



Radiocommunications (Exemption – Remotely Piloted Aircraft Disruption) Determination 2022

The Australian Communications and Media Authority makes the following determination under subsection 27(2) of the *Radiocommunications Act 1992*.

Dated: 21 September 2022

James Cameron
[signed]
Member

Brendan Byrne
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

1 Name

This is the *Radiocommunications (Exemption – Remotely Piloted Aircraft Disruption) Determination 2022*.

2 Commencement

This instrument commences at the start of the day after the day it is registered on the Federal Register of Legislation.

Note: The Federal Register of Legislation is available, free of charge, at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 27(2) of the *Radiocommunications Act 1992*.

4 Repeal

The *Radiocommunications (Police Forces – Disruption of Unmanned Aircraft) Exemption Determination 2020* [F2020L01296] is repealed.

5 Repeal of this instrument

This instrument is repealed at the start of the day that is the fifth anniversary of the day it commences.

6 Interpretation

(1) In this instrument, unless the contrary intention appears:

ACMA Act means the *Australian Communications and Media Authority Act 2005*.

ACMA staff has the same meaning as in section 3 of the ACMA Act.

Act means the *Radiocommunications Act 1992*.

authorised person means each of:

- (a) the ACMA;
- (b) a member, within the meaning of the ACMA Act;
- (c) a member of the ACMA staff that is an SES employee or acting SES employee.

Note: *SES employee* and *acting SES employee* are defined in the *Public Service Act 1999* and referred to in the *Acts Interpretation Act 1901*.

contractor means:

- (a) a person who has a contract with:
 - (i) a police force; or
 - (ii) the Commissioner or head of a police force, however described; or
 - (iii) the Commonwealth, a State or a Territory, for the benefit of a police force; to perform a function or duty in relation to one or more of the following:
 - (iv) testing a device to be operated to disrupt or disable an RPA or RPAS; or
 - (v) maintaining a device to be operated to disrupt or disable an RPA or RPAS; or
 - (vi) supplying a device to be operated to disrupt or disable an RPA or RPAS;
 - (vii) the provision of training relating to the operation of a device in the relevant frequency bands to disrupt or disable an RPA or RPAS; and

- (b) a person employed or engaged by a person mentioned in paragraph (a) in relation to the contract mentioned in paragraph (a).

police force means each of:

- (a) the Australian Federal Police; and
- (b) the police force of each State and Territory.

potential contractor: see subsection (2).

primary potential contractor: see paragraph (2)(a)

relevant contract, in relation to a contractor, means the contract mentioned in paragraph (a) of the definition of **contractor**.

relevant frequency bands means the frequency bands mentioned in the following:

- (a) items 12 to 23A, 36 to 41 and 54 to 63 (all inclusive) in Schedule 1 to the *Radiocommunications (Low Interference Potential Devices) Class Licence 2015*, as in force at the commencement of this instrument;
- (b) footnote number 150 in Part 4 of the spectrum plan, as in force at the commencement of this instrument.

Note: These legislative instruments are available, free of charge, from the Federal Register of Legislation at www.legislation.gov.au.

RPA means a remotely piloted aircraft.

Note: A remotely piloted aircraft is commonly referred to as a drone.

RPAS means a remotely piloted aircraft system that includes an RPA, the ground-based controller for the RPA, and the system of communications between the RPA and the controller.

Note: A number of other expressions used in this instrument are defined in the Act, including the following:

- (a) ACMA;
- (b) aircraft;
- (c) device;
- (d) frequency band;
- (e) operate;
- (f) spectrum plan;
- (g) supply.

- (2) If a person is capable of supplying, to a police force, a device to be operated in the relevant frequency bands to disrupt or disable an RPA or RPAS, then each of the following is a **potential contractor**:
 - (a) the person (**primary potential contractor**); and
 - (b) a person engaged or employed by that person in relation to the device.

7 References to other instruments

In this instrument, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument or writing is a reference to that other instrument or writing as in force, or existing, from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Note 3: See section 314A of the Act.

8 Exemption – police forces and contractors

- (1) An act or omission by a member of a police force is exempt from:
 - (a) all of Part 3.1 of the Act;
 - (b) all of Part 4.1 of the Act; and
 - (c) all of Part 4.2 of the Act;if all of the circumstances specified in section 9 exist.
- (2) An act or omission by a contractor is exempt from:
 - (a) all of Part 3.1 of the Act;
 - (b) all of Part 4.1 of the Act; and
 - (c) all of Part 4.2 of the Act;if all of the circumstances specified in section 10 exist.
- (3) An act or omission by a potential contractor is exempt from:
 - (a) subsection 175(2) of the Act; and
 - (b) subsection 176(2) of the Act;if the circumstance specified in section 12 exists.

9 Exemption – circumstances in which the exemption applies – members of a police force

- (1) The exemption in subsection 8(1) applies only if all of the circumstances specified in this section exist.
- (2) The act is performed, or the omission occurs, in the performance of the member's functions and duties in relation to the promotion of safety, security or protection of persons or property.
- (3) The act is performed, or the omission occurs, in relation to one or more of the following:
 - (a) the procurement or supply of a device to be operated in the relevant frequency bands to disrupt or disable an RPA or RPAS;
 - (b) the provision of training to a member of a police force relating to the operation of a device in the relevant frequency bands to disrupt or disable an RPA or RPAS;
 - (c) the testing or maintenance of a device to be operated in the relevant frequency bands to disrupt or disable an RPA or RPAS;
 - (d) the operation of a device in the relevant frequency bands to disrupt or disable an RPA or RPAS.
- (4) If the act or omission involves the use or operation of a device by a member of a police force, a member of that police force has recorded:
 - (a) the date, time and location of each use or operation of the device by a member of that police force that occurred before the act was performed or the omission occurred; and
 - (b) the purpose for which the device was so used or operated.
- (5) If the act or omission is in relation to a particular police force, before the act is performed or the omission occurs, that police force must have complied with every request made to it under section 11 that has not been withdrawn.

10 Exemption – circumstances in which the exemption applies – contractors

- (1) The exemption in subsection 8(2) applies only if all of the circumstances specified in this section exist.
- (2) The act is performed, or the omission occurs, in the performance of the contractor's functions or duties under the relevant contract.
- (3) The act is performed, or the omission occurs, in relation to one or more of the following:
 - (a) the testing or maintenance of a device that is to be operated in the relevant frequency bands to disrupt or disable an RPA or RPAS;
 - (b) the provision of training to a member of a police force relating to the operation of a device in the relevant frequency bands to disrupt or disable an RPA or RPAS;
 - (c) the supply of a device to be operated in the relevant frequency bands to disrupt or disable an RPA or RPAS.
- (4) If the act or omission involves the use or operation of a device by a contractor in relation to a police force, a member of that police force has recorded:
 - (a) the date, time and location of each use or operation of the device by a contractor in relation to that police force that occurred before the act was performed or the omission occurred; and
 - (b) the purpose for which the device was so used or operated.
- (5) If the act or omission is in relation to a particular police force, before the act is performed or the omission occurs, that police force must have complied with every request made to it under section 11 that has not been withdrawn.

11 Request – provision of records

- (1) An authorised person may request, in writing, that a police force provide the ACMA with a record kept under subsection 9(4) or subsection 10(4).

Note: See subsection 27(2A) of the Act.

- (2) The police force must comply with a request under subsection (1) within 10 business days of receiving the request, or such longer period as agreed by an authorised person.
- (3) An authorised person may, in writing given to the police force, withdraw a request made under subsection (1).

12 Exemption – circumstances in which the exemption applies – potential contractors

The exemption in subsection 8(3) applies only if the act is performed, or the omission occurs, for the purpose of the primary potential contractor offering to supply a device, to a police force, to be operated in the relevant frequency bands to disrupt or disable an RPA or RPAS.