

Automatic sunseting of  
legislative instruments:  
**Remaking the Types Determination and  
allowing the Fixed Receive Licence LCD  
and the Accreditation Body Determination  
to ‘sunset’**  
Consultation paper

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# Background

Under Part 4 of Chapter 3 of the *Legislation Act 2003*, most legislative instruments ‘sunset’ (that is, they are automatically repealed) on 1 April or 1 October that first occurs 10 years after they are registered. This is an automatic process applying to most legislative instruments regardless of their particular content.

The below legislative instruments made by the Australian Communications and Media Authority (the ACMA) are due to sunset on the dates listed:

| Name of instrument  | Sunset date    |
|---|----------------|
| 1. Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2014 | 1 April 2025   |
| 2. Radiocommunications Licence Conditions (Fixed Receive Licence) Determination 2015  | 1 October 2025 |
| 3. Radiocommunications (Accreditation Body) Determination 2014  | 1 October 2024 |

We have formed the preliminary view that the first instrument is operating effectively and efficiently and, as such, continues to form a necessary and useful part of the legislative framework. Accordingly, we propose to remake it in a new instrument before the sunset date with only minor, necessary changes as outlined in this paper, so that its ongoing effect is preserved, and to retitle it:

- > Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2024.

We are not proposing to remake the second or third instruments, and instead propose to allow them to sunset.

# Details of what each of the legislative instruments does

## **Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2014**

The [Radiocommunications \(Specified Receivers and Types of Transmitter Licences and Receiver Licences\) Determination 2014](#) (the 'Types Determination') is made under paragraph 7(1)(b) and subsection 98(1) of the *Radiocommunications Act 1992* (the Act).

Under paragraph 7(1)(b) of the Act, the ACMA may determine that specified kinds of radiocommunications receivers are radiocommunications devices for the purposes of the Act. Under subsection 98(1) of the Act, the ACMA may determine, by legislative instrument, the types of transmitter licence and the types of receiver licence that it may issue.

Under section 4 of the Types Determination, a radiocommunications receiver is specified if it is, or forms part of, one of 6 types of station:

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

The Types Determination specifies 17 types of transmitter licence that the ACMA may issue. These are specified in Schedule 1 to the Types Determination. The Types Determination also specifies that there are 6 types of receiver licence that the ACMA may issue. These are specified in Schedule 2 to the Types Determination.

## **Radiocommunications Licence Conditions (Fixed Receive Licence) Determination 2015**

The [Radiocommunications Licence Conditions \(Fixed Receive Licence\) Determination 2015](#) (the 'Fixed Receive Licence LCD') was made under paragraph 107(1)(f) of the Act, before the commencement of the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* (the 'Reform and Modernisation Act').

Under that paragraph, an apparatus licence was subject to such conditions (if any) as the ACMA determined by legislative instrument in relation to that particular type of apparatus licence. After the Reform and Modernisation Act began, the relevant equivalent provision is subsection 110A(2). A transitional provision in the Reform and Modernisation Act provides that a determination made under paragraph 107(1)(f) that was in force immediately before the commencement of the Reform and Modernisation Act has effect as if it had been made under subsection 110A(2).

A fixed receive licence is a type of receiver licence specified by the ACMA in the Types Determination. The Radiocommunications (Interpretation) Determination 2015 defines a fixed received licence as a licence issued for one or more fixed stations:

- (a) that are used only for receiving messages; and
- (b) that are not capable of transmitting messages of any kind; and
- (c) for which the ACMA, or a person accredited under section 263 of the Act, undertakes coordination procedures for the purpose of minimising interference to reception.

The Fixed Receive Licence LCD includes only one condition for a fixed licence. That condition is about the technical performance of an antenna and the requirement for the equipment to comply with any applicable standard made under section 162 of the Act.

## **Radiocommunications (Accreditation Body) Determination 2014**

The [Radiocommunications \(Accreditation Body\) Determination 2014](#) (the 'Accreditation Body Determination') was made under subsection 183(1) of the Act, before the Reform and Modernisation Act began. The Accreditation Body Determination specified the National Association of Testing Authorities, Australia (NATA) as an accreditation body for the purposes of that section. The role of an accreditation body was important for the operation of labelling notices under repealed section 182 of the Act.

As a result of the Reform and Modernisation Act, labelling notices and the Accreditation Body Determination have been replaced by equipment rules. The Radiocommunications Equipment (General) Rules 2021 (the 'General Equipment Rules') performs much the same role as the Accreditation Body Determination in giving particular powers to NATA in relation to labelling requirements.

# Proposed changes to the Types Determination

We consider that the Types Determination is operating effectively and efficiently. It forms a necessary part of the legislative framework, particularly the apparatus licensing regime in Part 3.3 of the Act.

Therefore, we are proposing to remake the Types Determination without significant change. The only changes we are suggesting are minor and machinery in nature and considered necessary for the purposes of repealing and replacing the instrument.

The changes proposed are:

- > correcting typographical or grammatical errors
- > inserting the word 'licence' after each type of transmitter and receiver listed in Schedules 1 and 2
- > listing all licence types in alphabetical order.

A draft of the Radiocommunications (Specified Radiocommunications and Types of Transmitter Licences and Receiver Licences) Determination 2024 is available alongside this paper on the ACMA website.



# Allowing the Fixed Receive Licence LCD and the Accreditation Body Determination to sunset

## **Fixed Receive Licence LCD**

The Fixed Receive Licence LCD specifies only one condition, which is that equipment must comply with any applicable standard made under section 162 of the Act.

Since commencement of the Reform and Modernisation Act, the ACMA is empowered to make equipment rules under subsection 156(1) of the Act. Application and transitional provisions in Part 4 of the Reform and Modernisation Act provide that a standard made under the former subsection 162(1) has effect as if it had been made under subsection 156(1).

The ACMA has made the General Equipment Rules, which specify general and specific standards that equipment must comply with. Under section 160 of the Act, a person must not breach the equipment rules. Section 160 is both a criminal offence and a civil penalty provision.

Each apparatus licence is also subject to a statutory condition that any radiocommunications device operated under the licence must comply with all the standards applicable to it under the General Equipment Rules (paragraph 107(1)(d) of the Act).

As the General Equipment Rules specify standards compliance requirements, we propose to allow the Fixed Receive Licence LCD to sunset.

## **Accreditation Body Determination**

As the function that was performed by the Accreditation Body Determination is now performed by the General Equipment Rules, there is no further need for the Accreditation Body Determination (and no power to repeal or remake it). Accordingly, we propose to allow the Accreditation Body Determination to sunset.

# Invitation to comment

## Making a submission

Comments are sought from the public regarding the ACMA's proposal to remake, or allow to sunset, each of the legislative instruments referred to in this paper. The instrument proposed to be remade will be remade without any significant changes, on the basis that it is operating effectively and efficiently.

- > [Online submissions](#) can be made by uploading a document. Submissions in PDF, Microsoft Word or Rich Text Format are preferred.
- > Submissions by post can be sent to:  
The Manager  
Spectrum Licensing Policy Section  
Australian Communications and Media Authority  
PO Box 13112  
Law Courts  
Melbourne VIC 8010

The closing date for submissions is COB, **Friday 9 August 2024**.

Consultation enquiries can be emailed to [spectrumlicensingpolicy@acma.gov.au](mailto:spectrumlicensingpolicy@acma.gov.au).

### **Publication of submissions**

The ACMA publishes submissions on our website, including personal information (such as names and contact details), except for information that you have claimed (and we have accepted) is confidential.

Confidential information will not be published or otherwise released unless required or authorised by law.

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