

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Communication with Space Object) Class Licence 2025

Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Communication with Space Object) Class Licence 2025* (the **instrument**) under section 132 of the *Radiocommunications Act 1992* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (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 instrument. 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 instrument.

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 a 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 operated, or likely to be operated, under spectrum licences; and
- issuing the class licence would be in the public interest.

The ACMA must also consult with all affected spectrum licensees. The instrument does not authorise the operation of radiocommunications devices at such frequencies.

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

It is generally a requirement of the Act that the operation of all kinds of radiocommunications transmitters, and specified radiocommunications receivers as determined by the ACMA be authorised by a radiocommunications licence. Radiocommunications transmitters include earth stations, and specified radiocommunications receivers include earth receive stations.

A class licence is one kind of licence available to authorise the operation of radiocommunications devices. It is an effective and efficient means of spectrum management for services where a limited set of common frequencies is employed, and equipment is operated under a common set of conditions.

A class licence sets out the conditions under which any person is permitted to operate any device to which the class licence is applicable; it is not issued to an individual user, and does not involve the payment of licence fees. Class licences are issued by the ACMA as legislative instruments and are registered on the Federal Register of Legislation.

The purpose of the instrument is to regulate the reception of radio emissions by earth receive stations from space stations on board space objects, and the transmission of radio emissions by earth stations to space receive stations on board space objects. It authorises any person to operate a station for the purpose of communication with an Australian or foreign space object whose stations are authorised by a space licence or space receive licence.

A person operating a station for the purpose of communication with an Australian or foreign space object must comply with the conditions set out in the instrument, including:

- the station must operate only in the specified frequency ranges;
- the station must comply with any applicable equipment rules and standards;
- the station must not interfere with the operation of a radiocommunications receiver;
- for a receiving station in certain frequency ranges, the operation is on the basis of no protection from interference.

The instrument repeals and replaces the *Radiocommunications (Communication with Space Object) Class Licence 2015* (the **2015 class licence**).

The ACMA has made the instrument because the 2015 class licence was due to “sunset” on 1 October 2025, in accordance with Part 4 of Chapter 3 of the *Legislation Act 2003* (the **LA**). The instrument replicates the 2015 class licence with one minor change to remove subsection 7(2) and associated definitions in subsection 4(1) regarding operation of a maritime ship station in the Global Maritime Distress and Safety System. These requirements are addressed in other legislative instruments made by the ACMA in relation to maritime ship stations.

Operation of a radiocommunications device is not authorised by a class licence (including the instrument) 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 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 \$495,000 based on the current penalty unit amount of \$330);
- if the radiocommunications device is not a radiocommunications transmitter – 20 penalty units (\$6,600).

The Act prescribes the following maximum civil penalties:

- if the radiocommunications device is a radiocommunications transmitter – 300 penalty units (\$99,000);
- if the radiocommunications device is not a radiocommunications transmitter – 20 penalty units (\$6,600).

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.

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 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 instrument incorporates part or all of the following Acts and legislative instruments, or otherwise refers to them, as in force from time to time:

- the Act;
- the AIA;
- the *Australian Communications and Media Authority Act 2005*;
- the *Australian Radiofrequency Spectrum Plan 2021*;
- the *Civil Aviation Act 1988*;
- the LA;
- the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023*;
- the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* (the **Reform Act**);
- the *Radiocommunications (Mobile-Satellite Service) (1980–2010 MHz and 2170–2200 MHz) Frequency Band Plan 2022*.

The Acts and legislative instruments listed above may be accessed, free of charge, from the Federal Register of Legislation (www.legislation.gov.au).

The instrument also incorporates part or all of the following documents, or otherwise refers to them, as existing from time to time:

- the Australian Spectrum Map Grid 2012, published by the ACMA;
- ITU-R Resolution 169 Use of the frequency bands 17.7-19.7 GHz and 27.5-29.5 GHz by earth stations in motion communicating with geostationary space stations in the fixed-satellite service, published by the International Telecommunication Union (ITU);
- the *Radiation Protection Standard for Limiting Exposure to Radiofrequency Fields – 100 kHz to 300 GHz* (2021) (**ARPANSA Standard**), published by the Australian Radiation Protection and Nuclear Safety Agency;
- the Radiocommunications Assignment and Licensing Instruction No. SM 26, *Restrictions on Apparatus Licensing in Spectrum Licensed Spaces* (**RALI SM 26**), published by the ACMA.

The two documents published by the ACMA may be accessed, free of charge, from the ACMA website (www.acma.gov.au). The document published by the Australian Radiation Protection and Nuclear Safety Agency may be accessed, free of charge, from its website (www.arpsa.gov.au). The ITU-R Resolution may be accessed, free of charge, from the ITU's website (www.itu.int).

Consultation

Before making the instrument, the ACMA was satisfied that the consultation undertaken was appropriate and reasonably practicable, in accordance with section 17 of the LA.

Subsections 136(2) and (2A) of the Act require that, before revoking a class licence, a written notice outlining the details of the revocation be published on the ACMA's website, and in one or more other forms that are readily accessible by the public. The notice must allow for a period of at least one month to be provided for public comment.

On 27 November 2024, the ACMA published a written notice under subsections 136(2) and (2A) of the Act about the proposed revocation of the 2015 class licence on its website and in the Government Notices Gazette, and invited interested persons to make representations about the proposed revocation.

On 28 November 2024, the ACMA commenced a public consultation on a proposal to remake the 2015 class licence. The ACMA published a page on its website describing the issues for comment, the process for contributing to the consultation and provided a copy of a consultation paper and a draft of the instrument.

The consultation paper proposed remaking the 2015 class licence with one minor change to remove subsection 7(2) and associated definitions in subsection 4(1) regarding operation of a maritime ship station in the Global Maritime Distress and Safety System.

The consultation closed on 17 January 2024. The ACMA received 5 written submissions in response to the consultation, which are available on the ACMA website. All respondents supported the proposals or had no objections.

The ACMA did not make any changes to the draft instrument.

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 a Regulation Impact Statement (RIS) would be required. OIA advised that a RIS would not be required because the proposed regulatory change is minor or machinery in nature (OIA reference number OIA24-08498).

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 (disallowance) of the LA applies 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 instrument

Subsection 132(1) of the Act provides that the ACMA may, by legislative instrument, issue a class licence. 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 purpose of the instrument is to regulate the reception of radio emissions by earth receive stations from space stations on board space objects, and the transmission of radio emissions by earth stations to space receive stations on board space objects. It authorises any person to operate a station for the purpose of communication with an Australian or foreign space object whose stations are authorised by a space licence or space receive licence.

A person operating a station for the purpose of communication with an Australian or foreign space object must comply with the conditions set out in the instrument, including:

- the station must operate only in the specified frequency ranges;
- the station must comply with any applicable equipment rules and standards;
- the station must not interfere with the operation of a radiocommunications receiver;
- for a receiving station in certain frequency ranges, the operation is on the basis of no protection from interference.

Human rights implications

The ACMA has assessed whether the instrument is 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 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 (Communication with Space Object) Class Licence 2025*

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Communication with Space Object) Class Licence 2025*.

Section 2 Commencement

This section provides for the instrument to commence at the start of 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.

Section 3 Authority

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

Section 4 Repeal

This section repeals the *Radiocommunications (Communication with Space Object) Class Licence 2015 [F2015L01486]*.

Section 5 Interpretation

This section defines terms used in the instrument.

A number of other expressions used in the instrument are defined in the Act or in determinations made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005*.

Section 6 References to other instruments

This section provides that in the instrument, 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 Class licence

This section sets out the circumstances in which operation of a station, for the purpose of communication with a space object, is authorised.

Subsection 7(1) authorises any person to operate a station to which the instrument applies for the purpose of communicating with or through a station on a space object which is authorised by a space licence or space receive licence. This operation is subject to subsection 7(2) and the conditions set out in sections 8, 9, 10 and 11.

Subsection 7(2) provides that the instrument does not apply to stations located on a space object or to stations that are authorised by an apparatus licence to operate for a purpose that is substantially the same as is authorised by the instrument.

Section 8 Authorised frequencies

This section sets out the frequencies authorised for transmission or reception by a station operating under the instrument.

Section 9 Equipment rules and standards

This section requires that stations operated under the instrument must comply with certain equipment rules and standards.

Subsection 9(1) provides that a station operated under the instrument must comply with any standard or equipment rules applicable to it, as in force on the ‘device compliance day’ for the station. This is the later of the day the station was either manufactured in Australia or imported, and the day (if any) the station was altered or modified in a material respect in Australia.

Subsection 9(2) requires that a person must not operate a station under the instrument if the electromagnetic energy emitted by the station in a place accessible by the public exceeds the general public exposure limits specified in the ARPANSA Standard. The ARPANSA Standard is available, free of charge, from the website of the Australian Radiation Protection and Nuclear Safety Agency at www.arpansa.gov.au.

Subsection 9(3) specifies that the term “standard” used in paragraph 9(1)(a) is defined in section 5 of the Act, as in force immediately before the commencement of the Reform Act.

Section 10 Interference with other stations

This section:

- provides that the operation of a station under the instrument must not interfere with the operation of a radiocommunications receiver; and
- specifies certain technical parameters and operating limits that must be observed when operating a station under the instrument.

Subsection 10(1) provides that operation of a station under the instrument must not interfere with the operation of a radiocommunications receiver.

Subsection 10(2) provides that the operation of a station under the instrument is taken to not interfere with the operation of an area-wide receive station that is:

- operating under an area-wide receive licence in the frequency band of 27.5 GHz to 28.1 GHz that is located outside a ‘26 GHz band spectrum licence area’ (which areas are set out in RALI SM 26); or
- operating under an area-wide receive licence in the frequency band of 28.1 GHz to 29.5 GHz.

Subsection 10(3) specifies conditions that apply if a station is operated under the instrument in the frequency bands 1610 MHz to 1626.5 MHz and 1670 MHz to 1675 MHz within 20 kilometres of a radio astronomy observatory mentioned in Australian footnote reference AUS87 of the spectrum plan. In such circumstances the operator of the station must seek advice from the operator of the radio astronomy observatory about when it may operate the station and operate the station consistently with that advice.

Subsection 10(4) provides that the operator of a radio astronomy observatory may give advice to a person for the purposes of subsection 10(3).

Subsection 10(5) provides that a station may not be operated under the instrument in the frequency bands of 1660 to 1660.5 MHz and 1668 MHz to 1670 MHz when the station is within 500 kilometres

of a radio astronomy observatory mentioned in Australian footnote reference AUS87 of the spectrum plan or when the station is on board an aircraft that is in the air.

Subsection 10(6) requires that stations cannot operate in the frequency range 1673.38 MHz to 1675 MHz if their emissions exceed -128.1 dBm/4 MHz for more than 20% of the time at the receiver antenna output of any licensed earth receive station.

Subsection 10(7) provides that a station must not be operated in the frequency band 2005 MHz to 2010 MHz unless both:

- the radiocommunications transmitter of the station is not on board an aircraft that is in the air; and
- the emissions of the radiocommunications transmitter above 2010 MHz do not exceed an equivalent isotropically radiated power (**EIRP**) of -66 dBW for each MHz.

Subsection 10(8) requires that a station must not be operated in the frequency band 2005 to 2010 MHz in a metropolitan area unless each of the following applies:

- the emissions of the radiocommunications transmitter of the station do not exceed a maximum EIRP of 0.5 dBW for each MHz; and
- the maximum duty cycle of the radiocommunications transmitter does not exceed 1% averaged over a 15-minute period; and
- each transmission of the radiocommunications transmitter does not exceed 4 seconds in duration.

Subsection 10(9) provides that stations can only operate in the frequency range of 27.5 GHz to 28.3 GHz on land if each of the following applies:

- the radiocommunications transmitter of the station is not operated in the frequency band 27.5 GHz to 28.1 GHz in a 26 GHz band spectrum licence area; and
- when operated in the frequency band 28.1 GHz to 28.3 GHz in a 26 GHz band spectrum licence area, the radiocommunications transmitter is not operated within the greater of:
 - 50 MHz above 28.1 GHz; or
 - twice the occupied bandwidth of the radiocommunications transmitter above 28.1 GHz; and
- when operated in the frequency band 27.5 GHz to 28.1 GHz outside a 26 GHz band spectrum licence area, the emissions of that radiocommunications transmitter do not exceed a maximum EIRP to the horizon of -17.8 dBW in a 1 MHz bandwidth within 30 kilometres of a 26 GHz band spectrum licence area; and
- when operated in the frequency band 27.5 GHz to 27.7 GHz outside a 26 GHz band spectrum licence area, that radiocommunications transmitter is not operated within the greater of:
 - 50 MHz above 27.5 GHz; or
 - twice the occupied bandwidth of the radiocommunications transmitter above 27.5 GHz.

Subsection 10(10) provides that a station must not be operated in the frequency band 27.5 GHz to 28.3 GHz on board an aircraft that is in the air unless the radiocommunications transmitter of the station does not exceed the maximum power flux density limits specified in clause 3.1 of Part II: Aeronautical ESIMs of Annex 3 to ITU-R Resolution 169 (WRC-19) for any emissions that fall in the frequency band 27.5 GHz to 28.1 GHz in a 26 GHz band spectrum licence area.

Subsection 10(11) provides that a station must not be operated in the frequency band 27.5 GHz to 28.3 GHz on board a ship unless the radiocommunications transmitter of the station does not exceed a

power flux density on the shore of -112.2 dBW per square metre for each MHz, at a height of 30 metres above ground level, for any emissions that fall in the frequency band 27.5 GHz to 28.1 GHz in a 26 GHz band spectrum licence area.

Subsection 10(12) provides that the instrument does not authorise the operation of a station in a way that is inconsistent with the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023*, as in force from time to time

Section 11 Interference to certain receiving stations

This section provides that the operation of a station for reception in the following frequency bands is not protected from interference caused by a point to point station:

- 10.7 GHz to 11.7 GHz;
- 18.2 GHz to 18.8 GHz;
- 19.3 GHz to 19.7 GHz.