therefore revoked the 1997 RRL Determination before its sunset date and remade it with minor changes as the RRL Determination.

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

A provision-by-provision explanation of the RRL Determination is set out in the notes at **Attachment A**.

#### Documents incorporated by reference

The RRL Determination incorporates the following documents by reference:

- the *Corporations Act 2001*, *Radiocommunications Act 1992*, the *Radiocommunications (Transmitter Licence Tax) Determination 2015*, determinations made by the ACMA under section 145 of the *Radiocommunications Act 1992* in respect and the *Radiocommunications (Register of Radiocommunications Licences) Determination 1997* – all of which are publicly available, free of charge at [www.legislation.gov.au](http://www.legislation.gov.au); and

- the Radio Regulations published by the International Telecommunication Union (ITU), as in force from time to time. Copies of the Radio Regulations can be obtained, free of charge, from the ITU at [www.itu.int](http://www.itu.int).

Unless the contrary intention appears, a reference to another legislative or other kind of instrument in the Determination is a reference to that other legislative instrument as in force from time to time.

## **Consultation**

Subsection 17(1) of the LA requires that, before the ACMA makes a legislative instrument, any consultation that the ACMA considers is appropriate and reasonably practicable to undertake, has been undertaken.

The ACMA published a consultation paper and draft version of the RRL Determination on its website on 9 June 2017. The consultation paper explained the sunset process and the ACMA's preliminary view that the existing arrangements under the 1997 RRL Determination were operating effectively and efficiently and that the 1997 RRL Determination should be remade, without any significant changes. Interested parties were invited to make submissions over the consultation period which ran from 9 June 2017 to 11 July 2017.

The ACMA received six submissions in response to the consultation, none of which objected to the remaking of the 1997 RRL Determination and all of which were carefully considered before the ACMA made the RRL Determination.

## **Regulatory impact assesment**

The ACMA consulted with the Office of Best Practice Regulation (**OBPR**) on the requirement for a Regulation Impact Statement (**RIS**) for the RRL Determination. The OBPR advised that the RRL Determination did not warrant the preparation of a RIS because it is only likely to have minor and machinery impacts. The OBPR reference number is 22315.

## **Human rights implications**

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 *Legislation Act 2003* applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

The ACMA has assessed whether the RRL Determination 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 RRL Determination and the nature of the applicable rights and freedoms, the ACMA has formed the view that the RRL Determination does not engage any of those rights or freedoms.

## **Conclusion**

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

## **Notes to the *Radiocommunications (Register of Radiocommunications Licences) Determination 2017***

### **Section 1 – Name**

This section provides for the RRL Determination to be cited as the *Radiocommunications (Register of Radiocommunications Licences) Determination 2017*.

### **Section 2 – Commencement**

Section 2 provides that the RRL Determination commences at the start of the day after it is registered on Federal Register of Legislation.

### **Section 3 – Authority**

This section identifies the provisions of the Act that authorise the making of the instrument, namely sections 144, 147 and 149 of the Act.

### **Section 4 – Repeal of the *Radiocommunications (Register of Radiocommunications Licences) Determination 1997***

Section 4 provides that the *Radiocommunications (Register of Radiocommunications Licences) Determination 1997* (Registration No. F2007B00310) is repealed.

### **Section 5 – Definitions**

This section defines a number of key terms used throughout the RRL Determination.

### **Section 6 – References to other instruments**

This section explains that in the RRL Determination, unless the contrary intention appears, a reference to another legislative instrument or any other kind of instrument is a reference to that legislative instrument or other instrument as in force from time to time.

### **Section 7 – Emission designator**

Section 7 defines an emission designator.

### **Section 8 – Group of transmitters**

Section 8 defines what constitutes a group of transmitters.

### **Section 9 – Group of receivers**

Section 9 defines what constitutes a group of receivers.

### **Section 10 – Details for apparatus licences**

Section 10 specifies the details about apparatus licences and devices that are operated under apparatus licences that are to be contained in the RRL.

### **Section 11 – Details for spectrum licences**

Section 11 specifies the details about spectrum licences that are to be contained in the RRL.

### **Section 12 – Details for devices operated under spectrum licences**

Section 12 specifies the details about devices operated under spectrum licences that are to be contained in the RRL.

**Section 13 – Details for class licences**

Section 13 provides that the title of each class licence issued by the ACMA is to be contained in the RRL.