

## **Submission on the Radiocommunications Licence Conditions (Amateur Licence) Determination 2025**

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**Submitted via:** Upload submission button

### **Introduction**

I appreciate the opportunity to provide feedback on the draft *Radiocommunications Licence Conditions (Amateur Licence) Determination 2025* (Amateur LCD 2025) as part of the Australian Communications and Media Authority's (ACMA) consultation process. The Amateur LCD 2025 is a critical component of the regulatory framework for amateur radio in Australia, particularly for non-assigned licences (e.g., amateur advanced, standard, and foundation stations) and assigned licences (e.g., repeater and beacon stations), which will continue to operate under this determination until their expiration, expected by June 2028. I support the ACMA's proposal to remake the determination with minor changes to ensure its continued efficiency and alignment with the *Radiocommunications (Amateur Stations) Class Licence 2023*.

Over the past few years, a number of amateur radio licensees in Australia have been found guilty of serious criminal charges and received custodial sentences, raising concerns about the suitability of such individuals holding radiocommunications licences. The radio spectrum is a valuable public resource, and there is a strong community expectation that the government, through the ACMA, ensures it is protected from misuse and abuse. Allowing individuals with serious criminal convictions to hold amateur radio licences is not in line with wider community expectations, which demand that access to such resources be granted only to those who demonstrate responsible and lawful behaviour. Furthermore, amateur radio is a hobby that often involves participation by children, who may engage in activities such as radio clubs, events, and emergency communications training. These young participants should be protected from individuals with serious criminal convictions as much as practicable, ensuring a safe and trustworthy community. It is also worth noting that several other jurisdictions, such as the United Arab Emirates (UAE) and Kenya, have implemented "fit and proper person" provisions in their amateur radio licensing frameworks, reflecting a global trend toward ensuring the integrity of licence holders. In light of these factors, I propose a minor amendment to the Amateur LCD 2025 to enhance the integrity of the licensing regime while remaining within the scope of this consultation.

### **General Feedback on the Draft Amateur LCD 2025**

The draft Amateur LCD 2025 effectively maintains the regulatory framework for amateur radio operators, ensuring consistency with the *Radiocommunications (Amateur Stations) Class Licence 2023*. The use of shared definitions (e.g., "amateur purpose," "emission mode," "emergency services") and references to the Class Licence for key terms (e.g., Section 5) is a positive step toward alignment, reducing confusion for operators who may operate under both frameworks. The repeal of the 2015 determination (Section 4) and its replacement with the 2025

version is appropriate, given the sunset date of 1 October 2025, and the minor updates reflect a pragmatic approach to maintaining relevance.

The operational conditions, such as restrictions on transmissions for financial gain (Section 9), call sign usage (Sections 14, 19, 23), and interference management (Section 11), remain practical and well-suited to the needs of amateur radio operators. The inclusion of specific provisions for emergency services operations (Section 10) and the detailed frequency, power, and emission mode limits in Schedule 1 ensure that the determination supports both safety and technical compliance.

However, given the recent incidents of licensees with serious criminal convictions, the need to protect children in the amateur radio community, and community expectations for the responsible management of public spectrum, I believe there is an opportunity to strengthen the Amateur LCD 2025 by introducing a minor amendment to enhance the integrity of the licensing regime. This proposal aligns with the consultation's focus on ensuring the determination operates efficiently and effectively while maintaining public trust in the amateur radio community.

### **Proposed Amendment: Fit and Proper Person Check with Self-Reporting Regime and Third-Party Reporting**

I propose the following minor amendment to the Amateur LCD 2025 to introduce a "fit and proper person" check for amateur radio licensees, supported by a self-reporting regime for custodial sentences exceeding 3 months (including historic sentences within the last 5 years). Failure to self-report will result in permanent licence cancellation, and the amendment will also allow third-party reports of custodial sentences to be reviewed by the ACMA for enforcement. This ensures that amateur radio operators, who have access to public spectrum, maintain a standard of conduct consistent with the responsibilities of holding a radiocommunications licence, particularly in a hobby involving children and in line with community expectations for the protection of public resources. This approach is consistent with practices in jurisdictions like the UAE and Kenya, where similar provisions exist to safeguard the integrity of the amateur radio community. It is a minor change that does not involve major reforms (e.g., access to additional bands) and aligns with the consultation's objectives.

### **Proposed Changes**

#### **1. Amend Section 5 (Interpretation) to Include New Definitions**

Add the following definitions under **Section 5(1)**:

- **custodial sentence** means a sentence of imprisonment imposed by a court, whether suspended or not, and includes any period of detention under a sentence.
- **fit and proper person** means a person who:
  - (a) has not been subject to a custodial sentence exceeding 3 months within the last 5 years prior to the commencement of this instrument or during the term of the licence, unless the person has complied with the self-reporting obligations under section 9A; and

(b) has not been found by the ACMA to have breached the self-reporting obligations under section 9A following a self-report or a third-party report reviewed under section 9A.

- **self-reporting obligation** means the requirement to notify the ACMA of a custodial sentence as specified in section 9A.
- **third-party report** means a written notification to the ACMA by a person other than the licensee, alleging that the licensee has been subject to a custodial sentence exceeding 3 months.

**2. Insert New Section 9A – Fit and Proper Person Check, Self-Reporting, and Third-Party Reporting**

Insert a new section after **Section 9** in **Part 2 (Conditions – every amateur licence)**:

**Section 9A Conditions – Fit and Proper Person Check, Self-Reporting, and Third-Party Reporting**

(1) A person must not operate an amateur station under an amateur licence unless the person is a fit and proper person.

**(2) Self-Reporting Obligation**

(a) A person who holds an amateur licence and has been subject to a custodial sentence exceeding 3 months within the 5 years prior to the commencement of this instrument (30 September 2025) must notify the ACMA in writing within 30 days of the commencement of this instrument, providing:

- (i) the details of the custodial sentence, including the duration and the offence; and
- (ii) the date the sentence was imposed.

(b) A person who holds an amateur licence and is subject to a custodial sentence exceeding 3 months after the commencement of this instrument must notify the ACMA in writing within 14 days of the sentence being imposed, providing:

- (i) the details of the custodial sentence, including the duration and the offence; and
- (ii) the date the sentence was imposed.

**(3) Suspension of Licence**

If a person is subject to a custodial sentence exceeding 3 months:

(a) the person's amateur licence is suspended for the period specified in Schedule 4, commencing from the date the sentence was imposed (for historic sentences) or the date the sentence is imposed (for new sentences); and

(b) the suspension period is determined based on the length of the custodial sentence as set out in column 2 of the table in Schedule 4.

**(4) Third-Party Reporting and ACMA Review**

(a) A third party may submit a third-party report to the ACMA alleging that a licensee has been subject to a custodial sentence exceeding 3 months and has failed to comply with the self-reporting obligation under subsection (2).

(b) Upon receiving a third-party report, the ACMA must:

- (i) review the report to determine its credibility and relevance, including verifying the custodial sentence through official records where practicable; and

(ii) notify the licensee in writing of the report and provide the licensee with 14 days to respond, including the opportunity to self-report the custodial sentence if applicable.

(c) If the ACMA determines, after review, that the licensee was subject to a custodial sentence exceeding 3 months and failed to self-report as required under subsection (2), the ACMA must proceed with the penalty under subsection (5).

#### **(5) Penalty for Failure to Self-Report**

(a) If a person fails to comply with the self-reporting obligation under subsection (2), whether identified through ACMA investigation or a third-party report reviewed under subsection (4), the ACMA must impose a penalty on the person.

(b) The penalty for failing to self-report is:

(i) cancellation of the person's amateur licence; and

(ii) a permanent prohibition on applying for or holding any amateur licence.

(c) The ACMA may, in addition to the penalty under paragraph (b), refer the matter to the appropriate authority for further action under the *Radiocommunications Act 1992*.

#### **(6) Notification by ACMA**

(a) Upon receiving a notification under subsection (2), the ACMA must:

(i) confirm the suspension of the person's amateur licence in writing; and

(ii) specify the duration of the suspension in accordance with Schedule 4.

(b) If a licence is cancelled under subsection (5), the ACMA must notify the person in writing of the cancellation and the permanent prohibition on holding an amateur licence.

#### **(7) Reinstatement of Licence**

After the suspension period specified in Schedule 4 has ended, the person may apply to the ACMA to have their amateur licence reinstated, provided they meet all other conditions of this instrument. A person whose licence has been cancelled under subsection (5) is not eligible for reinstatement.

### **3. Insert New Schedule 4 – Suspension Periods for Custodial Sentences**

Add a new **Schedule 4** after **Schedule 3**:

#### **Schedule 4 – Suspension Periods for Custodial Sentences**

(section 9A(3))

**Table – Suspension Periods Based on Length of Custodial Sentence**

Length of Custodial Sentence	Suspension Period of Amateur Licence
More than 3 months but not more than 6 months	2 years
More than 6 months but not more than 1 year	4 years
More than 1 year but not more than 2 years	6 years
More than 2 years but not more than 3 years	8 years

More than 3 years but not more than 4 years	10 years
More than 4 years but not more than 5 years	12 years
More than 5 years but not more than 7 years	14 years
More than 7 years but not more than 10 years	16 years
More than 10 years but not more than 15 years	18 years
More than 15 years	20 years

**Note:** The suspension period commences on the date the custodial sentence was imposed (for historic sentences reported under subsection 9A(2)(a)) or the date the sentence is imposed (for new sentences reported under subsection 9A(2)(b)). If a person fails to self-report as required, their licence will be cancelled with a permanent prohibition on holding any amateur licence under subsection 9A(5).

#### **4. Update Section 7 (Application of Part 2)**

Amend **Section 7(1)**:

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

(1) Subject to subsection (2), every amateur licence is subject to the conditions in this Part, including the fit and proper person requirements in section 9A.

#### **5. Update Section 8 (Condition – qualification)**

Amend **Section 8**:

##### **Section 8 Conditions – Qualification and Fit and Proper Person**

A person must not operate an amateur station unless the person:

- (a) is a qualified person or supervised by a qualified person; and
- (b) is a fit and proper person as defined in section 5.

### **Rationale for the Proposed Amendment**

This amendment introduces a “fit and proper person” check to ensure that amateur radio operators maintain a standard of conduct consistent with the responsibilities of holding a radiocommunications licence. The key elements are:

- **Alignment with Community Expectations:** The community expects the government, through the ACMA, to protect public resources like the radio spectrum from misuse and abuse. Allowing individuals with serious criminal convictions to hold amateur radio licences does not align with these expectations, as it risks undermining the responsible use of spectrum and public trust in the amateur radio community. This amendment addresses this concern by ensuring only fit and proper persons can hold licences.
- **Inclusion of Historic Sentences:** Extending the self-reporting obligation to custodial sentences exceeding 3 months within the last 5 years (prior to 30 September 2025) ensures that past conduct is considered, aligning with the

goal of maintaining public trust, especially given recent convictions of licensees for serious crimes. A 30-day reporting window provides sufficient time for operators to comply upon the instrument's commencement.

- **Protection of Children:** Given that children participate in amateur radio activities, such as radio clubs and events, this amendment prioritises their safety by ensuring that individuals with serious criminal convictions are subject to scrutiny, aligning with the need to protect vulnerable participants as much as practicable.
- **Alignment with International Practices:** Jurisdictions like the UAE and Kenya have implemented “fit and proper person” provisions in their amateur radio frameworks, demonstrating the global recognition of the need to ensure the integrity of licence holders. This amendment brings Australia in line with such practices.
- **Self-Reporting Regime:** Requiring operators to report custodial sentences within 14 days (for new sentences) or 30 days (for historic sentences) reduces the administrative burden on the ACMA while ensuring accountability. This aligns with the consultation's goal of efficiency by placing the onus on licensees to self-regulate.
- **Third-Party Reporting and ACMA Review:** Allowing third-party reports to be reviewed by the ACMA strengthens enforcement by enabling the community to assist in identifying non-compliance, particularly in cases involving serious offences that may affect the safety of participants like children or the responsible use of spectrum. The review process, including verification and a 14-day response period for the licensee, ensures fairness and due process while maintaining the integrity of the regime.
- **Custodial Sentence Trigger:** A threshold of 3 months for custodial sentences ensures that only serious offences trigger the fit and proper person check, maintaining proportionality.
- **Sliding Scale of Suspension:** The suspension periods (2 to 20 years) reflect the severity of the offence, ensuring fairness while deterring misuse of amateur radio privileges.
- **Severe Penalties for Non-Compliance:** Cancelling the licence with a permanent prohibition on holding any amateur licence for failing to self-report ensures strict compliance, reflecting the seriousness of the obligation and protecting the integrity of the regime, especially in light of community expectations and the need to safeguard children.
- **Alignment with Existing Framework:** The amendment integrates seamlessly into the existing structure of the Amateur LCD 2025 (e.g., definitions in Section 5, conditions in Part 2, and a new schedule), maintaining legal coherence.

This proposal is a minor change that enhances the determination's effectiveness without constituting a major reform. It ensures that the Amateur LCD 2025 supports a responsible amateur radio community while aligning with broader regulatory

principles of accountability, child protection, and responsible spectrum management.

### **Additional Suggestions for Minor Improvements**

- 1. Clarify Call Sign Usage in Emergency Operations (Section 10):** Section 10 allows flexibility for call sign transmission during emergency services operations or training, which is practical. However, to align with the Class Licence, I suggest adding a note clarifying whether digital modes (e.g., automated distress signals) are permitted for such operations, referencing the Class Licence's provisions.
- 2. Simplify Frequency Band Tables (Schedule 1):** The tables in Schedule 1 are comprehensive but may be complex for foundation station operators. I recommend adding a brief introductory note explaining how to interpret the tables (e.g., "Column 1 lists the frequency bands you can use, Column 2 sets your power limits, and Column 3 specifies any restrictions on how you transmit").
- 3. Support for Compliance (Section 11):** Section 11 on interference and spurious emissions is technically sound but complex. I suggest adding a note directing operators to ACMA resources for managing spurious emissions, such as: "For guidance, refer to the ACMA's amateur radio technical resources at [specific URL]."

### **Conclusion**

The draft Amateur LCD 2025 provides a solid foundation for regulating amateur radio licences, and the proposed "fit and proper person" amendment strengthens its integrity by ensuring accountability for serious offences, particularly in light of recent convictions among licensees, the need to protect children, and community expectations for the responsible management of public spectrum. The inclusion of third-party reporting, alignment with international practices in jurisdictions like the UAE and Kenya, and the severe penalty of permanent licence cancellation for non-compliance reflect the importance of maintaining trust in the amateur radio community. The additional suggestions improve clarity and compliance. I urge the ACMA to adopt these minor changes to enhance the determination's effectiveness while aligning with the *Radiocommunications (Amateur Stations) Class Licence 2023*.

Thank you for considering this submission. I am happy to provide further clarification if needed.

Best Regards,  
Mark Beacham - [REDACTED]