

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Amateur Stations) Class Licence 2023

Radiocommunications (Amateur Licences – Renewal Statement) Determination 2023

Radiocommunications (Amateur Licences) Amendment Instrument 2023 (No. 1)

Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Amateur Stations) Class Licence 2023* (the **Amateur Stations Class Licence**) under section 132(1) of the *Radiocommunications Act 1992* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Under section 132 of the Act, the ACMA may, by legislative instrument, issue class licences which authorise any person to operate a radiocommunications device of a specified kind, or for a specified purpose, or of a specified kind for a specified purpose. In accordance with section 133 of the Act, the ACMA may include in a class licence such conditions as it thinks fit. A condition included in a class licence may confer a power to make a decision of an administrative character on a person or the ACMA (subsection 133(3)).

Under section 137 of the Act, the ACMA must not issue a class licence that is inconsistent with the *Australian Radiofrequency Spectrum Plan 2021* (the **spectrum plan**) or any relevant frequency band plan. Subsection 9(2) of the spectrum plan provides that any frequency band specified in the spectrum plan may be used by a device that operates in accordance with a class licence, which includes the Amateur Stations Class Licence. The Amateur Stations Class Licence does not authorise the operation of amateur stations in the radio quiet zone established by the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023*.

Under section 138 of the Act, the ACMA must not issue a class licence that authorises the operation of radiocommunications devices at frequencies that are within a part of the spectrum covered by a spectrum licence or a marketing plan, without following a particular process. The Amateur Stations Class Licence does not authorise the operation of radiocommunications devices in the parts of the spectrum covered by a spectrum licence or any marketing plan, and so section 138 does not apply.

Section 28C of the Act requires the ACMA to have regard to any relevant Ministerial policy statements when performing its spectrum management functions. The Amateur Stations Class Licence authorises the operation of amateur stations in the 3.4-4.0 GHz band. This supports a range of use cases and users for the band, which is consistent with the *Radiocommunications (Ministerial Policy Statement – 3.4-4.0 GHz) Instrument 2022*.

The ACMA has made the *Radiocommunications (Amateur Licences – Renewal Statement) Determination 2023* (the **Amateur Licences Renewal Statement Determination**) under subsection 103A(5) of the Act.

Subsection 103A(5) provides that the ACMA may, by legislative instrument, determine that each apparatus licence included in a specified class of apparatus licences is taken to include one of the following statements:

- (a) a statement to the effect that the licence cannot be renewed;

- (b) a statement to the effect that the licence may be renewed at the discretion of the ACMA so long as specified circumstances exist.

The ACMA has also made the *Radiocommunications (Amateur Licences) Amendment Instrument 2023 (No. 1)* (the **Amateur Licences Amendment Instrument**) under subsections 110A(2) and 119 of the Act, and subsection 33(3) of the AIA.

Subsection 110A(2) of the Act provides that the ACMA may, by legislative instrument, determine that each apparatus licence included in a specified class of apparatus licences is taken to include one or more specified conditions.

Section 119 of the Act provides that the ACMA may determine, by written instrument, that persons operating transmitters under transmitter licences included in a class of transmitter licences specified in the instrument must be qualified operators.

Subsection 33(3) of the AIA provides that, where an Act confers a power to make, grant or issue an instrument of a legislative character, the power shall be construed as including a power exercisable in a like manner and subject to like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Purpose and operation of the instruments

Amateur stations are radiocommunications devices operated for the following purposes:

- self-training in radiocommunications;
- intercommunication using radiocommunications; and
- technical investigation of radiocommunications.

Before the commencement of the Amateur Stations Class Licence, the operation of amateur stations was solely authorised by amateur licences, a type of transmitter licence issued under section 100 of the Act.

The purpose of the:

- Amateur Stations Class Licence is to authorise the operation of most amateur stations on a shared set of frequencies by persons who hold particular qualifications, whether issued in Australia or overseas (**qualified persons**).
- Amateur Licences Renewal Statement Determination is to determine that most amateur licences in force immediately before the commencement of the Amateur Stations Class Licence include a statement to the effect that the licence cannot be renewed.
- Amateur Licences Amendment Instrument is to make consequential amendments to the *Radiocommunications Licence Conditions (Amateur Licence) Determination 2015* (the **Amateur LCD**) and the *Radiocommunications (Qualified Operators) Determination 2016* (the **Qualified Operators Determination**) to support the introduction of the Amateur Stations Class Licence and the non-renewal of most amateur licences.

It is a general requirement of the Act that the operation of all radiocommunication devices within Australia be authorised by a licence. Class licences and apparatus licences (including transmitter licences) are two types of licences available that authorise the operation of radiocommunication devices.

Class licences are an effective and efficient means of spectrum management for radiocommunications devices where a limited set of shared frequencies are used, and equipment is operated on a common

set of conditions. A class licence is not issued to a particular user and does not involve the payment of charges or taxes.

Amateur Stations Class Licence

The Amateur Stations Class Licence authorises the operation of amateur stations, subject to particular conditions. Conditions relate to matters such as:

- the qualifications held by a person operating an amateur station;
- the use of call signs to enable identification of the person operating an amateur station;
- the permitted frequency bands on which an amateur station may be operated;
- transmitter output power limits for the operation of amateur stations; and
- electromagnetic energy requirements for the operation of amateur stations.

The Amateur Stations Class Licence makes provision for the ACMA to give a person an ‘ACMA recognition certificate’. A person must not operate an amateur station under the Amateur Station Class Licence unless the person has an ACMA recognition certificate, or a kind of qualification recognised by the ACMA under the Amateur Stations Class Licence.

There are three different kinds of ACMA recognition certificate and recognised qualifications: Advanced, Standard and Foundation. The Amateur Stations Class Licence imposes some different licence conditions that apply to a person’s operation of amateur stations, depending on whether the person has an Advanced, Standard or Foundation certificate or qualification.

Transitional provisions ensure that, on commencement of the Amateur Stations Class Licence, a person who holds an existing domestic qualification or relevant overseas qualification or licence, is authorised to operate an amateur station.

As part of the new qualifications framework established for the Amateur Stations Class Licence, an accreditation scheme has been established under the *Radiocommunications Accreditation (Amateur Radio Examinations) Rules 2023* (the **Accreditation Rules**) to enable the ACMA to accredit assessors to conduct and assess the examinations necessary to be undertaken before the ACMA gives a person an ACMA recognition certificate.

The qualifications framework retains the current qualification levels (Foundation, Standard and Advanced) and recognises qualifications that were obtained or recognised under the previous amateur licence regulatory arrangements.

Amateur Licences Renewal Statement Determination

The Amateur Licences Renewal Statement Determination supports the introduction of the Amateur Stations Class Licence by determining that certain amateur licences in force immediately before the commencement of the Amateur Stations Class Licence are taken to include a renewal statement to the effect that the licence cannot be renewed. This will prevent the renewal of these amateur licences; after they expire, the former licensees will be able to operate amateur stations in accordance with the Amateur Stations Class Licence.

The Amateur Licences Renewal Statement Determination does not apply to an amateur licence that authorises the operation of an amateur beacon station or an amateur repeater station (**continuing amateur licences**). The ACMA will continue to issue amateur licences that authorise the operation of these particular stations, and their operation is not authorised by the Amateur Stations Class Licence.

Amateur Licences Amendment Instrument

The Amateur Licences Amendment Instrument amends the Amateur LCD and the Qualified Operators Determination to provide continuity of qualification arrangements under the Amateur

Stations Class Licence and to ensure only qualified persons are authorised to operate amateur beacon stations and amateur repeater stations.

Under paragraph 100(6)(a) of the Act, in deciding whether to issue a transmitter licence, if the persons operating the transmitters authorised by the licence are required to hold a certificate of proficiency in relation to the licence, the ACMA must have regard to whether the applicant for the licence has a certificate of proficiency. Under paragraph 108(2)(e) of the Act, it is a licence condition on each transmitter licence that the licensee, and any person authorised to operate a transmitter under the licence by the licensee, must not operate a transmitter if section 119 requires the person to have a certificate of proficiency and the person does not have such a certificate.

Certificates of proficiency are issued under section 121 of the Act. Under section 119 of the Act, the ACMA may determine whether a person must have a certificate of proficiency to operate a transmitter under particular types of transmitter licences.

The Amateur Licences Amendment Instrument removes from the Qualified Operators Determination the requirement for a person to be a qualified operator when operating an amateur station under an amateur licence, as:

- the operation of most amateur stations will be authorised under the Amateur Stations Class Licence;
- from the commencement of the Amateur Stations Class Licence, the ACMA does not intend to issue any further amateur licences, other than continuing amateur licences;
- a requirement for a person to have certain qualifications will be included in the Amateur LCD.

The Amateur LCD specifies conditions that apply to all amateur licensees. The Amateur Licences Amendment Instrument adds a condition to the Amateur LCD to the effect that the licensee of an amateur licence must have a certificate of proficiency or an ACMA recognition certificate. This condition applies to both continuing amateur licences, and to those amateur licences that are still in force after the commencement of the Amateur Stations Class Licence but which will not be renewed.

Operation of an amateur station otherwise than in accordance with a licence

Under section 46 of the Act, it is an offence, and subject to a civil penalty, to operate a radiocommunications device otherwise than as authorised by a spectrum licence, apparatus licence or class licence. The Act prescribes the following maximum penalties for the offence:

- if the radiocommunications device is a radiocommunications transmitter, and the offender is an individual – imprisonment for 2 years;
- if the radiocommunications device is a radiocommunications transmitter, and the offender is not an individual – 1,500 penalty units (which is \$469,500 based on the current penalty unit amount of \$313);
- if the radiocommunications device is not a radiocommunications transmitter – 20 penalty units (\$6,260).

The Act prescribes the following maximum civil penalties:

- if the radiocommunications device is a radiocommunications transmitter – 300 penalty units (\$93,900);
- if the radiocommunications device is not a radiocommunications transmitter – 20 penalty units (\$6,260).

Under subsection 47 of the Act, it is an offence, and subject to a civil penalty, to possess a radiocommunications device otherwise than as authorised by a spectrum licence, apparatus licence or class licence. The Act prescribes the same penalties for this offence and civil penalty contravention as those for section 46.

In addition, an apparatus licensee must not contravene a condition of the licence. Contravention is subject to a civil penalty (section 113 of the Act). The Act prescribes a maximum civil penalty of 100 penalty units (\$31,300).

Other matters

A provision-by-provision description of the:

- Amateur Stations Class Licence is set out in the notes at **Attachment A**.
- Amateur Licences Renewal Statement Determination is set out in the notes at **Attachment B**.
- Amateur Licences Amendment Instrument is set out in the notes at **Attachment C**.

The Amateur Stations Class Licence, the Amateur Licences Renewal Statement Determination and the Amateur Licences Amendment Instrument are legislative instruments for the purposes of the *Legislation Act 2003* (the **LA**), and are disallowable.

The Amateur Stations Class Licence, the Amateur Licences Renewal Statement, the Amateur LCD and the Qualified Operators Determination are subject to the sunset provisions in Part 4 of Chapter 3 of the LA.

Documents incorporated by reference

Section 314A of the Act provides that an instrument under the Act may make provision in relation to a matter by applying, adopting, or incorporating (with or without modifications) matters contained in any Act or any other instrument or writing as in force or existing at a particular time, or from time to time.

The Amateur Stations Class Licence incorporates the following Acts and legislative instruments, as in force from time to time:

- the *A New Tax System (Australian Business Number) Act 1999*;
- the Accreditation Rules;
- the *Australian Antarctic Territory Act 1954*;
- the *Australian Communications and Media Authority Act 2005*;
- *Australian Radiofrequency Spectrum Plan 2021*;
- the *Corporations Act 2001*;
- the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023*;
- the *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2015*.

Each of these Acts and legislative instruments is available, free of charge, from the Federal Register of Legislation at www.legislation.gov.au.

The Amateur Stations Class Licence also incorporates the following documents, as existing from time to time:

- AS/NZS 2772.2:2016 Radiofrequency fields, Part 2: Principles and methods of measurement and computation – 3 kHz to 300 GHz (**AS/NZS 2772.2**), published by Standards Australia. AS/NZS 2772.2 is available, for a fee, from a Standards Australia distributor listed on the Standards Australia website (www.standards.org.au). AS/NZS 2772.2 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions;
- the Australian Spectrum Map Grid 2012, published by the ACMA and available, free of charge, from the ACMA’s website at www.acma.gov.au;
- IEC 62232:2022 – Determination of RF field strength, power density and SAR in the vicinity of base stations for the purpose of evaluating human exposure, published by the International Electrotechnical Commission (**IEC 62232**). IEC 62232 is available, for a fee, from a Standards Australia distributor listed on the Standards Australia website (www.standards.org.au). IEC 62232 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions;
- IEEE C95.3:2021 – IEEE Recommended Practice for Measurements and Computations of Electric, Magnetic, and Electromagnetic Fields with Respect to Human Exposure to Such Fields, 0 Hz to 300 GHz (**C95.3**), published by the Institute of Electrical and Electronics Engineers. C95.3 is available, for a fee, from the website of the Institute of Electrical and Electronics Engineers (standards.ieee.org). C95.3 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions;
- the Radiation Protection Standard for Limiting Exposure to Radiofrequency Fields – 100 kHz to 300 GHz (2021) (the **ARPANSA Standard**), published by the Australian Radiation Protection and Nuclear Safety Agency, and available, free of charge, at www.arpansa.gov.au;
- the Radio Regulations, published by the International Telecommunication Union and available, free of charge, at www.itu.int;

The Amateur Stations Class Licence also incorporates the following documents as existing each time a document mentioned in subclause 4(4) of Schedule 1 to the Amateur Stations Class Licence was created:

- AS 2772.2-1988 Radiofrequency radiation Part 2: Principles and methods of measurement – 300 kHz to 100 GHz (**AS 2772.2-1988**), published by Standards Australia. AS 2772.2-1988 is available, for a fee, from a Standards Australia distributor listed on the Standards Australia website (www.standards.org.au). AS 2772.2-1988 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions;
- AS/NZS 2772.1 (Int)-1998 Radiofrequency fields, Part 1: Maximum exposure levels – 3 kHz to 300 GHz (**AS/NZS 2772.1 (Int)-1998**), published by Standards Australia. AS/NZS 2772.1 (Int)-1998 is available, for a fee, from a Standards Australia distributor listed on the Standards Australia website (www.standards.org.au). AS/NZS 2772.1 (Int)-1998 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions;

The Amateur Stations Class Licence also incorporates the following documents as existing immediately before the commencement of the Amateur Stations Class Licence:

- the list of identifiers and persons described as the ‘2x1 Callsign register’ (the **Contest Call Sign List**), published by the University of Tasmania, through the Australian Maritime

College, as existing immediately before the commencement of the Amateur Stations Class Licence. The Contest Call Sign List is available, free of charge, at www.amc.edu.au;

- Tables of Equivalent Qualifications and Licences published by the ACMA on the ‘Overseas amateurs visiting Australia’ webpage of the ACMA’s website and available, free of charge, at www.acma.gov.au.

The Amateur Licences Renewal Statement Determination incorporates the *Radiocommunications (Interpretation) Determination 2015*, as in force from time to time. The *Radiocommunications (Interpretation) Determination 2015* is a legislative instrument and is available, free of charge, from the Federal Register of Legislation at www.legislation.gov.au.

The Amateur Licences Amendment Instrument amends the Amateur LCD to incorporate the Amateur Stations Class Licence, as in force from time to time. The Amateur Stations Class Licence is a legislative instrument and is available, free of charge, from the Federal Register of Legislation at www.legislation.gov.au.

The Amateur Licences Amendment Instrument does not amend the Qualified Operators Determination such that the Qualified Operators Determination incorporates any Act, legislative instrument or other writing.

Consultation

Before the Amateur Stations Class Licence, the Amateur Licences Renewal Statement Determination and the Amateur Licences Amendment Instrument were made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

Between 3 February and 2 April 2021, the ACMA consulted on a review of amateur licensing arrangements. The review’s objective was to identify the best licensing mechanism that would reduce regulatory burden and minimise costs for operators of amateur stations, while preserving the current operational utility.

The ACMA consulted on the following three options for amateur stations (other than amateur beacon stations and amateur repeater stations):

- keep the existing apparatus licensing arrangements and conditions;
- simplify the existing apparatus licensing arrangements and conditions;
- authorise the operation of most amateur stations under class licensing arrangements, while retaining apparatus licences for the operation of amateur beacon stations and amateur repeater stations.

In its consultation paper, the ACMA stated its preference to adopt class licensing arrangements and released a draft instrument as part of the consultation.

The ACMA received over 800 submissions in response to the consultation paper. The submissions were from amateur radio clubs, amateur representative bodies, and individual amateur licensees. The submissions of most individual amateur licensees were in the same form and had the same content.

Most submitters supported retaining the existing apparatus licensing arrangements and conditions, based on a view that only this option preserved the current utility of their amateur licence. The key issues raised during consultation focussed on a view that a class licence might dilute privileges and

protections afforded to operators of amateur stations through the loss of an individual apparatus licence. However, most submitters stated that, if the ACMA modified the proposed class licence to address the key issues raised during consultation, then they may support class licensing arrangements.

Between 29 September and 29 November 2022, the ACMA released a second consultation paper, seeking feedback on operational arrangements to support a proposed class licence and a proposal for a staged implementation of higher power authorisation. The ACMA also released a revised draft class licence incorporating feedback received in response to the earlier consultation.

The ACMA received 58 submissions in response to the second consultation paper from amateur radio clubs, amateur representative bodies, and individual amateur licensees. Areas of concern included provisions in the Amateur LCD not reflected in the draft class licence, as well as operational and procedural matters more generally.

Between 29 August and 26 September 2023, the ACMA released a third consultation paper, seeking feedback on a new qualifications framework and accreditation scheme to support a class licence. The consultation paper included a discussion of the Amateur Licences Renewal Statement Determination, proposed consequential amendments to the Amateur LCD and the Qualified Operators Determination, and further changes to the draft class licence.

The ACMA received 28 submissions in response to the third consultation paper. Of those, five expressly supported the ACMA making the Amateur Stations Class Licence. Some of these submissions suggested some changes to the proposed class licence:

- The Amateur Stations Class Licence should ensure that only the ACMA or its delegates could assign call signs under the Amateur Stations Class Licence. The ACMA adopted this suggestion.
- The Amateur Stations Class Licence should restrict persons using amateur stations to connect to a public telecommunications network, replicating a condition in the Amateur LCD. However, it is not possible to include all of the conditions in the Amateur LCD in the Amateur Stations Class Licence, given the different nature of a transmitter licence to a class licence. This condition is one that cannot be replicated.
- The Amateur Stations Class Licence should clarify what is meant by ‘Australian resident’ in the definition of ‘qualified person’. The ACMA considers that the term ‘Australian resident’ is sufficiently well understood not to require further definition.

Eight submitters responded to the proposal to make the Amateur Licences Renewal Statement Determination. The majority of these viewed the proposed instrument as reasonable or necessary to facilitate the introduction of the Amateur Stations Class Licence.

Those submitters who responded to the proposed consequential amendments to the Amateur LCD and the Qualified Operators Determination stated that the proposed amendments were reasonable.

Regulatory impact assessment

Preliminary assessments of the proposal to make the Amateur Stations Class Licence, Amateur Licences Amendment Instrument and Amateur Licences Renewal Statement Determination were conducted by the Office of Best Practice Regulation (**OBPR**) and the Office of Impact Analysis (**OIA**), based on information provided by the ACMA, for the purposes of determining whether a

Regulation Impact Statement (**RIS**) would be required. OBPR and OIA advised that a RIS would not be required because the proposed regulatory changes are minor or machinery in nature and have therefore verified that no further regulatory impact analysis is required (OBPR reference number 43295 for the Amateur Stations Class Licence and Amateur Licences Amendment Instrument, and OIA reference number OIA23-05185 for the Amateur Licences Renewal Statement Determination).

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 of the LA applies (disallowance), to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility with human rights set out in **Attachment D** has been prepared to meet that requirement.

Notes to the *Radiocommunications (Amateur Stations) Class Licence 2023*

Part 1 Preliminary

Section 1 Name

This section provides for the Amateur Stations Class Licence to be cited as the *Radiocommunications (Amateur Stations) Class Licence 2023*.

Section 2 Commencement

This section provides for the Amateur Stations Class Licence to commence at the start of 19 February 2024.

Section 3 Authority

This section identifies the provision of the Act under which the Amateur Stations Class Licence is made, namely section 132.

Section 4 Repeal

This section repeals the *Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 2015*. The Amateur Stations Class Licence will authorise the operation of amateur stations previously authorised by that class licence.

Section 5 Interpretation

This section defines several key terms used throughout the instrument. Several other terms used in the instrument are defined in the Act or in an instrument made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005 (ACMA Act)*.

Section 6 References to other instruments

This section provides that in the Amateur Stations Class Licence, unless the contrary intention appears:

- a reference to another legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- 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.

Section 7 Call signs

This section provides that Schedule 4 to the Amateur Stations Class Licence has effect. That Schedule deals with call sign arrangements, including their assignment and cancellation.

Section 8 Qualified persons

This section defines a *qualified person* as a person who either:

- holds a recognised qualification or an ACMA recognition certificate; or
- meets all of the following:
 - holds a recognised overseas qualification;
 - is visiting Australia from another country;

- is not an Australian resident;
- has not been in Australia for more than 365 continuous days since the person most recently entered Australia; and
- has been assigned a call sign in another country (**international call sign**).

Section 9 Recognising qualifications

Subsection 9(1) provides that the ACMA may declare a qualification or overseas licence to be a recognised qualification, of one or more of the following:

- a recognised qualification (Advanced Type)
- a recognised qualification (Foundation Type)
- a recognised qualification (Standard Type).

Under subsection 9(2), the ACMA must publish the details of a declaration on its website.

Subsection 9(3) allows the ACMA to cancel a declaration of a qualification or overseas licence it previously made under subsection 9(1). Subsection 9(4) requires the ACMA to publish details of the cancellation on its website.

Subsection 9(5) provides that Schedule 7 to the Amateur Stations Class Licence has effect. That Schedule includes transitional provisions recognising certificates of proficiency issued under the Act and overseas qualifications and overseas licences that were recognised by the ACMA under the apparatus licensing regime, prior to the commencement of the Amateur Stations Class Licence.

Part 2 Class licence

Section 10 Class licence

This section authorises a person to operate an amateur station. The operation is subject to the conditions specified in Part 3 of the Amateur Stations Class Licence.

Part 3 Conditions

Section 11 Qualification

This section imposes a condition prohibiting the operation of an amateur station unless the operator of the amateur station is a qualified person or is supervised by a qualified person.

Section 12 Using call signs

This section imposes conditions that deal with the use of call signs.

Subsection 12(1) requires a person, when operating an amateur station, to transmit their call sign at specified times during each transmission. These times are at the beginning of a transmission, at the end of a transmission and, if a transmission lasts more than 10 minutes, at least once every 10 minutes during the transmission.

Subsection 12(2) provides that where a person is operating an amateur station under the supervision of a second person (**supervisor**), then the person may transmit the supervisor's call sign to satisfy the requirements in subsection (1).

Under subsection 12(3), a person who holds an international call sign must add VK to the start of the international call sign when transmitting in Australia.

Subsection 12(4) permits a person with an Australian call sign that commences with VK to substitute AX for VK on three specified dates each year (Australia Day, ANZAC Day and World Telecommunication Day).

Subsections 12(5) prohibits the transmission of a ‘contest call sign’, except when competing in a contest conducted by an amateur body or organisation. Contest call signs are explained further below.

Subsection 12(6) prohibits the transmission of a special event call sign, except in relation to the relevant event. Special event call signs are explained further below.

Subsection 12(7) prohibits a person who has been assigned a call sign with the prefix VK0, from transmitting that call sign unless the person is located in the Australian Antarctic Territory. These call signs are for exclusive use in that Territory.

Subsection 12(8) prohibits a person who has been assigned a call sign with the prefix VK9, from transmitting that call sign unless the person is located in an external Territory (other than the Australian Antarctic Territory). These call signs are for exclusive use in external Territories (other than the Australian Antarctic Territory).

For the purposes of subsections 12(7) and 12(8), subsection 12(9) adopts a definition from the *Australian Antarctic Territory Act 1954*.

Subsection 12(10) provide that if section 14 applies to a person in relation to a transmission, then section 12 does not apply to that person in relation to that transmission.

Section 13 Operation of station – purposes and transmissions

Section 13 imposes conditions in relation to the purpose and nature of transmissions made using amateur stations.

Subsection 13(1) prohibits the operation of an amateur station unless it is for an amateur purpose. An *amateur purpose* is defined in section 5 as any of the following:

- self-training in radiocommunications;
- intercommunication;
- technical investigations of radiocommunications;
- transmitting news and information related to the operation of amateur stations, as a means of facilitating intercommunication.

Subsection 13(2) prohibits the operation of an amateur station for specified purposes, including for the purpose of obtaining a financial gain or reward. The subsection also prohibits the operation of an amateur beacon station or an amateur repeater station under the Amateur Stations Class Licence, and, subject to subsection (3), the transmission of an encoded signal to obscure the meaning of the signal.

Subsection 13(3) specifies the circumstances in which a person may transmit an encoded signal. The circumstances include transmission for the purposes of an emergency services operation, or for controlling a space station or an unattended amateur station.

Subsection 13(4) prohibits a person from operating an amateur station remotely, except in certain circumstances where the remote operation is sufficiently controlled.

Section 14 Operation of station – emergency services operation and training

Section 14 applies to a person who takes part in emergency services operations or training exercises for emergency services operations. It imposes a condition requiring a person who operates an amateur station in the course of such operations or exercises to transmit their call sign at specified times.

Section 15 Operation of station – interference and spurious emissions

Section 15 imposes conditions about causing interference and the spurious emissions of amateur stations.

Subsection 15(1) prohibits the operation of an amateur station if the operation causes harmful interference to radiocommunications.

Under subsection 15(2), a person must not operate an amateur station if the radio emissions of the station include spurious emissions that are not attenuated below the power of the wanted emission supplied to the antenna transmission line. This subsection specifies the different limits for spurious emissions that apply for frequencies equal to or greater than 30 MHz, and frequencies less than 30 MHz.

Section 16 Operation of station – electromagnetic energy requirements

This section provides that the conditions in Schedule 1 to the Amateur Stations Class Licence apply. The conditions in that Schedule relate to the emission of electromagnetic energy by an amateur station.

Section 17 Operation of station – permitted frequencies, emission modes and power limits

This section imposes conditions relating to the permitted frequencies, maximum power limits and other limitations that apply to the operation of amateur stations, by reference to Schedule 2 to the Amateur Stations Class Licence. This section provides that a person, or a person under the supervision of another person, with:

- an ACMA recognition certificate (Foundation) or a recognised qualification (Foundation Type) must operate an amateur station in accordance with table A of Schedule 2;
- an ACMA recognition certificate (Standard) or a recognised qualification (Standard Type) must operate an amateur station in accordance with table B of Schedule 2;
- an ACMA recognition certificate (Advanced) or a recognised qualification (Advanced Type) must operate an amateur station in accordance with table C of Schedule 2.

Section 18 Operation of station – additional restrictions in certain frequency bands

Section 18 imposes conditions preventing the operation of amateur stations in particular parts of the spectrum.

Subsection 18(1) prohibits the operation of an amateur station on a frequency in the 3.4 GHz to 3.6 GHz band in the excluded areas identified in Schedule 3. This prevents the operation of radiocommunications devices in parts of the spectrum covered by the *Radiocommunications Spectrum Marketing Plan (3.6 GHz Band) 2018* and the *Radiocommunications Spectrum Marketing Plan (3.4/3.7 GHz Bands) 2023*.

Subsection 18(2) prohibits the operation of an amateur station in a part of the spectrum and in a geographic area where a spectrum licence authorises the operation of radiocommunications devices.

Subsection 18(3) prohibits the operation of an amateur station in the Radio Quiet Zone in Western Australia.

Schedule 1—Conditions about electromagnetic energy

The Schedule contains conditions about electromagnetic energy that apply to the operation of an amateur station. The conditions largely replicate conditions in the *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2015*. The purpose of the conditions is to make sure that the operation of an amateur station does not expose members of the general public to electromagnetic energy in excess of recognised exposure limits.

Clause 1 Interpretation

Clause 1 defines certain key expressions used in the Schedule.

Clause 2 Condition – compliance with electromagnetic energy standard

Subclause 2(1) prohibits the operation of an amateur station if the radiofrequency field produced by the station exceeds the reference levels for general public exposure set out in the ARPANSA Standard at a place that is accessible to a member of the general public.

Subclause 2(2) sets out the requirements for measuring compliance with those reference levels. These requirements depend on whether the amateur station is operating between 10 MHz and 30 MHz, between 30 MHz and 2 GHz, or above 2 GHz.

Subclause 2(3) provides that the meanings of three expressions used in subclause 2(2) are the same as they are in ARPANSA Standard.

Subclause 2(4) prohibits the operation of an amateur station where it transmits on multiple frequencies simultaneously, unless the station meets particular requirements specified in the ARPANSA Standard.

Clause 3 Presumptions about compliance with the condition in subclause 2(1) – low risk stations

Clause 3 is about working out whether ‘low risk stations’ comply with the condition in subclause 2(1). Subclause 3(1) defines low risk stations by reference to whether or not they are mobile stations, and by reference to certain power levels.

Subclause 3(3) sets out a presumption that a person operating a low risk station will be taken not to have contravened subclause 2(1) if the person has a document that sets out certain measurements or calculations for the station, and those measurements or calculations are to the effect that the operation of the station would comply with subclause 2(1). The presumption may be rebutted by evidence to the contrary (e.g., physical measurements of the station’s emissions).

Subclause 3(4) sets out a similar a presumption that applies in relation to the operation of a station located at a site that has more than one station. Again, the presumption may be rebutted by evidence to the contrary.

Clause 4 Condition – measurements or calculations of electromagnetic energy – higher risk stations

Clause 4 imposes a condition on the operation of an amateur station that is not a low risk station. A person must not operate an amateur station unless the person has measured or calculated the radiofrequency fields produced by the station in accordance with one or more of AS/NZS 2772.2, C95.3 or IEC 62232.

Subclause 4(3) sets out a presumption that a person operating a higher risk station will be taken not to have contravened this condition in relation to the operation of a station located at a site that has more than one station. For the presumption to apply, the person must have made certain measurements or calculations for all the stations at the site, those measurements and calculations are

to the effect that the operation of the stations at the site would comply with the condition, and the person retained a document setting out those measurements or calculations. The presumption may be rebutted by evidence to the contrary.

Subclause 4(4) is a savings provision about measurements and calculations taken to have been made in relation to the operation of a station before 1 March 2003 (the date the *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003* commenced).

For the purposes of this savings provision, subclause 4(5) refers to two standards that existed immediately before 1 March 2003 (AS 2772.2-1988 and AS/NZS 2772.1 (Int)-1998).

Subclause 4(6) is a savings provision about measurements and calculations taken to have been made in relation to the operation of a station on or after 1 March 2003 but before the commencement of the Amateur Stations Class Licence.

Subclauses 4(7) and 4(8) are savings provisions that deal with measurements or calculations made for the purposes of subclause 4(2), where one or more of the standards specified in subclause 4(2) has been amended.

Clause 5 Compliance with the condition in subclause 2(1) – change to station

Clause 5 provides that where a station is a low risk station to which clause 3 applies, and a change is made to the station so that the station is no longer a low risk station, then clause 4 applies to that station from the time the change occurs.

A change to a station includes, for example, where a station is moved to a different location, or the amount of power fed to the station's antennas is altered.

Clause 6 Condition – record-keeping

Clause 6 imposes a condition in relation to an amateur station that is not a low risk station. The operation of the station by a person is prohibited unless the person has in their possession specified records, including:

- the name and qualification of any person who assessed whether the station complied with the requirements of Schedule 1, and the date of the assessment;
- a declaration made by the person setting out the person's identity, the details of the station, and a statement that the operation of the station complies with the condition in subclause 2(1);
- the measurements or calculations made for the purposes of clause 4.

Giving false or misleading information is a serious offence under the *Criminal Code*.

Clause 6 also sets out some requirements for the records so kept.

A person who keeps such records may not be subject to the Privacy Act in relation to any personal information so kept (on the basis that their acts or practices may be exempt under section 7B of the Act, which exempts acts done, or practices engaged in, by an individual if done or engaged in other than in the course of a business carried on by the individual) and the requirements of the Australian Privacy Principles. In other contexts where the Privacy Act does not apply (in particular, in relation to 'small business operators'), the Office of the Australian Information Commissioner has recommended that, while such persons may not be required to comply with the Privacy Act, they should, as a matter of best practice, protect any personal information they hold, and should consider whether to opt-in to the Privacy Act, given the benefits that may result. More information can be obtained from the website of the Office of the Australian Information Commissioner at www.oaic.gov.au.

Clause 7 Use of agent

This clause provides that a person may use an agent to ensure that the operation of the person's amateur station complies with the conditions in Schedule 1, and for the possession of documents referred to in that Schedule.

Schedule 2—Permitted frequencies, and limits on operation

This Schedule includes three tables that specify the permitted frequencies and limits of operation that persons operating amateur stations must comply with. The tables, which are set out for each qualification type, are:

- Table A for holders of an ACMA recognition certificate (Foundation) or a recognised qualification (Foundation Type);
- Table B for holders of an ACMA recognition certificate (Standard) or a recognised qualification (Standard Type);
- Table C for holders of an ACMA recognition certificate (Advanced) or a recognised qualification (Advanced Type).

Schedule 3—Excluded areas

Schedule 3 describes areas in the 3.4 GHz to 3.6 GHz band in which the operation of an amateur station is prohibited. The areas are described using the Hierarchical Cell Identification Scheme (HCIS). The HCIS is a naming convention developed by the ACMA that applies unique 'names' to each of the geographic cells of the Australian Spectrum Map Grid 2012, available on the ACMA website.

Schedule 4—Call signs

The Schedule deals with call sign arrangements, including their assignment and cancellation. Transitional provisions in the Schedule ensure that call signs of various types issued to persons before the commencement of the Amateur Stations Class Licence continue to have effect as call signs under the Amateur Stations Class Licence.

Part 1 Dealing with call signs

Clause 1 Assigning call signs

Subclause 1(1) empowers the ACMA to assign a call sign to a person.

Subclause 1(2) provides that if a person applies to the ACMA for a call sign assignment and the requirements of this subclause are satisfied, the ACMA must assign a call sign to the person. The requirements are:

- the call sign can be assigned to the person consistently with clause 1;
- the application is made in any form and method approved by the ACMA; and
- the application is accompanied by any charge determined under section 60 of the ACMA Act.

Subclause 1(3) clarifies that the ACMA is under no obligation to assign a particular call sign to an applicant. For example, an applicant may be assigned a different call sign to the one they applied for.

Subclause 1(4) enables the ACMA to approve one or more forms or methods of application for the purpose of the call sign application process.

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Subclause 1(5) requires the assignment of a call sign to be consistent with the Radio Regulations.

Before assigning a call sign to an applicant, subclause 1(6) requires the ACMA to have regard to any of its own call sign policies published on the ACMA website.

Subclause 1(7) compels the ACMA to provide a written notification to an applicant that a call sign has been assigned to them. The notice must be provided as soon as is reasonably practicable after the ACMA has assigned the call sign.

Subclause 1(8) states that Schedule 6 applies to a decision made by the ACMA under subclause 1(2). Schedule 6 sets out the provisions for the review of decisions made by the ACMA under the Amateur Stations Class Licence.

Clause 2 Limitations on assignment

Clause 2 sets out the limitations that may be placed on the assignment of call signs.

Subclause 2(1) allows the ACMA to assign a call sign to an applicant for a specified period. This is known as the *assignment period*. All contest call signs are subject to an assignment period.

Where the ACMA does not specify an assignment period, subclause 2(2) provides that the assignment of the call sign is ongoing unless the ACMA cancels the assignment.

Subclause 2(3) provides that, if the ACMA assigns a call sign to a person, the ACMA may specify that the call sign is a *special event call sign*. If the ACMA specifies that a call sign is a special event call sign, the ACMA must specify the event for which the call sign may be used.

Subclause 2(4) has the effect that, if the ACMA specifies an assignment period for a special event call sign, the relevant event must fall within that the assignment period.

Clause 3 Cancelling assignment of a call sign

Subclause 3(1) empowers the ACMA to cancel a person's call sign by written notice to the person.

Subclause 3(2) requires the ACMA to have regard to any call sign cancellation policies published on its website, before the ACMA cancels the assignment of a call sign to a person.

Subclause 3(3) states that Schedule 6 applies to a decision by the ACMA to cancel a call sign under subclause 3(1). Schedule 6 includes provisions about the review of ACMA decisions made under the Amateur Stations Class Licence.

Clause 4 Re-assignment of a call sign

Subclause 4(1) provides for the automatic cancellation of the assignment of a call sign at the end of the assignment period.

Subclause 4(2) allows the ACMA to re-assign a call sign to a person if the following requirements are met:

- the person applies to the ACMA for the call sign assignment to be re-assigned;
- the application is made in any form and method approved by the ACMA; and
- the person pays any charge determined under section 60 of ACMA Act in relation to such an application.

However, the ACMA is under no obligation to re-assign the call sign to the person.

Subclause 4(3) enables the ACMA to approve one or more forms or methods of application for the purpose of the call sign re-assignment process.

Under subclause 4(4), where the ACMA decides not to re-assign a call sign, it must provide a written notification to the person of its decision.

Subclause 4(5) states that Schedule 6 applies to a decision by the ACMA to refuse to re-assign a call sign under subclause 4(2). Schedule 6 includes provisions about the review of ACMA decisions made under the Amateur Stations Class Licence.

Clause 5 Replacing a call sign in exceptional circumstances

Clause 5 enables the ACMA, in exceptional circumstance, to assign a different call sign to a person to replace the call sign that was originally assigned (the **original call sign**) to the person (the **affected person**).

Subclause 5(1) provides that, despite anything else in Schedule 4, if an affected person was assigned an original call sign and the ACMA is satisfied, having regard to the matters set out in subclause 5(3), that exceptional circumstances exist that justify the assignment of a different call sign, the ACMA:

- may cancel the assignment of the original call sign;
- must assign a new call sign (the **replacement call sign**) to the affected person under subclause 1(1) if the original call sign was cancelled;
- must notify the affected person in writing that the original call sign was cancelled and the replacement call sign has been assigned to the affected person; and
- must ensure that the assignment of a call sign is consistent with the Radio Regulations and takes account of any relevant published ACMA policy.

Schedule 6 does not apply to a decision by the ACMA to cancel the assignment of an original call sign under subclause 5(1), as a replacement call sign must be assigned to the person. However, Schedule 6 does apply to the decision to assign the replacement call sign under subclause 1(1) of Schedule 4.

Subclause 5(2) provides that the ACMA may exercise its powers and perform its functions under subclause 5(1) whether or not a person has requested the ACMA to do so.

Subclause 5(3) sets out the matters that the ACMA must have regard to when considering whether exceptional circumstances exist for the purposes of subclause 5(1):

- any representations made by the affected person in relation to their privacy or welfare and the effect of the original call sign on the person's privacy or welfare;
- whether, before assigning the original call sign, the ACMA had regard to any of its own policies published on the ACMA website that relate to the assignment of a call sign; and
- any other matter the ACMA considers relevant.

Part 2 Transitional provisions

Clause 6 Interpretation

Clause 6 sets out the definitions of key expressions used in Part 2.

Many amateur clubs and organisations conduct radiocommunications 'contests'. For example, operators of amateur stations might compete to communicate with the highest number of stations in a specified time. For these contests, the operators use special 'contest call signs'. Before the commencement of the Amateur Stations Class Licence, the Australian Maritime College maintained a register of these contest call signs. If a person is listed against a particular call sign on that register

when the Amateur Stations Class Licence commences, that callsign is an *existing contest call sign* for a person.

Before the commencement of the Amateur Stations Class Licence, most call signs were specified in the amateur licence held by a person operating an amateur station. Such a call sign is a *transmitter licence call sign*.

The general rule set out in the Schedule for transition of transmitter licence call signs is that the licensee is assigned the call sign without an assignment period (see below). However, some of these licences were issued for a special event, and other licences specified call signs commencing with VK0 or VK9, which are for use in Australia's External Territories. Subclause 6(3) gives the ACMA the power to designate the transmitter licence call sign in these amateur licences as a *designated transmitter licence call sign*. Special transitional rules apply to these call signs.

Subclause 6(4) provides that the ACMA must not designate a transmitter licence call sign, other than one with the prefix VK0 or VK9, unless it is satisfied that the relevant transitioned transmitter licence was issued in relation to a particular event. The ACMA must make the designation before the earlier of 1 July 2024 or at the time the relevant amateur licence ceases to be in force.

Clause 7 Transmitter licence call signs

Subclause 7(1) provides that, for the purposes of the Amateur Stations Class Licence, if a transmitter licence was issued to a person and the licence specified a transmitter licence call sign, then:

- the transmitter licence call sign is taken to be a call sign;
- that call sign is assigned to the person immediately after the commencement of the Amateur Stations Class Licence, irrespective of whether the transmitter licence is subsequently cancelled or surrendered at a later date; and
- subject to subclauses 7(2) and 7(3), that assignment of the call sign is not subject to an assignment period.

Subclause 7(2) provides that if, before 1 July 2024, a transmitter licence call sign, other than a VK0 or VK9 transmitter call sign, becomes a designated transmitter licence call sign, then an assignment period applies to that call sign. The assignment period starts when the designation is made and ends on 19 February 2025.

Subclause 7(3) provides that if, before 1 July 2024, a transmitter licence call sign with the prefix VK0 or VK9 becomes a designated transmitter licence call sign, then an assignment period applies to that call sign. The assignment period starts when the designation is made and ends on the later of 19 February 2025 or the day the relevant amateur licence was due to expire (whether or not it was earlier cancelled or surrendered).

Clause 8 Contest call signs

Clause 8 provides that an existing contest call sign for a person is taken to be assigned to that person immediately after the commencement of the Amateur Stations Class Licence. An assignment period applies to the assignment of the contest call sign. The assignment period begins on the commencement of the Amateur Stations Class Licence and ends on the first anniversary of the date specified in the Contest Call Sign list for the existing contest call sign.

Schedule 5—ACMA recognition certificates

Clause 1 Definitions

Clause 1 defines key expressions used in the Schedule.

Subclause 1(2) provides that, subject to the remainder of the clause, an *examination* consists of the following 3 components:

- a practical component, directed towards testing a person's practical operation of an amateur station;
- a regulatory component, directed towards testing a person's understanding of the regulatory framework for the operation of an amateur station; and
- a theoretical component directed towards testing a person's understanding of the theory underlying the operation of an amateur station.

Subclause 1(3) provides that if a person has achieved at least 70 per cent in the regulatory component of an examination for the purposes of being given an ACMA recognition certificate (Advanced) or an ACMA recognition certificate (Standard), any future examination of the person need not repeat that component. If, immediately before the commencement of the Amateur Stations Class Licence, a person held a certificate of proficiency that related to amateur licences, any future examination of the person need not include the regulatory component.

Subclause 1(4) provides that if a person has successfully completed the practical component, any future examination of the person need not repeat that component. If, immediately before the commencement of the Amateur Stations Class Licence, a person held a certificate of proficiency that related to amateur licences, any future examination of the person need not include the practical component.

Subclause 1(5) provides that a person may also get an exemption in relation to a component of an examination, under clause 4.

Clause 2 Application for ACMA recognition certificates

Subclause 2(1) provides that a person may apply to the ACMA for an ACMA recognition certificate and sets out the requirements the person must satisfy to make such an application. The requirements are that the person has either:

- completed an examination conducted by an accredited assessor, been assessed as having achieved a result of at least 70 per cent in both the regulatory component and the theoretical component of the examination, and as having successfully completed the practical component; or
- is an exempt person.

Subclause 2(2) requires an application to be:

- made in any form and method approved by the ACMA under subclause (3); and
- accompanied by any charge determined under section 60 of ACMA Act in relation to such an application.

Clause 3 Decision on application

Subclause 3(1) is a discretionary provision under which the ACMA may or may not decide to give a person an ACMA recognition certificate. If a person applies for an ACMA recognition certificate in accordance with clause 2, the ACMA may give the person an ACMA recognition certificate (Advanced), an ACMA recognition certificate (Foundation), or an ACMA recognition certificate (Standard). The ACMA may refuse to give the person an ACMA recognition certificate.

Subclause 3(2) requires the ACMA to have regard to certain matters before deciding whether to give a person an ACMA recognition certificate. These matters are:

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- the results of each examination of the person conducted by an accredited assessor;
- any recommendation made in relation to the person by the accredited assessor; and
- any other matter the ACMA considers relevant.

Subclause 3(3) requires the ACMA to make a decision within 15 business days of receiving an application under subclause 3(1).

Subclause 3(4) provides that, if the ACMA decides to refuse an application for an ACMA recognition certificate, it must provide the person with a written notice of its refusal together with a statement of reasons for the refusal.

Subclause 3(5) allows the ACMA may give a person more than one ACMA recognition certificate.

Subclause 3(6) provides that Schedule 6 applies to the ACMA’s decision to refuse to give a person an ACMA recognition certificate. Schedule 6 includes provisions about the review of ACMA decisions made under the Amateur Stations Class Licence.

Clause 4 Exempt person

Subclause 4(1) defines an exempt person as a person who has:

- applied to the ACMA in writing for an exemption from completing an examination on the basis of the person’s existing qualifications;
- the application is accompanied by any charge determined under section 60 of the ACMA Act; and
- the ACMA has given the person an exemption from completing an examination under subclause 4(2).

Under subclause 4(2), if a person applies to the ACMA for an exemption, the ACMA may give the person a written exemption from completing an examination, or from one or two components of an examination. The ACMA may also refuse to give a person a written exemption.

Under subclause 4(3), where the ACMA refuses to give a person a written exemption then it must give the person a written notification of the refusal together with a statement of reasons.

Subclause 4(4) provides that Schedule 6 applies where the ACMA refuses to give a written exemption, or where it refuses to give a written exemption from completing a component of an examination. Schedule 6 includes provisions about the review of ACMA decisions made under the Amateur Stations Class Licence.

Schedule 6—Review of decisions

Clause 1 Definitions

Clause 1 defines key expressions used in Schedule 6.

Clause 2 Reconsideration and review

Subclause 2(1) provides that, where the ACMA gives a person written notice about a decision to which Schedule 6 applies (the **original decision**), a person may request the ACMA to reconsider that original decision.

Subclause 2(2) specifies the requirements for a request made under subclause 2(1). The request must:

- be made in any form and method approved by the ACMA;

- be accompanied by any charge determined under section 60 of ACMA Act in relation to such an application;
- set out the reasons for the request; and
- be given to the ACMA within 28 days after the person is notified of the original decision.

The period of 28 days is the same as the period specified in section 288 of the Act for reconsideration of decisions.

Subclause 2(3) empowers the ACMA to approve one or more forms or one or more methods of application for the purposes of subclause 2(2).

Under subclause 2(4), the ACMA must reconsider its original decision within 20 business days after receiving a request under subclause 2(1). The ACMA may affirm its original decision or make a fresh decision. The nature of the fresh decision will depend on the nature of the original decision.

Subclause 2(5) provides that reconsidered decision is a reviewable decision if it is:

- a decision to affirm an original decision;
- if the original decision was a refusal to give a person an exemption from completing an examination under clause 4 of Schedule 5 – a reconsidered decision to give the person written exemption from two or fewer components of an examination.

Under subclause 2(6) the ACMA must, within 20 business days, give the person a written notification of its reasons for the reconsidered decision and, if that decision is reviewable, the person's right to have the reconsidered decision reviewed under subclause 2(7).

Under subclause 2(7) the person may apply to the AAT to have the reconsidered decision reviewed. Such an application will need to be made in accordance with the *Administrative Appeals Tribunal Act 1975*.

Schedule 7—Recognised qualifications and recognised overseas qualifications – transitional provisions

Schedule 7 includes transitional provisions in connection with certificates of proficiency issued under section 119 of the Act and overseas qualifications and licences that are included in Table A and Table B of the Tables of Equivalent Qualifications and Licences published on the ACMA website.

Subclauses 7(1), 7(2) and 7(3) ensure that certificates of proficiency (advanced, foundation or standard) issued immediately before the commencement of the Amateur Stations Class Licence are declared to be recognised qualifications for the purposes of the Amateur Stations Class Licence.

Subclauses 7(4), 7(5) and 7(6) ensure that overseas qualifications and overseas licences included in Table A or Table B of the Tables of Equivalent Qualifications and Licences immediately before the commencement of the Amateur Stations Class Licence, are declared to be recognised overseas qualifications.

Notes to the *Radiocommunications (Amateur Licences – Renewal Statement) Determination 2023*

Section 1 Name

This section provides for the Amateur Licences Renewal Statement Determination to be cited as the *Radiocommunications (Amateur Licences – Renewal Statement) Determination 2023*.

Section 2 Commencement

This section provides that the Amateur Licences Renewal Statement Determination commences on 19 February 2024.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the Amateur Licences Renewal Statement Determination, namely subsection 103A(5).

Section 4 Interpretation

Subsection 4(1) defines *relevant amateur licence* for the purpose of section 6. A relevant amateur licence is an amateur licence that authorises the operation of a radiocommunications transmitter, other than an amateur beacon station or amateur repeater station. It does not matter whether the licence was issued before the commencement of this instrument or after the commencement of this instrument.

Subsections 4(2) and 4(3) define other expressions used in the Amateur Licences Renewal Statement Determination by reference to a determination made under section 64 of the ACMA Act.

Section 5 References to other instruments

This section provides that in the Amateur Licences Renewal Statement Determination, unless the contrary intention appears:

- a reference to another legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- 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.

Section 6 Renewal statement

Section 6 provides that each relevant amateur licence is taken to include a statement to the effect that the licence cannot be renewed. From the commencement of the Amateur Stations Class Licence, the renewal of such a transmitter licence is unnecessary.

Notes to the *Radiocommunications (Amateur Licences) Amendment Instrument 2023 (No. 1)*

Section 1 Name

This section provides for the Amateur Licences Amendment Instrument to be cited as the *Radiocommunications (Amateur Licences) Amendment Instrument 2023 (No. 1)*.

Section 2 Commencement

This section provides for the Amateur Licences Amendment Instrument to commence at the start of the day after the instrument is registered on the Federal Register of Legislation, or immediately after the commencement of the Amateur Stations Class Licence, whichever comes later.

The Amateur Licences Amendment Instrument is registered on the Federal Register of Legislation, which may be accessed free of charge at www.legislation.gov.au.

Section 3 Authority

This section identifies the provisions that authorise the making of the Amateur Licences Amendment Instrument, namely subsection 110A(2) and section 119 of the Act.

Section 4 Amendments – *Radiocommunications Licence Conditions (Amateur Licence) Determination 2015*

This section makes the amendments to the Amateur LCD that are set out in Schedule 1 to the Amateur Licences Amendment Instrument.

Section 5 Amendments – *Radiocommunications (Qualified Operators) Determination 2016*

This section makes the amendments to the Qualified Operators Determination that are set out in Schedule 2 to the Amateur Licences Amendment Instrument.

Schedule 1—Amendments – *Radiocommunications Licence Conditions (Amateur Licence) Determination 2015*

Item 1

This item inserts two expressions in the interpretation section (subsection 3(1)) of the Amateur LCD. The expressions are *ACMA recognition certificate* and *qualified operator*. The first expression refers to the new qualifications included in the Amateur Stations Class Licence. The second expression defines who is a qualified operator for the purposes of the Amateur LCD.

Item 2

Item 2 amends Note 1 to subsection 3(1) of the Amateur LCD, as a consequence of the change in item 1.

Item 3

This item inserts a new note to subsection 3(1) of the Amateur LCD. The note points out that the definition of *qualified operator* under the Amateur LCD is different to the definition of that expression in section 5 of the Act.

Item 4

Item 4 inserts section 4A in the Amateur Licence LCD. The section imposes a condition that the licensee of an amateur licence must be a qualified operator (i.e., the person must have a certificate of proficiency or an ACMA recognition certificate).

Item 5

This item removes a note from subsection 9(2) of the Amateur LCD.

Schedule 2—Amendments – *Radiocommunications (Qualified Operators) Determination 2016***Item 1**

This item omits six expressions from note 3 in subsection 4(1) of the Qualified Operators Determination, as a consequence of the change made by item 2.

Item 2

Item 2 removes subsections 5(1) and 5(2) from the Qualified Operators Determination. By removing the subsections, a person operating one of five types of amateur station is not required to have a certificate of proficiency for the purposes of section 119 of the Act. Instead, the requirement for an operator of an amateur station to have particular qualifications is set out in:

- section 4A of the Amateur LCD, for the licensee of an amateur licence; and
- section 11 of the Amateur Stations Class Licence, for operators of an amateur station under that instrument.

Statement of compatibility with human rights

Prepared by the Australian Communications and Media Authority under subsection 9(1) of the Human Rights (Parliamentary Scrutiny) Act 2011

Radiocommunications (Amateur Stations) Class Licence 2023

Radiocommunications (Amateur Licences – Renewal Statement) Determination 2023

Radiocommunications (Amateur Licences) Amendment Instrument 2023 (No. 1)

Overview of the instruments

Amateur Stations Class Licence

The ACMA has made the *Radiocommunications (Amateur Stations) Class Licence 2023* (the **Amateur Stations Class Licence**) under section 132 of the *Radiocommunications Act 1992* (the **Act**).

Amateur stations are radiocommunications devices operated for the following purposes:

- self-training in radiocommunications;
- intercommunication using radiocommunications; and
- technical investigation of radiocommunications.

The Amateur Stations Class Licence authorises the operation of amateur stations, subject to particular conditions. Conditions relate to matters such as:

- the qualifications held by a person operating an amateur station;
- the use of call signs to enable the ACMA to identify the person operating an amateur station;
- the permitted frequency bands on which an amateur station may be operated;
- transmitter output power limits for the operation of amateur stations; and
- electromagnetic energy requirements for the operation of amateur stations.

The Amateur Stations Class Licence makes provision for the ACMA to give a person an ‘ACMA recognition certificate’. A person must not operate an amateur station under the Amateur Station Class Licence unless the person has an ACMA recognition certificate, or a kind of qualification recognised by the ACMA under the Amateur Stations Class Licence.

There are three different kinds of ACMA recognition certificate and recognised qualifications: Advanced, Standard and Foundation. The Amateur Stations Class Licence imposes some different licence conditions that apply to a person’s operation of amateur stations, depending on whether the person has an Advanced, Standard or Foundation certificate or qualification.

Amateur Licences Renewal Statement Determination

The ACMA has made the *Radiocommunications (Amateur Licences – Renewal Statement) Determination 2023* (the **Amateur Licences Renewal Statement Determination**) under subsection 103A(5) of the Act.

Before the commencement of the Amateur Stations Class Licence, the operation of amateur stations was solely authorised by amateur licences, a type of transmitter licence issued under section 100 of the Act.

The Amateur Licences Renewal Statement supports the Amateur Stations Class Licence by including in relevant amateur licences a statement that those licences cannot be renewed.

Amateur Licences Amendment Instrument

The ACMA has made the *Radiocommunications (Amateur Licences) Amendment Instrument 2023 (No.1)* (the **Amateur Licences Amendment Instrument**) under subsection 110A(2) and section 119 of the Act.

The Amateur Licences Amendment Instrument makes consequential amendments to the *Radiocommunications Licence Conditions (Amateur Licence) Determination 2015* and the *Radiocommunications (Qualified Operators) Determination 2016* to provide continuity of qualification arrangements under the Amateur Stations Class Licence and to ensure only qualified persons are authorised to operate amateur stations.

Human rights implications

The ACMA has assessed whether the Amateur Stations Class Licence, the Amateur Licences Renewal Statement Determination and the Amateur Licences Amendment Instrument (the **instruments**) are compatible with human rights, being the rights and freedoms recognised or declared in the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Article 19 of the International Covenant on Civil and Political Rights provides:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. For respect of the rights or reputations of others;
 - b. For the protection of national security or of public order (*order public*), or of public health or morals.

Having considered the likely impact of the instruments and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instruments engage the right to freedom of expression. The operation of amateur stations allows individuals to exercise the right to freedom of expression. The instruments maintain the ability of persons to exercise this right by operating amateur stations in accordance with the specified licence conditions in authorised parts of the radiofrequency spectrum, while balancing the need to regulate access to spectrum for these purposes so that other spectrum users' rights are respected. Unlike amateur licences, no tax is imposed on the operation of amateur stations under the Amateur Stations Class Licence, which makes the operation of amateur stations more accessible.

Conclusion

The instruments are compatible with human rights because they promote the right to freedom of expression by maintaining the ability of amateur licensees to exercise that right through the operation of amateur stations in authorised parts of the radiofrequency spectrum.