

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

***Radiocommunications Licence Conditions (PTS Licence) Determination 2024***

***Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2024***

***Radiocommunications (Register of Radiocommunications Licences) Amendment Determination 2024 (No. 1)***

## Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications Licence Conditions (PTS Licence) Determination 2024 (PTS LCD)* under subsection 110A(2) of the *Radiocommunications Act 1992* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (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.

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

The ACMA has made the *Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2024 (CMTD CL)* under subsection 132(1) of the Act and subsection 33(3) of the AIA.

Subsection 132(1) of the Act provides that the ACMA may, by legislative instrument, issue class licences. A class licence authorises any person to operate a radiocommunications device of a specified kind or for a specified purpose, or to operate a radiocommunications device of a specified kind for a specified purpose.

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 a 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 CMTD CL. Subsection 9(5) of the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023* provides that the frequency bands covered by that instrument may be used for services provided under, and in accordance with, the conditions of a class licence, which includes the CMTD CL.

Under section 138 of the Act, before issuing 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 marketing plan, the ACMA must be satisfied that:

- issuing the class licence would not result in unacceptable levels of interference to the operation of radiocommunications devices, or likely to be operated, under spectrum licences; and
- issuing the class licence would be in the public interest.

The ACMA is satisfied of these matters in relation to the CMTD CL.

Section 138 of the Act also provides that, before issuing such a class licence, the ACMA must consult with all licensees of spectrum licences who may be affected by the proposed class licence. The ACMA consulted with all such licensees in relation to the CMTD CL.

The ACMA has made the *Radiocommunications (Register of Radiocommunications Licences) Amendment Determination 2024 (No. 1)* (the **RRL amendment determination**) under section 147 of the Act and subsection 33(3) of the AIA.

Section 147 of the Act provides that the ACMA may determine, in writing, details relating to the conditions of apparatus licences and about the radiocommunications devices that are operated under radiocommunications licences that are to be contained in the Register of Radiocommunications Licences (the **Register**).

## **Purpose and operation of the instruments**

### *PTS LCD*

The public telecommunications service (**PTS**) licence is a type of transmitter licence issued under the Act. PTS licences are generally used in the provision of public mobile telecommunications services.

The purpose of the PTS LCD is to revoke and replace the *Radiocommunications Licence Conditions (PTS Licence) Determination 2013* (the **2013 PTS LCD**) without making any significant changes to the regulatory arrangements created by the 2013 PTS LCD. The 2013 PTS LCD imposed conditions on PTS licences.

The ACMA has made the PTS LCD because the 2013 PTS LCD was due to “sunset” (i.e. be automatically repealed) on 1 April 2024, in accordance with Part 4 of Chapter 3 of the *Legislation Act 2003* (the **LA**). Following review, and consultation as described below, the ACMA formed the view that the 2013 PTS LCD was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. Accordingly, the ACMA has remade the 2013 PTS LCD by making the PTS LCD, without any significant changes, so that its on-going effect is preserved.

The PTS LCD distinguishes between two kinds of PTS licences:

- PTS (PMTS Class B) licences, which authorise land stations; and
- PTS (PMTS Class C) licences, which authorise stations in aircraft.

The licence conditions specified in the PTS LCD include:

- conditions setting out the types of radiocommunications transmitters operated under PTS licences that are required, and not required, to be included in the Register before their operation;
- conditions providing that the operation of a radiocommunications transmitter not included in the Register must not cause harmful interference to other licensed radiocommunications; and
- conditions prohibiting the operation of radiocommunications transmitters not included in the Register in those frequencies and geographic areas declared for spectrum licensing or covered by spectrum licences.

Operation of a radiocommunications device is not authorised by an apparatus licence (including a PTS licence) if it is not in accordance with the conditions of the licence (subsection 97(4) of the Act). 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 a 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).

It is an offence, and subject to a civil penalty, to possess a radiocommunications device for the purpose of operating the device otherwise than as authorised by a spectrum licence, apparatus licence or class licence (section 47 of the Act). The Act prescribes the same penalties for this offence and civil penalty contravention as for the offence and civil penalty contravention in section 46.

In addition, an apparatus licensee, or a person authorised under section 114 of the Act in relation to an apparatus licence, 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).

#### *CMTD CL*

The purpose of the CMTD CL is to revoke and replace the *Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2014* (the **2014 CMTD CL**) without making any significant changes to the regulatory arrangements created by the 2014 CMTD CL.

The ACMA has made the CMTD CL because the 2014 CMTD CL was due to “sunset” on 1 April 2025, in accordance with Part 4 of Chapter 3 of the LA. Following review, and consultation as described below, the ACMA formed the view that the 2014 CMTD CL was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. Accordingly, the ACMA has remade the 2014 CMTD CL by making the CMTD CL, without any significant changes, so that its on-going effect is preserved.

The CMTD CL authorises the operation of radiocommunications devices that communicate with a radiocommunications transmitter authorised under a PTS licence. A PTS licence is a type of transmitter licence that authorises the operation of base stations that are primarily used to provide public mobile telecommunications services. The devices authorised under the CMTD CL include cellular mobile telephone handsets and nomadic or non-mobile data devices.

In order to manage the potential for interference to other radiocommunications devices that share the same spectrum, the CMTD CL sets out the conditions under which devices must operate. The conditions include requirements that devices operated under the CMTD CL:

- only operate on the licensed frequencies assigned to the base stations that they communicate with;
- not cause interference to radiocommunications;

- comply with all applicable equipment rules made under section 156 of the Act;
- where applicable, comply with each requirement specified in an instrument made under subsection 376(1) of the *Telecommunications Act 1997* (**the Telco Act**);
- where applicable, comply with the labelling requirements of an instrument made under subsection 407(1) of the Telco Act;
- comply with the electromagnetic energy emission requirements specified by the Australian Radiation Protection and Nuclear Safety Agency (**ARPANSA**).

In relation to section 138 of the Act, some PTS licences are issued in spectrum covered by marketing plans, such as the *Radiocommunications Spectrum Marketing Plan (850/900 MHz Band) 2021*. The CMTD CL authorises the operation of radiocommunications devices to communicate with radiocommunications transmitters operated under these PTS licences. However, these PTS licences are issued only to those persons who will, in accordance with the marketing plan and the relevant determination made under section 60 of the Act, be issued spectrum licences in the future. The PTS licences will also eventually be cancelled, in accordance with section 153H of the Act. As such, the ACMA considers that issuing the CMTD CL will not result in unacceptable levels of interference to the operation of radiocommunications devices operated, or likely to be operated, under spectrum licences, and that issuing the CMTD CL is in the public interest, as it will allow the future spectrum licensees to provide public mobile telecommunications services before their spectrum licences commence.

Operation of a radiocommunications device is not authorised by a class licence (including the CMTD CL) if it is not in accordance with the conditions of the licence (subsection 132(3) of the Act). 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 a class licence. The penalties applicable in relation to a contravention of section 46 are set out above.

It is an offence, and subject to a civil penalty, to possess a radiocommunications device for the purpose of operating the device otherwise than as authorised by a spectrum licence, apparatus licence or class licence (section 47 of the Act). The Act prescribes the same penalties for this offence and civil penalty contravention as for the offence and civil penalty contravention in section 46.

#### *RRL amendment determination*

The purpose of the RRL amendment determination is to amend the *Radiocommunications (Register of Radiocommunications Licences) Determination 2017* (the **RRL determination**), which determines the range of information about spectrum, apparatus and class licences to be included in the Register maintained by the ACMA under the Act.

The RRL amendment determination amends the RRL determination to provide that stations operated under a PTS licence do not need to be included on the Register unless there is a condition stated in the licence (this includes, for example, a special condition) or in the PTS LCD or another applicable licence conditions determination.

#### *Generally*

A provision-by-provision description of:

- the PTS LCD is set out in the notes at **Attachment A**.
- the CMTD CL is set out in the notes at **Attachment B**.
- the RRL amendment determination is set out in the notes at **Attachment C**.

Each of the instruments is a legislative instrument for the purposes of the LA, and is disallowable.

Each of the instruments is subject to the sunset provisions in Part 4 of Chapter 3 of the LA.

### **Documents incorporated by reference**

Subsection 314A(1) 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) provisions of any Act as in force at a particular time, or from time to time. Subsection 314A(2) 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) matter contained in any other instrument or writing as in force or existing at a particular time, or from time to time.

The PTS LCD incorporates the RRL Determination, a legislative instrument, as in force from time to time. It also refers to the Act, the AIA, the LA and the *Australian Communications and Media Authority Act 2005* (the **ACMA Act**) without incorporating them.

The CMTD CL incorporates the following legislative instruments, as in force from time to time:

- the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015* (the **Telecommunications Labelling Notice**);
- each standard specified in the table in Schedule 1 to the Telecommunications Labelling Notice that is capable of applying to radiocommunications devices that communicate with radiocommunications transmitters operated under a PTS licence.

The CMTD CL also incorporates the following legislative instruments:

- the *Radiocommunications Equipment (General) Rules 2021*;
- each standard made under repealed section 162 of the Act that is capable of applying to radiocommunications devices that communicate with radiocommunications transmitters operated under a PTS licence.

These legislative instruments are incorporated as in force on the ‘device compliance day’ for each radiocommunications device authorised by the CMTD CL. The ‘device compliance day’ for such a device is the later of the day the device was manufactured in Australia, imported into Australia, or altered or modified in a material respect in Australia.

The CMTD CL also refers to the Act, the AIA, the LA and the ACMA Act without incorporating them.

The RRL amendment determination amends the RRL determination to incorporate any legislative instruments made under section 110A of the Act that makes provision for the inclusion of details of specified matters in the Register. At the time the RRL amendment determination was made, those instruments were the PTS LCD and the *Radiocommunications Licence Conditions (Area-Wide Licence) Determination 2020*.

Each of these Acts and legislative instruments is available, free of charge, from the Federal Register of Legislation ([www.legislation.gov.au](http://www.legislation.gov.au)).

The PTS LCD also incorporates Radio Regulations published by the International Telecommunication Union (the **ITU**). The Radio Regulations contain Articles, Appendixes, Resolutions and Recommendations of the ITU, relating to international radiocommunications coordination. The Radio Regulations are available, free of charge, at [www.itu.int](http://www.itu.int).

The CMTD CL also incorporates the *Radiation Protection Standard for Limiting Exposure to Radiofrequency Fields – 100 kHz to 300 GHz (2021)* (the **ARPANSA standard**) published by ARPANSA, as existing from time to time. The ARPANSA standard is available, free of charge, at [www.arpansa.gov.au](http://www.arpansa.gov.au).

## Consultation

Before the PTS LCD, CMTD CL and RRL amendment determination 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.

Under Part 4 of Chapter 3 of the LA, the 2013 PTS LCD and 2014 CMTD CL were due to ‘sunset’ on 1 April 2024 and 1 April 2025, respectively. The ACMA analysed the instruments and identified that they were necessary and useful parts of the regulatory framework. Given this, the ACMA decided to remake the 2013 PTS LCD and 2014 CMTD CL to ensure their effect would continue to apply. The ACMA proposed to remake the instruments without any significant changes. The ACMA also proposed to make the RRL amendment determination as a consequence of remaking the 2013 PTS LCD.

A draft version of each instrument was released for public consultation on 25 October 2023, together with the consultation paper *Proposal to remake the Public Telecommunication Services Licence Condition Determination and the Cellular Mobile Telecommunication Devices Class Licence* (the **consultation paper**). Consultation closed on 1 December 2023.

The ACMA received two submissions to the consultation, from the Australian Mobile Telecommunications Association and Optus. These submissions were generally supportive of the draft instruments. However, they identified a few editorial changes, clarifications and corrections.

After considering the feedback provided, the ACMA decided to adopt most of the editorial changes and corrections identified.

As the CMTD CL revokes the 2013 CMTD CL, for the purposes of section 136 of the Act, the ACMA published a written notice stating that it proposed to revoke the 2013 CMTD CL, setting out the licence, and inviting interested persons to make representations about the proposed revocation by 1 December 2023. The notice was published on the ACMA’s website and in the *Gazette*.

As the CMTD CL authorises the operation of radiocommunications devices at frequencies in a part of a spectrum covered by a marketing plan, for the purposes of section 138 of the Act, the ACMA consulted with each person who is to be issued with a spectrum licence in accordance with that marketing plan.

## Regulatory impact assessment

A preliminary assessment of the proposal to remake the 2013 PTS LCD and 2014 CMTD CL was conducted by 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 (OIA reference number OIA23-05802). For the PTS LCD and CMTD CL, the OIA advised that, in lieu of a RIS, the ACMA, following consultation, could certify to the OIA that the sunset instruments are operating efficiently and effectively. The ACMA provided this certification to the OIA in March 2024. OIA also advised that a RIS would not be required for the RRL amendment determination because that proposed regulatory change is minor or machinery in nature.

## **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 set out below has been prepared to meet that requirement.

### ***Overview of the instruments***

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.

The PTS LCD specifies conditions that apply to the operation of radiocommunications transmitter under two kinds of PTS licence:

- PTS (PMTS Class B) licences, which authorise land stations; and
- PTS (PMTS Class C) licences, which authorise stations in aircraft.

Subsection 132(1) of the Act provides that the ACMA may, by legislative instrument, issue class licences. A class licence authorises any person to operate a radiocommunications device of a specified kind or for a specified purpose, or to operate a radiocommunications device of a specified kind for a specified purpose.

The CMTD CL authorises the operation of radiocommunications devices that communicate with a radiocommunications transmitter authorised under a PTS licence, subject to several conditions.

Section 147 of the Act provides that the ACMA may determine, in writing, details relating to the conditions of apparatus licences and about the radiocommunications devices that are operated under radiocommunications licences that are to be contained in the Register of Radiocommunications Licences.

The RRL amendment determination contains provisions such that radiocommunications transmitters operated under a PTS licence do not need to be included on the Register unless there is a condition stated in the licence (this includes, for example, a special condition) or in the PTS LCD (or a like instrument made under section 110A of the Act) requiring the inclusion of the information.

### ***Human rights implications***

The ACMA has assessed whether the PTS LCD, CMTD CL and RRL amendment determination 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*.

Having considered the likely impact of the PTS LCD, CMTD CL and RRL amendment determination and the nature of the applicable rights and freedoms, the ACMA has formed the view that the PTS LCD, CMTD CL and RRL amendment determination do not engage any of those rights or freedoms.

### ***Conclusion***

Each of the PTS LCD, CMTD CL and RRL amendment determination is compatible with human rights as it does not raise any human rights issues.

**Notes to the *Radiocommunications Licence Conditions (PTS Licence) Determination 2024***

**Part 1 – Preliminary**

**Section 1 Name**

This section provides for the PTS LCD to be cited as the *Radiocommunications Licence Conditions (PTS Licence) Determination 2024*.

**Section 2 Commencement**

This section provides for the PTS LCD to commence on the day after the day it is registered on the Federal Register of Legislation.

The Federal Register of Legislation may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

**Section 3 Authority**

This section identifies the provision of the Act that authorises the making of the PTS LCD, namely subsection 110A(2) of the Act.

**Section 4 Repeal of the *Radiocommunications Licence Conditions (PTS Licence) Determination 2013***

This section repeals the *Radiocommunications Licence Conditions (PTS Licence) Determination 2013* (F2014L00045).

**Section 5 Interpretation**

This section defines a number of key terms used throughout the PTS LCD.

A number of other expressions are defined in the Act and the *Radiocommunications (Interpretation) Determination 2015* (the **Interpretation Determination**).

This section also provides that emission designators are determined using the methods specified in the Radio Regulations. When determining the emission designator the term “necessary bandwidth” for a given class of emission is taken to be a reference to the “occupied bandwidth” of the transmitter.

This section also provides that, in the PTS LCD, a reference to a part of the spectrum or a frequency band includes all frequencies that are greater than but not including the lower frequency, up to and including the higher frequency.

**Section 6 References to other instruments**

This section provides that in the PTS LCD, 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.



## **Part 2 Conditions – PMTS Class B**

### **Section 7 Application and interpretation of Part 2**

Section 7 provides that every PTS licence (PMTS Class B) is subject to the conditions specified in Part 2, except when a condition is specified in the licence under paragraph 107(1)(g) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act that is inconsistent with a condition in Part 2.

### **Section 8 Condition – registration of devices**

Section 8 provides that, other than a radiocommunications transmitter that is, or is part of, a ‘registration exempt station’, a radiocommunications transmitter must not be operated unless its details are included in the Register and the transmitter complies with those details.

Registration exempt stations are those stations with transmitters operated under a PTS licence that, among other things, have a fixed indoor antenna and are operated with a radiated true mean power not greater than 24 dBm EIRP per occupied bandwidth. These transmitters are unlikely to cause interference to licensed radiocommunications, and so the ACMA considers their details need not be included in the Register.

The ACMA does not intend to afford protection from harmful interference to registration exempt stations, where the interference is caused by licensed radiocommunications.

### **Section 9 Condition – registration exempt stations and harmful interference**

Section 9 provides that a person must not operate a radiocommunications transmitter that is, or is part of, a registration exempt station if it would cause harmful interference to other licensed radiocommunications.

### **Section 10 Condition – repeater stations and harmful interference**

Section 10 provides that a person must not operate a radiocommunications transmitter that is, or is part of, a repeater station (other than a repeater station that is a registration exempt station) if it would cause harmful interference to other licensed radiocommunications. The ACMA generally will not afford protection from harmful interference to a repeater station where the interference is caused by licensed radiocommunications.

### **Section 11 Condition – repeater stations and authorised frequencies**

Section 11 provides that a person must only operate a radiocommunications transmitter that is, or is part of, a repeater station within the frequency ranges authorised for operation of a base station by the relevant PTS licence. Accordingly, if a PTS licence does not specify particular frequencies for operation of a repeater station, the repeater station can only operate on the frequencies specified for a base station in the PTS licence.

### **Section 12 Condition – registration exempt stations not authorised to operate in same parts of the spectrum and geographic areas declared for spectrum licensing**

Section 12 provides that, a person must not operate a radiocommunications transmitter that is, or is part of, a registration exempt station within the frequencies and geographic areas specified in a re-allocation declaration made under Part 3.6 of the Act on or after the day the re-allocation period for the declaration ends.

A PTS licence will likely not specify a particular location from which registration exempt stations must be operated. In that case, a registration exempt station could be operated in any part of Australia.

This means that the PTS licence could be cancelled under section 153H of the Act as a result of a spectrum re-allocation declaration that specifies a smaller geographic area than Australia, whether or not any base stations or repeater stations (other than registration exempt stations) are authorised to operate in that geographic area. This condition will ensure that each PTS licence is not cancelled under section 153H of the Act, unless the licence provides specifically that base stations or repeater stations (other than registration exempt stations) are authorised to operate in that geographic area.

### **Section 13 Condition – registration exempt stations not authorised to operate in same frequencies and areas as covered by a spectrum licence**

Section 13 provides that, a person must not operate a radiocommunications transmitter that is, or is part of, a registration exempt station within the frequencies and geographic areas specified in a spectrum licence.

A PTS licence will likely not specify a particular location from which registration exempt stations must be operated. In that case, a registration exempt station could be operated in any part of Australia. This means that the PTS licence might be issued inconsistently with section 105 of the Act. This condition will ensure that PTS licences will be issued consistently with section 105 of the Act.

## **Part 3 Conditions – PMTS Class C**

### **Section 14 Application of Part 3**

Section 14 provides that every PTS licence (PMTS Class C) is subject to the conditions specified in Part 3, except when a condition is specified in the licence under paragraph 107(1)(g) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act that is inconsistent with a condition in Part 3.

### **Section 15 Condition – registration of devices**

Section 15 imposes a condition that is equivalent to the condition in section 8 in relation to a PTS licence (PMTS Class B). However, slightly different information is required to be included in the Register.

### **Section 16 Condition – registration exempt stations not authorised to operate in same parts of the spectrum and geographic areas declared for spectrum licensing**

Section 16 imposes a condition that is equivalent to the condition in section 12 in relation to a PTS licence (PMTS Class B).

### **Section 17 Condition – registration exempt stations not authorised to operate in same frequencies and areas as covered by a spectrum licence**

Section 17 imposes a condition that is equivalent to the condition in section 13 in relation to a PTS licence (PMTS Class B).

### **Section 18 Condition – on-ground operation**

Section 18 provides that a person must not operate a radiocommunications transmitter under a PTS licence (PMTS Class C) that is on board an aircraft that is not in the air, except in the following circumstance:

- the transmitter is being operated solely for the purposes of testing and maintenance of the transmitter, or of the station the transmitter is part of; and

- operation of the transmitter does not cause harmful interference to other licensed radiocommunications.

**Notes to the *Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2024***

**Part 1 Preliminary**

**Section 1 Name**

This section provides for the CMTD CL to be cited as the *Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2024*.

**Section 2 Commencement**

This section provides for the CMTD CL to commence on the day after the day it is registered on the Federal Register of Legislation.

The Federal Register of Legislation may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

**Section 3 Authority**

This section identifies the provision of the Act that authorises the making of the CMTD CL, namely section 132 of the Act.

**Section 4 Repeal**

This section repeals the *Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2014* [F2014L01794].

**Section 5 Interpretation**

This section defines a number of key terms used throughout the CMTD CL.

A number of other expressions used in the CMTD CL are defined in the Act and the Interpretation Determination.

This section also provides that, in the CMTD CL, a reference to a part of the spectrum or a frequency band includes all frequencies that are greater than but not including the lower frequency, up to and including the higher frequency.

**Section 6 References to other instruments**

This section provides that in the CMTD CL, 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.

**Part 2 Class licence**

**Section 7 Class licence**

Section 7 authorises a person to operate a radiocommunications device to communicate with a ‘PTS device’, subject to the conditions in Part 3. However, the CMTD CL does not authorise a person to operate a radiocommunications device if operation of that device is otherwise authorised by an apparatus licence. A PTS device is a radiocommunications device that is part of a station, if operation of a radiocommunications transmitter that is part of that station is authorised by a PTS licence.

## **Part 3 Conditions**

### **Section 8 Operation – communication with PTS devices**

Section 8 provides that a person must not operate the radiocommunications device otherwise than to communicate with a PTS device.

### **Section 9 Operation – authorised frequencies**

Section 9 provides that a person must only operate:

- a radiocommunications receiver to communicate with a PTS transmitter on the frequencies the PTS transmitter is authorised to operate within by the relevant PTS licence;
- a radiocommunications transmitter to communicate with a PTS receiver on the frequencies the PTS receiver is authorised to operate within by the relevant PTS licence.

### **Section 10 Operation – interference**

Section 10 provides that a person must not operate a radiocommunications device if the operation causes interference to licensed radiocommunications. The ACMA generally will not afford protection from harmful interference to radiocommunications involving a radiocommunications device operated under the CMTD CL.

### **Section 11 Operation – compliance with labelling and related requirements**

Subsections 11(1) and 11(2) provide that a person must not operate a radiocommunications device that is customer equipment unless:

- the manufacturer or importer of the device has complied with each requirement (if any) in relation to the device imposed on the manufacturer or importer by an instrument made under subsection 407(1) of the *Telecommunications Act 1997* (currently, the Telecommunications Labelling Notice); and
- the device complies with each requirement (if any) specified for the device specified in an instrument made under subsection 376(1) of the *Telecommunications Act 1997*.

Generally speaking, it is unlawful for a manufacturer or importer to supply a device unless a label has been applied to the device in accordance with the Telecommunications Labelling Notice (section 413 of the *Telecommunications Act 1997*). The label is the Regulatory Compliance Mark; more information about the Regulatory Compliance Mark is available from the ACMA [website](#). Under sections 6 and 20 of the Telecommunications Labelling Notice, before supplying a device which has a label applied to it, the manufacturer or importer of the device (or their agent) must declare a number of matters, including that they are reasonably satisfied that the device complies with the requirements of each instrument made under subsection 376(1) of the *Telecommunications Act 1997* that applies to the device.

Subsection 11(4) provides that a person must not operate a radiocommunications device unless:

- the device complies with each requirement (if any) specified for the device in any standard applicable to the device, as in force on the device compliance day – if the device compliance day for the device occurs on or after 1 March 2003 but before 17 June 2021; or
- the operation of the device would not contravene a prohibition or obligation in any equipment rules (currently, the *Radiocommunications Equipment (General) Rules 2021*), as in force on

the device compliance day – if the device compliance day for the device occurs on or after 17 June 2021.

Subsection 11(5) provides that, for paragraph 11(4)(a), ‘standard’ has the same meaning as in the Act, as in force immediately before 17 June 2021 (that is, it was a standard made under section 162 of the Act, which has since been repealed).

Generally speaking, it is unlawful for a manufacturer or importer to supply a device unless a label has been applied to the device in accordance with the *Radiocommunications Equipment (General) Rules 2021* or the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2017* (Part 5 of the *Radiocommunications Equipment (General) Rules 2021* and section 160 of the Act). The label is the Regulatory Compliance Mark. It is also unlawful for the manufacturer or importer to supply a device unless it complies with particular requirements set out in the *Radiocommunications (Electromagnetic Compatibility) Standard 2017* or Schedules 4 and 5 to the *Radiocommunications Equipment (General) Rules 2021* (Parts 2, 3 and 4 of the *Radiocommunications Equipment (General) Rules 2021* and section 160 of the Act). Transitional provisions in those Schedules make provision for the effect of standards made under repealed section 162 of the Act, where the device compliance day for a device occurred while those standards were still in force.

Subsection 11(6) provides that a person must not operate a radiocommunications device unless it complies with the electromagnetic energy emission requirements specified in the ARPANSA standard in any place accessible by the public.

**Notes to the *Radiocommunications (Register of Radiocommunications Licences) Amendment Determination 2024 (No. 1)***

**Section 1 Name**

This section provides for the RRL amendment determination to be cited as the *Radiocommunications (Register of Radiocommunications Licences) Amendment Determination 2024 (No. 1)*.

**Section 2 Commencement**

This section provides for the RRL amendment determination to commence on the day after the day it is registered on the Federal Register of Legislation.

The Federal Register of Legislation may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

**Section 3 Authority**

This section identifies the provision of the Act that authorises the making of the RRL amendment determination, namely section 147 of the Act.

**Section 4 Schedule 1 – Amendments**

This section provides that the RRL determination is amended as set out in Schedule 1.

**Schedule 1—Amendments**

**Item 1**

This item inserts the terms area-wide licence, area-wide receive licence and PTS licence into note 2 to section 5 of the RRL determination. Note 2 sets out which expressions in the RRL determination are defined in the Interpretation Determination.

**Items 2 to 5**

These items repeal subsections 10(4A), 10(5A), 10(6A) and 10(7A) of the RRL determination and replace them with new provisions. The provisions previously provided that certain details relating to area-wide licences and area-wide receive licences did not need to be included in the Register, unless a condition of the licence provided otherwise. The new provisions retain that effect, but now also apply expressly to PTS licences.