

Remaking the Maritime Ship LCD and Minimum Age for Certificates of Proficiency Declaration Consultation paper

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Background

Sunseting instruments

Under Part 4 of Chapter 3 of the *Legislation Act 2003*, most legislative instruments ‘sunset’. They are automatically repealed on 1 April or 1 October that first occurs 10 years after they are registered.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 following related instruments are due to sunset in 2025.

Name of instrument	Sunset date
Radiocommunications Licence Conditions (Maritime Ship Licence) Determination 2015	1 April 2025
Radiocommunications (Minimum Age for Issue of Certificates of Proficiency) Declaration 2015	1 October 2025

Scope

This consultation focuses on the instruments above and whether they should be remade.

We are aware of outcomes from the International Telecommunication Union’s (ITU) World Radio Conference 2023 (WRC-23) and changes to the ITU Radio Regulations. Any further amendments to these instruments will be considered after outcomes from WRC-23 receive treaty agreement and once other maritime instruments have been subject to sunseting review.

Maritime radio communications international framework

Maritime radio in Australia provides search and rescue assistance to ships in distress and commercial and recreational communications for marine users.

The international framework for maritime radio is established through the ITU Radio Regulations and the International Maritime Organization’s (IMO) International Convention for the Safety of Life at Sea (SOLAS Convention).

For most countries, including Australia, spectrum and frequency planning is informed by participation in the ITU. The SOLAS Convention is an international maritime treaty that sets minimum safety standards in the construction, equipment and operation of merchant ships. Australia is a signatory to the Constitution and Convention of the ITU and the SOLAS Convention.

The legislative instruments outlined below enact a subset of Australia’s international obligations regarding maritime radiocommunications and ensure that maritime ship stations and coast stations use the appropriate maritime frequencies, transmitter output power and protocols to minimise the potential for interference to maritime radio operation.

Preliminary view

We have formed the preliminary view that the instruments above are operating effectively and efficiently, and continue to form a necessary and useful part of the Australia’s domestic

legislative framework. We propose to remake the instruments prior to their sunset date, with only necessary changes, so that their ongoing effect is preserved.

We propose to remake the instruments with the minor, necessary changes below, and to retitle them:

- Radiocommunications Licence Conditions (Maritime Ship Licence) Determination 2025.
- Radiocommunications (Certificates of Proficiency – Minimum Age) Declaration 2025.

What the legislative instruments do

Radiocommunications Licence Conditions (Maritime Ship Licence) Determination 2015

The Radiocommunications Licence Conditions (Maritime Ship Licence) Determination 2015 (Maritime Ship LCD) was made under section 107(1)(f) of the *Radiocommunications Act 1992* (the Act) prior to the commencement of the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* (Reform and Modernisation Act).

Under that paragraph, an apparatus licence was subject to any conditions made by the ACMA via legislative instrument. After the Reform and Modernisation Act began, previous determinations made under section 107(1)(f) continued to apply. Any new determinations are now made under subsection 110A(2).

The Maritime Ship LCD specifies the conditions regarding the operation of maritime ship stations, including the operating frequencies and power for various technology and technical procedures. Several of these conditions provide for the domestic implementation of requirements from international law, conventions and agreements.

Radiocommunications (Minimum Age for Issue of Certificates of Proficiency) Declaration 2015

The Radiocommunications (Minimum Age for Issue of Certificates of Proficiency) Declaration 2015 (Minimum Age Declaration) is made under section 122 of the Act. It sets out the minimum age a person must be before they can be issued with certain certificates of proficiency.

Under paragraph 122(1)(a) of the Act, we must not issue a certificate of proficiency to a person who wishes to be a qualified operator (a requirement of operating a maritime ship station under licence), unless we are satisfied the applicant has reached the set minimum age. We must declare the minimum age for classes of certificates (subsection 122(2)).

The titles of certificates outlined in the Minimum Age Declaration are consistent with those provided for in the ITU Radio Regulations.¹

¹ ITU Radio Regulations, Article 47, Section II – Category of operator's certificates.

Proposed changes to the instruments

Changes to the Maritime Ship LCD

We consider that the Maritime Ship LCD is operating effectively and efficiently and continues to form a necessary part of the maritime radio legislative framework.

We propose to remake the Maritime Ship LCD without significant change. However, we are suggesting some minor working changes. A summary of changes is outlined below. These changes are reflected in the draft Radiocommunications Licence Conditions (Maritime Ship Licence) Determination 2025 (the draft instrument), which is available on the consultation page. We have also prepared a table that shows where an equivalent condition in the current instrument can be found in the draft instrument. The table is provided at [Appendix A](#).

Automatic Identification System (AIS), Application Specific Messaging (ASM) and VHF Data Exchange System (VDES)

All conditions for the use of AIS and ASM have been moved from schedules into the body of the instrument. We have made similar changes for certain conditions for the use of VDES. These proposed changes clarify the use of these systems and do not impact current licensees or licencing requirements.

Assigned licence types

Specific conditions for assigned licence types² have been consolidated into Part 2, which provides conditions that apply to all licences. This change has no effect on current licensees or licensing requirements. Where both assigned and non-assigned frequencies³ are installed on a vessel, 2 licences will continue to be required.

Commercial operations by radiotelegraphy using Morse

We have not included equivalent conditions or frequencies for commercial operations by radiotelegraphy using Morse in the draft instrument.⁴ The ITU Radio Regulations have removed these frequency allocations. The relevant Schedule for non-commercial operations (using Morse) was removed as part of the [Radiocommunications – Maritime Omnibus Variation 2019 \(No.1\)](#).

Definitions

We have introduced and amended definitions to better clarify conditions and enhance their understandability. A number of definitions relate to terms used in the ITU Radio Regulations and we have provided notes indicating where those terms can be found. We are also taking this opportunity to remove definitions that are no longer relevant.

Listening watch

The current instrument includes requirements for maintaining watch for Class C licence types, with a supporting Schedule that applies to all licence types. We have consolidated all watch conditions into Part 2 of the draft instrument and retitled the Schedule. This clarifies that these requirements apply to all licences, as detailed in current instrument at Schedule 3

² Ship station Class B assigned, and ship station class C assigned are assigned licence types. The current instrument provides conditions specific to ship station class C assigned at Part 4.

³ Non-assigned frequencies, or standard frequencies, are those provided for in the Maritime Ship LCD.

⁴ Section 5.3 and Schedule 4 of the current instrument.

and as intended by the ITU Radio Regulations.⁵ We have also amended terms used in the Schedule and included new definitions where appropriate.

Standards referred to in the General Equipment Rules

Since commencement of the Reform and Modernisation Act, we have made the Radiocommunications Equipment (General) Rules 2021 (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 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).

The Maritime Ship LCD provides reference to standards at Schedule 1, Part 1, which are now present in the General Equipment Rules. Those standards will not be present in the remade instrument.

General improvements

The remake of the instrument provides an opportunity to restructure the instrument and modernise language. We propose to:

- correct typographical or grammatical errors
- correct cross-referencing errors
- retitle, reorder, renumber and reword conditions and sections
- consolidate conditions and sections, where appropriate
- omit duplicate or obsolete provisions
- correct references to things that have been misdescribed
- replace outdated references to legislation or bodies.

Changes to the Minimum Age Declaration

We consider that the Minimum Age Declaration is operating effectively and efficiently. We are proposing to remake the Minimum Age Declaration without significant change. The only changes we are suggesting are minor working changes, and considered necessary for repealing and replacing the instrument.

The changes proposed are to remove reference to certificates that are no longer issued by the ACMA under section 122 of the Act. The Australian Maritime Safety Authority issues Global Maritime Distress and Safety System (GMDSS) certificates under the *Navigation Act 2012*. These certificates are issued in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers requirements.

⁵ ITU Radio Regulations, Article 31, Section III, C – Ship Stations.

Invitation to comment

Making a submission

We invite comments on the issues set out in this consultation paper.

- [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 13 December 2024**.

Consultation enquiries can be emailed to SLPSConsultations@acma.gov.au.

Publication of submissions

We publish 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.

Privacy

View information about our policy on the [publication of submissions](#), including collection of personal information during consultation and how we handle that information.

Information on the *Privacy Act 1988*, how to access or correct personal information, how to make a privacy complaint and how we will deal with any complaints, is available in our [privacy policy](#).

Appendix A: Equivalent conditions

The table below describes conditions and references within the Radiocommunications Licence Conditions (Maritime Ship Licence) Determination 2015 and where the equivalent condition can be found in the draft instrument. The draft instrument is available on the consultation page.

Current instrument section	Current instrument reference	New instrument reference
Definitions	1.3	5
Part 2 Conditions that apply to the operation of stations	Part 2	Part 2
Application of Part 2	2.1	7
Technical requirements	2.2, Part 6	8
Location of station	2.3	9
Qualified operator	2.4	10
Operation outside Australia	2.5	11
Identification of stations	2.6	12
Maritime ship stations – AIS	2.7, 3.13, 5.12A, Schedule 2 Part 11	13
Maritime ship stations – VDES communications	2.8, 3.14, 5.12B,	14
Maritime ship stations – ASM	2.9, 3.15, 5.12C, Schedule 2 Part 13	15
Maintaining watch	4.2, 5.13	16
Response to distress, urgency or safety messages and record keeping	4.3, 5.14	17
Additional conditions for the operation of ship stations Class B non-assigned	Part 3	Part 3
Application of Part 3	3.1	18
Commercial operations	3.7	19
Distress, urgency, safety or calling – MF and HF communications	3.3,	20
Distress, urgency, safety or calling – VHF and UHF communications	3.4	
Non-commercial operations	3.8	21
On-board communications	3.12	22
Port operations	3.9	23
Professional fishing operations	3.10	24
Public correspondence by radiotelephony	3.5	25

Current instrument section	Current instrument reference	New instrument reference
Public correspondence by radiotelegraphy using TOR or NBDP	3.6	26
Radiodetermination communications	3.11	27
Part 5 Additional conditions for operation of ship stations Class C non-assigned	Part 5	Part 4
Application of Part 5	5.1	28
Permitted communications	5.2	29
Distress, urgency, safety or calling — MF and HF communications	5.5	30
Distress, urgency, safety or calling — VHF and UHF communications	5.6	
On-board communications	5.12, Schedule 2 Part 10	31
Port operations	5.9	32
Professional fishing operations	5.10	33
Public correspondence by radiotelephony	5.7	34
Public correspondence by radiotelegraphy using TOR or NBDP	5.8	35
Radiodetermination communications	5.11, Schedule 2 Part 9	36
Schedules		
Schedule 2 Part 12 VHF Data Exchange System (VDES)	Schedule 2 Part 12	Schedule 1
Schedule 2 Part 5 Commercial operations	Schedule 2 Part 5	Schedule 2
Schedule 2 Part 1 MF and HF communications for distress, urgency, safety or calling	Schedule 2 Part 1	Schedule 3
Schedule Part 2 VHF and UHF communications for distress, urgency, safety or calling	Schedule 2 Part 2	
Schedule 2 Part 6 Non-commercial operations	Schedule 2 Part 6	Schedule 4
Schedule 2 Part 7 Port operations	Schedule 2 Part 7	Schedule 5
Schedule 2 Part 8 Professional fishing operations	Schedule 2 Part 8	Schedule 6
Schedule 2 Part 3 Public correspondence by radiotelephony	Schedule 2 Part 3	Schedule 7
Schedule 2 Part 4 Public correspondence by radiotelegraphy for NBDP or TOR facilities	Schedule 2 Part 4	Schedule 8
Schedule 3 Ship station Class C stations: requirements for maintaining watch	Schedule 3	Schedule 9