

# SUPPLEMENTARY EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications Accreditation (Amateur Radio Examinations) Rules 2023***

### **Authority**

The Australian Communications and Media Authority has made the *Radiocommunications Accreditation (Amateur Radio Examinations) Rules 2023* (**the instrument**) under subsection 266(1) of the *Radiocommunications Act 1992*.

This supplementary explanatory statement supplements the explanatory statement to the instrument as set out below.

### **Attachment A**

#### **Section 11 Matters to have regard to before deciding on accreditation**

After the dot points, add:

For the purposes of the last dot point, in deciding what other matters the ACMA may consider relevant to a decision to give a person a kind of accreditation, the ACMA will generally be guided by the preceding matters in the list. That is, ordinarily, any additional matters would be matters to do with the Act, with the person's ability and expertise to perform the role of an accredited person, and with the person's ability to comply with any conditions of their accreditation, if given. Other matters would likely be irrelevant, though it is not appropriate to purport to define or confine what other matters would be relevant. In accordance with administrative law, the ACMA must have regard to any matter that is relevant, and must not have regard to any matter that is irrelevant.

None of the matters listed in subsection 11(1), and no other relevant matter not listed in that subsection, will be determinative by itself. Each matter is merely one to which the ACMA must have regard in deciding whether to give a person accreditation under section 263, and none can by itself dictate the outcome of that decision.

A decision whether to give a person accreditation under section 263 is a decision subject to both reconsideration by the ACMA and external review by the Administrative Appeals Tribunal (AAT) under Part 5.6 of the Act. As such, the ACMA on reconsideration, and the AAT on external review, may reassess what matters are relevant under the last dot point above at the time of making its decision on reconsideration or review.

A decision under section 263 of the Act, and a decision as to what matter is considered by the ACMA to be relevant to such a decision, are also amenable to judicial review.