

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Communication with Space Object) Class Licence Variation 2018 (No. 1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Communication with Space Object) Class Licence Variation 2018 (No. 1)* (**the instrument**) under subsection 132(1) of the *Radiocommunications Act 1992* (**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 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.

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

Purpose and operation of the instrument

The purpose of the instrument is to vary the *Radiocommunications (Communication with Space Object) Class Licence 2015* (**the Space Object Class Licence**) to add a new frequency range to the list of frequencies specified for the operation of stations as authorised by the Space Object Class Licence.

The Space Object Class Licence contains the licence conditions, operational requirements and technical parameters associated with an earth station communicating with a space object which is authorised by a space or space receive apparatus licence, in various segments of the radiofrequency spectrum.

The instrument varies the Space Object Class Licence by inserting a new frequency range, 399.9 - 400.05 MHz, in the list of frequencies authorised for transmission of radio emissions by a station operating under the Space Object Class Licence.

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

Documents incorporated by reference

The instrument does not incorporate any document by reference.

Consultation

Before the instrument was made, the ACMA was required by subsection 136(2) of the Act to publish a written notice that:

- (a) stated that the ACMA proposed to vary the Space Object Class Licence;
- (b) stated the subject matter of the proposed variation;
- (c) set out the Space Object Class Licence and the proposed variation; and
- (d) invited interested persons to make representations about the proposed variation by a specified date that was at least one month after the date of publication.

Explanatory Statement to the Radiocommunications (Communication with Space Object) Class Licence Variation 2018 (No. 1)

Under subsection 136(2A) of the Act, a written notice prepared pursuant to subsection 136(1) must be published on the ACMA's website and in another form readily available to the public. Under subsection 136(4) of the Act, the ACMA must give due consideration to any representations made before varying the Space Object Class Licence.

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

Between 7 June 2018 and 13 July 2018, the ACMA conducted a formal public consultation process in relation to the instrument. A written notice about the proposal to vary the Space Object Class Licence and a draft of the instrument were published on the ACMA's website and in the Gazette in accordance with the requirements of subsections 136(1) and 136(2A) of the Act. Interested parties were invited to comment.

The ACMA received four written submissions in response to the consultation process. The ACMA considered all submissions prior to making the instrument, none of which objected to the proposed variation.

Regulatory impact assessment

The Office of Best Practice Regulation (OBPR) has considered the matter and formed the opinion that the proposed variation is minor and machinery in nature. Accordingly, OBPR advised that a Regulation Impact Statement was not required. The OBPR reference ID number is 23785.

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.

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

Overview of the instrument

The *Radiocommunications (Communication with Space Object) Class Licence Variation 2018 (No. 1)* (**the instrument**) varies the *Radiocommunications (Communication with Space Object) Class Licence 2015* to include a new frequency range, 399.9 – 400.05 MHz, to the list of frequencies specified for the operation of stations as authorised by the Space Object Class Licence. The inclusion of this range in the *Radiocommunications (Communication with Space Object) Class Licence 2015* was requested by the Australian company, Myriota Pty Ltd, to facilitate transmissions from ubiquitous earth stations to a station on a space object authorised by a space or space receive apparatus licence.

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 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.

Explanatory Statement to the Radiocommunications (Communication with Space Object) Class Licence Variation 2018 (No. 1)

Conclusion

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

Notes to the *Radiocommunications (Communication with Space Object) Class Licence Variation 2018 (No. 1)*

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Communication with Space Object) Class Licence Variation 2018 (No. 1)*.

Section 2 Commencement

This section provides for the instrument to commence at the start of the day after it is registered on the Federal Register of Legislation.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely subsection 132(1) of the *Radiocommunications Act 1992*.

Section 4 Amendment

This section provides that the amendment set out in Schedule 1 has effect.

Schedule 1 Amendment

Item 1 After subparagraph 6(a)(i)

This item inserts a new frequency range, 399.9 – 400.05 MHz, to the list of frequencies specified for the operation of stations as authorised by the *Radiocommunications (Communication with Space Object) Class Licence 2015*.