

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2024***

### **Authority**

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2024* (the **instrument**) under paragraph 7(1)(b) and subsection 98(1) of the *Radiocommunications Act 1992* (the **Act**), and under subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Paragraph 7(1)(b) of the Act provides that for the purposes of the Act, a radiocommunications receiver of a kind specified in a written determination made by the ACMA for the purposes of that paragraph is a radiocommunications device.

Under subsection 98(1) of the Act, the ACMA may, by legislative instrument, determine the types of transmitter licences and the types of receiver licences that it may issue.

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 the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

### **Purpose and operation of the instrument**

The instrument repeals and remakes the *Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2014* (**Types Determination 2014**). It does so without making any significant changes to the regulatory arrangements created by the Types Determination 2014.

The purpose and operation of the instrument is twofold. First, it specifies that certain kinds of radiocommunications receivers are radiocommunications devices for the purposes of the Act. In doing so, the instrument makes those radiocommunications receivers subject to provisions in the Act that regulate the possession, operation, and supply of radiocommunications devices.

The instrument specifies radiocommunications receivers that are, or form part of, one of 6 types of station:

- (a) an area-wide receive station;
- (b) a defence receive station;
- (c) an earth receive station;
- (d) a fixed receive station;
- (e) a major coast receive station;
- (f) a space receive station.

Second, the instrument specifies the types of transmitter licences and receiver licences that the ACMA may issue under the Act. The instrument specifies 17 types of transmitter licence and 6 types of receiver licence.

The ACMA has made the instrument because the Types Determination 2014 was due to be automatically repealed (or ‘sunset’) on 1 April 2025 by operation of Part 4 of Chapter 3 of the *Legislation Act 2003* (the LA).

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

The instrument is a legislative instrument for the purposes of the LA and is disallowable.

The instrument is subject to the sunset provisions in Part 4 of Chapter 3 of the LA.

### **Documents incorporated by reference**

The instrument does not incorporate any document by reference.

### **Consultation**

Before the instrument was 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 17 June 2024 and 9 August 2024, both inclusive, the ACMA consulted on a proposal to make the instrument. The ACMA published a consultation paper and draft of the instrument on its website. The consultation paper sought comments on the ACMA’s proposal to repeal and remake the Types Determination 2014. The paper also explained the nature of, and the reasons for, some minimal differences between the Types Determination 2014 and the draft instrument: the reordering of the stations specified in section 6 of the instrument into alphabetic order; the insertion of the word ‘licence’ after the names of the transmitter licences and receiver licences specified in Schedule 1 and Schedule 2 to the instrument, respectively; the reordering of those transmitter licences and receiver licences into alphabetical order; and other changes were of a formatting and grammatical nature.

The ACMA received no submissions in response to the consultation paper.

### **Regulatory impact assessment**

A preliminary assessment of the proposal to make the instrument was conducted by the Office of Impact Analysis (OIA), based on information provided by the ACMA, for the purposes of determining whether detailed impact analysis was required. OIA advised that this was not required because the proposed changes were only administrative in nature and would not change existing compliance requirements or impose new compliance requirements (OIA reference number OIA24-07452).

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

### ***Overview of the instrument***

The instrument is made under paragraph 7(1)(b) and subsection 98(1) of the Act.

The instrument repeals and remakes the *Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2014*.

The instrument has two substantive purposes. First, it specifies that certain kinds of radiocommunications receivers are radiocommunications devices for the purposes of the Act. In doing so, the instrument makes those receivers subject to provisions in the Act that regulate the possession, operation, and supply of radiocommunications devices. Second, it specifies the types of transmitter licence and receiver licence that the ACMA may issue for the purposes of section 97 of the Act.

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

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection (3)(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

### ***Conclusion***

The instrument is compatible with human rights as it does not raise any human rights issues.

**Notes to the *Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2024***

**Section 1 Name**

This section provides for the instrument to be cited as the *Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2024*.

**Section 2 Commencement**

This section provides for the instrument to commence at the start of the day after it is registered on the Federal Register of Legislation. 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 provisions of the Act under which the instrument is made, namely paragraph 7(1)(b) and subsection 98(1).

**Section 4 Repeal**

Section 4 provides that the Types Determination 2014 is repealed.

**Section 5 References to other instruments**

This section provides that where the instrument refers to other legislative instruments, the references are to those legislative instruments as they are in force from time to time. Similarly, references to any other instrument or writing are also to them as they are in force or existence from time to time.

**Section 6 Radiocommunications receivers**

This section specifies which radiocommunications receivers are radiocommunications devices for the purposes of the Act. A radiocommunications receiver is a radiocommunications device for the purposes of paragraph 7(1)(b), if it is, or forms part of, one of 6 types of station.

**Section 7 Transmitter licences**

This section provides that the ACMA may issue a type of transmitter licence that is specified in column 2 of an item in Schedule 1.

**Section 8 Receiver licences**

This section provides that the ACMA may issue a type of receiver licence that is specified in column 2 of an item in Schedule 2.

**Schedule 1—Transmitter licences**

Schedule 1 specifies the 17 types of transmitter licence that the ACMA may issue.

**Schedule 2—Receiver licences**

Schedule 2 specifies the 6 types of receiver licence that the ACMA may issue.