

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications (Communication with Space Object) Class Licence Variation 2020 (No. 1)***

### **Authority**

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Communication with Space Object) Class Licence Variation 2020 (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 new frequency ranges to the list of frequencies specified for the operation of stations as authorised by the Space Object Class Licence. The instrument also inserts notes to provide information regarding requirements under the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011* as well as a provision that the operation of a station for reception in certain frequency bands is not protected from interference caused by a point to point station.

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 new frequency ranges, 28.3–28.5 GHz and 29.1–29.5 GHz, in the list of frequencies authorised for transmission of radio emissions by a station operating under the Space Object Class Licence.
- inserting new frequency ranges, 10.7–11.7 GHz, 18.2–18.8 GHz and 19.3–19.7 GHz, in the list of frequencies authorised for reception 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 referred to**

The instrument inserts into the Space Object Class Licence references to the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011* (**the Band Plan**), as permitted by section 314A of the Act. The Band Plan may be accessed, free of charge, on the Federal Register of Legislation ([www.legislation.gov.au](http://www.legislation.gov.au)).

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*Explanatory Statement to the Radiocommunications (Communication with Space Object) Class Licence Variation 2020 (No. 1)*

## **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.

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 a legislative instrument is made, the rule-maker must be satisfied that any consultation considered by the rule-maker to be appropriate and that is reasonably practicable to undertake has been undertaken.

Between 12 December 2019 and 3 February 2020, 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 ten 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. A request was received from the Commonwealth Scientific and Industrial Research Organisation (CSIRO) to vary the wording of the proposed note regarding the Mid-West Radio Quiet Zone. This suggestion was adopted in the final instrument.

## **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 25852.

## **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 instrument varies the Space Object Class Licence to include new frequency ranges, 28.3–28.5 GHz and 29.1–29.5 GHz, in the list of frequencies authorised for transmission of radio emissions by a station operating under the Space Object Class Licence. The inclusion of this range in the Space Object Class Licence was a result of the ACMA's review of arrangements in the 28 GHz band and

requests from both Australian and international companies, including nbnco and ViaSat, to facilitate transmissions from ubiquitous earth stations to a station on a space object authorised by a space receive apparatus licence.

The instrument also varies the Space Object Class Licence to include new frequency ranges, 10.7–11.7 GHz, 18.2–18.8 GHz and 19.3–19.7 GHz, in the list of frequencies authorised for reception of radio emissions by a station operating under the t Class Licence. The inclusion of this range was a result of the ACMA’s review of arrangements in the 10.7–11.7 GHz and 28 GHz bands and requests from both Australian and international companies, including nbnco and OneWeb, to facilitate reception of transmissions from a station on a space object authorised by a space apparatus licence by ubiquitous earth stations.

The instrument also inserts notes to provide information regarding requirements under the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011*, at the request of the CSIRO, as well as a provision that the operation of a station for reception in certain frequency bands is not protected from interference caused by a point to point station.

### ***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.

### ***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 2020 (No. 1)***

**Section 1 Name**

This section provides for the instrument to be cited as the *Radiocommunications (Communication with Space Object) Class Licence Variation 2020 (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 amendments set out in Schedule 1 have effect.

**Schedule 1 Amendments**

**Item 1 Subparagraphs 6(a)(iv) and (v)**

This item adds the frequency ranges, 28.3–28.5 GHz and 29.1–29.5 GHz, to the list of frequencies specified for the operation of stations as authorised by the Space Object Class Licence by replacing subparagraphs 6(a)(iv) and (v) with a consolidated frequency range, 28.3–30 GHz.

**Item 2 Subparagraph 6(b)(vii)**

This item amends the frequency range to 10.7–12.75 GHz, in the list of frequencies specified for the operation of stations as authorised by the Space Object Class Licence. The item amends paragraph 6(b)(vii) by expanding the frequency range to include an additional 1 GHz of spectrum (from 10.7–11.7 GHz).

**Item 3 Subparagraphs 6(b)(viii) to (x)**

This item adds frequency ranges, 18.2–18.8 GHz and 19.3–19.7 GHz, to the list of frequencies specified for the operation of stations as authorised by the Space Object Class Licence by replacing subparagraphs 6(b)(viii) to (x) with a consolidated frequency range, 17.7–20.2 GHz.

**Item 4 Subsection 8(3) (note)**

This item inserts new notes to provide information regarding requirements under the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011*. Note 3 brings attention to section 197 of the Act that it is an offence for a person to engage in conduct that will result in substantial interference with, or substantial disruption or disturbance of, radiocommunications; particularly with regards to the operation of a station within the RQZ (inner) zone.

**Item 5**            **After section 8**

This item inserts a new provision that the operation of a station for reception in certain frequency bands is not protected from interference caused by a point to point station.