

New approaches to amateur radio qualification arrangements

Consultation paper

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Introduction

The Australian Communications and Media Authority (the ACMA) is reviewing the way that amateur radio operator qualifications are conferred. The current arrangements have been in place since 2009. The ACMA is contemplating three approaches to how amateur radio qualifications might be conferred in future, which are set out in this paper. The ACMA is also considering the establishment of a Syllabus Review Panel, which could ensure that amateur syllabuses remain fit-for-purpose. We seek comment from stakeholders, industry and other relevant persons on the proposals made in this paper.

Background

Amateur radio operators communicate via a number of transmission modes on specified bands. They may conduct experiments and arrange public demonstrations relating to radiocommunications. When required, amateur radios also provide a substitute form of communication in civil emergencies. Anyone can listen to the amateur bands using a receiver. To transmit, however, operator qualifications and a licence from the ACMA are required.

There are approximately 15,000 amateur radio operators in Australia. Amateur radio operators are active in many countries across the globe and there are procedures authorising visiting amateur radio operators with overseas qualifications to operate in Australia.

The role of the ACMA as the spectrum regulator is to ensure that the operation of amateur radio stations is appropriately authorised, including that amateur radio operators are appropriately qualified before issuing a licence. The International Telecommunication Union (ITU) Radio Regulations require the ACMA to 'verify the operational and technical qualifications of any person wishing to operate an amateur station'.¹

There are three levels of amateur qualification in Australia—Foundation, Standard and Advanced. Qualifications generally take the form of certificates of proficiency under the *Radiocommunications Act 1992* (the Act). Under section 122A of the Act, the ACMA has delegated the power to issue amateur certificates of proficiency to the Wireless Institute of Australia (WIA). The ACMA has also approved the WIA to conduct related examinations. Some overseas qualifications and licences are also recognised as a basis for qualified operation in Australia. The requirements for qualification are reflected in the Radiocommunications Licence Conditions (Amateur Licence) Determination 2015, the Radiocommunications (Qualified Operators) Determination 2016 and the Radiocommunications (Overseas Amateurs Visiting Australia) Class Licence 2015.

The role of the WIA in conducting examinations and issuing certificates of proficiency is reflected in a Deed of Agreement. The Deed of Agreement was put in place in 2009

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International Telecommunication Union Radio Regulations Article 25.6.

after the Commonwealth sought expressions of interest in October 2007. It is due to expire in February 2019.

The expiry of the Deed of Agreement presents an opportunity to review arrangements for how amateur radio operators attain appropriate qualifications, consistent with whole-of-government contract administration practices.

TABLE 1: Approaches

The current approach to domestic qualifications requires licence-holders to obtain an appropriate certificate of proficiency under the qualified operators provisions of the Act (Division 5 of Part 3.3). When developing the proposed future arrangements, the ACMA considered Australia's responsibilities under the ITU Radio Regulations. As a result, the ACMA has developed three potential approaches to the way amateur radio qualifications could be conferred in the future. Each of the three proposed approaches seeks to engage the education and training sector to varying degrees. The approaches are not mutually exclusive and may co-exist.

Any future approach would be implemented without prejudice to the continued recognition of overseas qualifications and licences. The ACMA would ensure that visiting overseas amateurs could still be authorised to operate a station in Australia when they visit.

As part of all three approaches, the establishment of a Syllabus Review Panel is proposed. Any organisation that issues amateur radio qualifications would participate in the panel, which would be convened by the ACMA. The intention is that members of the Syllabus Review Panel would help ensure that amateur radio syllabuses and associated qualifications continue to equip amateur licensees with the knowledge and skills necessary to operate an amateur station in Australia.

The ACMA is seeking views from people and organisations with an interest in how amateur radio qualifications could be conferred in future. The submissions received will inform the way the services are expressed in any future request for tender.

An overview of each approach is provided below, with more detail provided in *Attachment A—Expected key elements of the request for tender*.

Approach one—an approved body to provide training, conduct examinations and issue certificates of proficiency through delegation under the Act

This approach is similar to the current arrangements. The Commonwealth would seek an organisation to be approved by the ACMA to conduct examinations and delegate the ACMA's power to issue certificates of proficiency. Delegation would be made under s122A of the Act, in the same way it is now. Performance of the successful tenderer would be reflected in a Commonwealth contract and tenders would be invited for these services via AusTender.²

Tenderers would need to meet certain criteria. One proposed criterion would relate to the organisation's status as a Registered Training Organisation (RTO).³ As part of the tender, the Commonwealth expects to express a preference that the successful

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If the ACMA did not delegate powers or approve a successful tenderer, any contract between the Commonwealth and the successful tenderer would be able to be terminated.

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RTOs are training providers registered by the Australian Skills Quality Authority (or, in some cases, a state regulator) to deliver vocational education and training services. RTOs are recognised as providers of quality-assured and nationally recognised training and qualifications.

tenderer is either an RTO, has the capacity to become an RTO before the contract commencement date, or is partnered or affiliated with an RTO.

Qualifications would be issued as certificates of proficiency under the Act. This would allow the ACMA to continue to meet its domestic and international obligations.

Approach two—RTOs to provide training, conduct examinations and issue statements of completion (not as a delegate under the Act)

Under this approach, prospective tenderers would be required to be RTOs. Requests for tender would be made via AusTender.

Unlike the present approach, there would be no delegation made under the Act. Successful tenderers would provide training, conduct examinations and issue statements of completion consistent with an established syllabus. Examinations and qualifications might be delivered online, through centres for continuing education, through open education centres or in traditional classroom environments, depending on the nature of the RTO. Successful tenderers would issue statements of completion rather than certificates of proficiency under the Act.

The statement of completion offered would not be accredited under the Australian Qualifications Framework⁴, but the requirement to be an RTO is intended to ensure that certain standards of organisational governance are met.

To facilitate this approach, the ACMA would recognise the statements of completion as a sufficient basis on which to issue a licence, consistent with a revised licence condition.⁵

As noted above, the ACMA has considered this approach in line with its obligations under the ITU Radio Regulations and has determined that such changes would be consistent with our international obligations. Under the *Legislation Act 2003*, the ACMA would consult on proposed changes to relevant legislative instruments. This is further detailed below in *Changes to the Act and relevant subordinate legislation*.

Approach three—RTOs to provide training, conduct examinations and issue statements of attainment for accredited qualifications on the Australian Qualifications Framework

Under this model, the amateur radio operator qualifications would be made available as accredited qualifications on the Australian Qualifications Framework, delivery of which is regulated by the Australian Skills Quality Authority (ASQA).⁶ To include

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The Australian Qualifications Framework is the national policy for regulated qualifications in Australian education and training. It incorporates qualifications from each education and training sector into a single national qualifications framework.

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If the ACMA did not make the necessary changes to the legislative instruments, any contract between the Commonwealth and the successful tenderer would be able to be terminated.

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ASQA is the national regulator for Australia's vocational education and training sector. ASQA regulates courses and training providers to ensure nationally approved quality standards are met.

amateur radio units of competency in the Australian Qualifications Framework, they would first need to be accepted into a training package.

Once added into a training package as part of the Australian Qualifications Framework, only RTOs would be authorised to offer the amateur units of competency. However, the units of competency could be included in the scope of qualifications offered by multiple RTOs. Successful completion of the relevant unit of competency would lead to a statement of attainment.

No tender process would be required under this approach and all RTOs would have the capability to accept the units of competency into scope, and offer examination and qualification. As with approach two above, examination and qualification may be offered through different means, such as online, at various campuses or through specialised learning environments, depending on the RTO.

As with approach two, changes to relevant legislative instruments would be required. Consultation on proposed changes to legislative instruments would occur after the units of competency were included in the Australian Qualifications Framework. The ACMA believes this approach is also consistent with Australia's obligations under the ITU Radio Regulations, and would have the advantage of potentially maximising training options for amateur radio operations nationally.

Changes to the Act and relevant subordinate legislation

Currently, under section 119 of the Act, the ACMA has determined that a person operating a transmitter under certain types of licence, including an amateur licence, is required to be a 'qualified operator'. A 'qualified operator' is defined in section 121 of the Act to mean someone who holds a certificate of proficiency issued by the ACMA, or its delegate. This is reflected in the Radiocommunications (Qualified Operators) Determination 2016.

The requirement to be a 'qualified operator' applies to amateur radio operators unless the person is a 'qualified person' within the meaning of the Radiocommunications Licence Conditions (Amateur Licence) Determination 2015, which means, in effect, that the person holds an equivalent overseas qualification.

To facilitate the issue of statements of completion in approach two, or statements of attainment in approach three, amendments to the relevant definitions in the legislative instruments would be required. The ACMA would consult separately on any proposed changes that are necessary, as required by the *Legislation Act 2003*.

The approaches proposed in this paper are independent of other potential amendments to relevant legislative instruments, including licence conditions. The ACMA has received submissions seeking separate changes to the licence conditions and will undertake a separate consultation on these matters in the event that the proposed amendments are to be made.

No matter which approach is adopted, future arrangements regarding the issue of amateur qualifications are intended to be sufficiently durable to accommodate expected changes in legislation. In developing these approaches, the ACMA has considered the relevant provisions described in the exposure draft of the *Radiocommunications Bill*, published by the Department of Communications and the Arts in 2017, including those for certified operators. More information about the Radiocommunications Bill is available from the Department of Communications and the Arts at www.communications.gov.au/have-your-say/consultation-new-spectrum-legislation.

Additional requirements may be placed on potential tenderers under the Bill, including in relation to accreditation by the ACMA. Any tender documentation and contracts prepared by the Commonwealth are expected to deal with the possibility of the Bill being passed by Parliament during the life of the contract.

Other matters

The current arrangements with the WIA include administrative services that are undertaken in addition to the delegated and approved functions of conducting examinations and issuing certificates of proficiency.

These administrative services include the recommendation of amateur radio callsigns to the ACMA, the management of callsign databases, and advice regarding Recognition of Prior Learning.

Currently, applications for Recognition of Prior Learning generally come on a low volume, ad hoc basis from amateurs with:

experience or qualifications that are issued in overseas jurisdictions that are not already recognised by the ACMA (the [list of Australian equivalents to overseas amateur qualifications - Table A](#) can be found on the ACMA website), or

another qualification or demonstrated experience from outside the amateur radio sector.

Recognition of Prior Learning enables a suitably qualified amateur radio operator to obtain a qualification, without having to sit an examination of skills they already possess. Applications for Recognition of Prior Learning are assessed on a case-by-case basis.

Under any new arrangements, the assessment of applications for Recognition of Prior Learning would likely be done by the organisation issuing the qualification, where that task is performed in accordance with a contract. It would be up to the organisation to decide whether a case is strong enough for an individual to be issued one of their qualifications based on prior learning. The organisation would be at liberty to set a reasonable fee for this service.

The ACMA is also considering how best to manage the allocation of callsigns to amateur radio operators under future arrangements. Callsign allocation is of great importance to amateur radio operators and the ACMA will consider this when developing any future arrangements for the management of allocations.

As part of the broader scope of work relating to the proposed approaches to changing amateur radio qualification arrangements, the ACMA will consider how these administrative services could be managed in future. The ACMA welcomes comments about the way Recognition of Prior Learning and callsigns are managed for the future.

Key steps and timeline

The current Deed of Agreement ends in February 2019. The ACMA is aiming to implement a new arrangement by this time.

For approaches one and two, the ACMA expects to release a request for tender on AusTender in August 2018. This request for tender would be open for at least a month, closing in September 2018. After analysing the submissions received, the ACMA would notify successful and unsuccessful tenderers. This is anticipated to take place in November 2018 to enable a contract to begin for approaches one and/or two before the end of 2018.

For approach three, the timing and steps are dependent on a range of external circumstances, including ongoing negotiation with bodies associated with the Australian Qualifications Framework. The ACMA will work with the vocational education and training sector to achieve a timeline for approach three, as close as practicable to approaches one and two.

TABLE 2: Invitation to comment

Making a submission

The ACMA welcomes comment from interested stakeholders on the approaches described in this consultation paper. Any other issues relevant to the proposed changes to amateur radio operator qualification arrangements are also welcome, including about other possible approaches not described in this paper.

Online submissions—submissions can be made via the comment function or by uploading a document. The online consultation page provides details.

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, Monday 2 July 2018.

Electronic submissions in Microsoft Word or Rich Text Format are preferred.

Enquiries

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

Media enquiries can be directed to Emma Rossi on 02 9334 7719 or by email to media@acma.gov.au.

Effective consultation

The ACMA is working to enhance the effectiveness of its stakeholder consultation processes, which are an important source of evidence for its regulatory development activities. To assist stakeholders in formulating submissions to its formal, written consultation processes, it has developed [Effective consultation—a guide to making a submission](#). This guide provides information about the ACMA's formal written public consultation processes and practical guidance on how to make a submission.

Publication of submissions

In general, the ACMA publishes all submissions it receives, including any personal information in the submissions (such as names and contact details of submitters). The ACMA prefers to receive submissions that are not claimed to be confidential. However, the ACMA accepts that a submitter may sometimes wish to provide information in confidence. In these circumstances, submitters are asked to identify the material (including any personal information) over which confidentiality is claimed and provide a written explanation for the claim.

The ACMA will consider each confidentiality claim on a case-by-case basis. If the ACMA accepts a claim, it will not publish the confidential information unless authorised or required by law to do so.

Release of submissions where authorised or required by law

Any submissions provided to the ACMA may be released under the [Freedom of Information Act 1982](#) (unless an exemption applies) or shared with various other government agencies and certain other parties under Part 7A of the [Australian Communications and Media Authority Act 2005](#). The ACMA may also be required to

release submissions for other reasons including for the purpose of parliamentary processes or where otherwise required by law (for example, under a court subpoena). While the ACMA seeks to consult submitters of confidential information before that information is provided to another party, the ACMA cannot guarantee that confidential information will not be released through these or other legal means.

Privacy

The [Privacy Act 1988](#) imposes obligations on the ACMA in relation to the collection, security, quality, access, use and disclosure of personal information. These obligations are detailed in the [Australian Privacy Principles](#).

The ACMA may only collect personal information if it is reasonably necessary for, or directly related to, one or more of its functions or activities.

The purposes for which personal information is being collected (such as the names and contact details of submitters) are to:

contribute to the transparency of the consultation process by clarifying, where appropriate, whose views are represented by a submission

enable the ACMA to contact submitters where follow-up is required or to notify them of related matters (except where submitters indicate they do not wish to be notified of such matters).

The ACMA will not use the personal information collected for any other purpose, unless the submitter has provided their consent or the ACMA is otherwise permitted to do so under the Privacy Act.

Submissions in response to this paper are voluntary. As mentioned above, the ACMA generally publishes all submissions it receives, including any personal information in the submissions. If a submitter has made a confidentiality claim over personal information that the ACMA has accepted, the submission will be published without that information. The ACMA will not release the personal information unless authorised or required by law to do so.

If a submitter wishes to make a submission anonymously or use a pseudonym, they are asked to contact the ACMA to see whether it is practicable to do so in light of the subject matter of the consultation. If it is practicable, the ACMA will notify the submitter of any procedures that need to be followed and whether there are any other consequences of making a submission in that way.

Further information on the Privacy Act and the ACMA's privacy policy is available at www.acma.gov.au/privacypolicy. The privacy policy contains details about how an individual may access personal information about them that is held by the ACMA, and seek the correction of such information. It also explains how an individual may complain about a breach of the Privacy Act and how the ACMA will deal with such a complaint.

TABLE 3: Attachment A—Expected key elements of the proposed request for tender

Key points to note:

There will be no further consultation about the request for tender beyond this submission period prior to publishing it on AusTender.

Potential tenderers would be required to comply with the Commonwealth Approach to Market Terms and the Commonwealth Contract Terms, which can be found on the [Department of Finance](#) website.

Mandatory conditions of participation

The ACMA would exclude from consideration any response that does not meet the following mandatory conditions of participation:

That the tenderer is a financially viable organisation.

That the tenderer has, or can demonstrate a process by which it will obtain before the contract commencement date, the facilities to examine and qualify amateur radio operators nationally either online, or in person, or both.

For **approach one**, that the tenderer is, or has a formal affiliation with, a Registered Training Organisation (RTO) in relation to the issue of amateur radio qualifications.

For **approach two**, that the tenderer is a RTO.

These conditions are consistent with Paragraph 10.3 of the [Commonwealth Procurement Rules](#) (CPRs). These mandatory conditions for participation ensure that a potential supplier has the legal, commercial, technical and financial abilities to fulfil the requirements of the procurement.

The requirement

TABLE 4: Required services

Tenders will be invited for the delivery of amateur radio examinations and qualifications.

This procurement comprises two approaches that are not mutually exclusive.

Tenderers may bid to provide services under either or both approaches, and must address each itemised service. The two approaches are:

- a) **Approach one**—Services of an organisation (preferably a RTO or an organisation affiliated with an RTO) to:
 - a.i. provide training and conduct examinations as an approved body or organisation for the purposes of section 122 of the *Radiocommunications Act 1992* (the Act)
 - a.ii. act as a delegate to issue certificates of proficiency under section 121 of the Act, based on Foundation, Standard and Advanced levels of agreed syllabuses
 - a.iii. refer applications for certificates of proficiency to the ACMA under subsection 122A(2) of the Act, where the successful tenderer has decided not to issue one, together with reasons for that decision

- a.iv. if, during the contract period, the Radiocommunications Bill is passed by Parliament, perform the equivalent functions and tasks in accordance with the requirements of the Bill, including undertaking any necessary requirements and obtaining any necessary things (such as accreditation) under the Bill
- a.v. as needed, participate in ongoing revisions and the Australia-wide distribution of amateur radio study material.

The Commonwealth contract resulting from a procurement of services described in approach one is expected to accommodate the proposed introduction of the *Radiocommunications Bill*. However, it is possible that the contract may need to be to be varied to accommodate new provisions, particularly in regards to accreditation.

b) **Approach two**—Services of RTOs, in a non-delegated capacity, to:

- a.i. provide training, conduct examinations and issue statements of completion consistent with an established syllabus. The statement of completion issued is to be recognised by the ACMA but is not awarded under the Australian Qualifications Framework.
- a.ii. as needed, participate in ongoing revisions and the Australia-wide distribution of amateur radio study material.

TABLE 5: Other services that may be required

Activities that in the past have been related to the above-mentioned services and may be included as a service described in the tender process include:

maintaining listings of approved examiners and invigilators

Recognition of Prior Learning

callsign management.

TABLE 6: Minimum capabilities

The successful tenderer must be able to show that they:

- a. For **approach one**: Are an RTO registered with the Australian Skills Quality Authority, or can show a formal agreement is in place with an RTO, and that qualifications will be issued by the affiliated RTO.
- b. For **approach two**: Are an RTO, or have the capability to become an RTO prior to issuing amateur radio qualifications.
- c. Can conduct examinations of amateur radio operators and issue qualifications to successful applicants. Examination may be facilitated online and/or in person.
- d. Have experience managing educational processes, including the ability to develop and implement training.
- e. Have a demonstrated ability to develop and manage fraud controls for examination services.
- f. Have proven experience managing financial and administrative services.
- g. Have an ability to develop and implement a cost-recovery pricing regime, if required.
- h. Have the ability to work closely with the ACMA in a cooperative manner.

TABLE 7: Budget and value for money

In both approaches, the fees charged would need to reflect value for money for the applicant wishing to attain a qualification. In both approaches, there would be no payment of Commonwealth monies to the successful tenderer; the individual applicant seeking an amateur radio qualification would pay for the cost of providing the service.

Under **approach one**, successful tenderers would be authorised to charge a fee for conducting examinations on a cost-recovery basis.

Under **approach two**, successful tenderers would be entitled to determine the fee charged to the applicant, in accordance with its organisational requirements.

The tenderer shall submit firm prices for the services for the first two years.