



Radiocommunications Labelling (Electromagnetic Compatibility) Amendment Notice 2013 (No. 1)

Radiocommunications Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Notice under section 182 of the *Radiocommunications Act 1992*.

Dated 17th January 2013

Chris Chapman
[signed]
Member

Richard Bean
[signed]
General Manager / Member

Australian Communications and Media Authority

1 Name of Notice

This Notice is the *Radiocommunications Labelling (Electromagnetic Compatibility) Amendment Notice 2013 (No. 1)*.

2 Commencement

This Notice commences on:

- (a) 1 March 2013; or
 - (b) the day on which it is published in the *Gazette*;
- whichever occurs last.

Note All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

3 Amendment of *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*

Schedule 1 amends the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*.

Schedule 1 Amendments

(section 3)

[1] Section 1.4, definition of *compliance information*

omit

[2] Section 1.4

insert

national database means a database designated in writing by the ACMA for the purposes of Part 4.

Note A database may be designated by the ACMA for the purposes of Part 4 even if it forms part of another database or also serves purposes other than purposes provided for in this Notice.

[3] Section 1.4, note after the definition of *RCM*

omit

[4] Section 1.5 (table, item 2, column 2)*omit*

a low risk device that has not been labelled

insert

a low risk device that has not been labelled or has been labelled otherwise than as required or provided for by this Notice

[5] Section 1.5 (table, item 3, column 2)*omit*

a low risk device that has been labelled

insert

a low risk device that has been labelled as required or provided for by this Notice

[6] Section 1.5 (table, item 5, column 2)*omit*

a variant of a low risk device that has not been labelled

insert

a variant of a low risk device that has not been labelled or has been labelled otherwise than as required or provided for by this Notice

[7] Section 1.5 (table, item 6, column 2)*omit*

a variant of a low risk device that has been labelled

insert

a variant of a low risk device that has been labelled as required or provided for by this Notice

[8] Section 1.5 (after the table)*insert*

Note Items 3 and 6 of the above table do not apply to a device if that device is labelled solely to comply with State or Territory electrical safety legislation and is not required to bear a compliance label by this Notice.

[9] Section 2.4, note

omit

[10] Section 2.5, note

substitute

Note An effect of section 2.5 is that a compliance mark can only be applied to a device if the device complies with the requirements of this Notice and the *Radiocommunications Devices (Compliance Labelling) Notice 2003*.

[11] Part 3, heading

substitute

Form and placement of compliance labels

[12] Section 3.1

substitute

3.1 Compliance labels

Requirement for devices (other than low risk devices) to bear compliance label

- (1) If an applicable standard applies to a device that is not a low risk device, and the device complies with the standard, the device must bear a compliance label, consisting of either:
 - (a) the RCM; or
 - (b) if the label is applied before 1 March 2016 – either of the compliance marks.

Note 1 The effect of section 4.2 is that a supplier must not apply a compliance label, consisting of the RCM to a device unless:

- (a) the supplier is registered on the national database; or
- (b) if the ACMA has not designated in writing a national database for the purposes of Part 4 – the supplier has been issued a supplier code number.

Note 2 The effect of section 4.2B is that a supplier must not apply a compliance label, consisting of the C-Tick mark to a device unless the supplier has been issued a supplier code number by the ACMA. In accordance with section 4.2C, the ACMA will cease issuing supplier code numbers at the time the ACMA designates in writing a national database.

Note 3 The effect of section 2.3 is to exempt a device that:

- (a) is imported into Australia from New Zealand for supply; and

(b) bears a New Zealand compliance mark that complies with New Zealand labelling legislation,

from the requirement for the device to bear a compliance label.

Note 4 Section 3.2 deals with the relationship between low risk devices and the labelling obligations. Suppliers must meet the same compliance level and record-keeping obligations in relation to low risk devices even if a compliance label has not been applied to the device.

Note 5 A device that does not comply with an applicable standard is defined by subsection 9 (2) of the Act to be a non-standard device, and is regulated under Division 2 of Part 4.1 of the Act.

Note 6 Paragraph 2.4 (b) provides that Part 3 of this Notice does not apply in relation to a device to which the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* applies. Consequently, a device that is to be labelled with an A-Tick mark under the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* before 1 March 2016 is not required to be labelled with a compliance mark under this Notice.

Location of compliance label

- (2) Subject to sections 3.6 and 3.6A, the compliance label must be placed on the device on a place that is accessible by the user.

Note Section 3.6 deals with situations where applying a label to the surface of a device is not possible or practicable. Section 3.6A gives a supplier the option of labelling some types of devices electronically.

- (3) A label is not accessible if it is necessary to use a specialised tool to gain access to it.

[13] Section 3.5

substitute

3.5 Format of compliance label

A compliance mark must be at least 3 mm high.

Note This Notice does not prevent a supplier from applying its own additional supplier identification details onto a device.

[14] Subsection 3.6A (4)

omit

Subsection 3.1 (4)

insert

Subsection 3.1 (2)

[15] Part 4, heading

substitute

Part 4 Conditions for application of compliance label

[16] Subsection 4.1 (2)

omit

4.2,

[17] Section 4.2

substitute

4.2 Use of RCM subject to registration on national database or issue of supplier code number

A supplier must, before a compliance label, consisting of the RCM is applied to a device, either:

- (a) be registered on the national database; or
- (b) if the ACMA has not designated in writing a national database for the purposes of this Part – have been issued a supplier code number.

Note Under section 187 of the Act, a supplier that fails to comply with requirements that must be met before a label has been applied to a device may be subject to a pecuniary penalty.

4.2A Registration on national database

- (1) To be registered on the national database a supplier must, using a method which the database indicates is a method for including information on the database, provide:
 - (a) information identifying the supplier;
 - (b) the supplier's address in Australia; and
 - (c) the name and contact details of a representative of the supplier.
- (2) For paragraph (1) (a), information identifying a supplier consists of the supplier's ABN and 1 of the following pieces of information in relation to the supplier:

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- (a) if the supplier is a body corporate, the name of the body corporate;
 - (b) if the supplier is an individual, the name of the individual;
 - (c) a business name used by the supplier in connection with its business as a supplier and registered as a business name under the *Business Names Registration Act 2011*.
- (3) If the information provided by a supplier for inclusion in the national database subsequently changes, the supplier must, within 30 days after the change occurs, update the national database with the changed information using a method which the database indicates is a method for updating information on the database.

- (4) In this section:

ABN has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

representative of the supplier means:

- (a) an employee of the supplier;
- (b) an officer of the supplier; or
- (c) a person authorised in writing for the purposes of this section by the supplier or an employee or officer of the supplier.

officer of the supplier means:

- (a) if the supplier is a corporation for the purposes of the *Corporations Act 2001*, an officer of a corporation as that term is defined in section 9 of the *Corporations Act 2001*; or
- (b) if the supplier is an entity that is neither an individual nor a corporation for the purposes of the *Corporations Act 2001*, an officer of that entity as defined in section 9 of the *Corporations Act 2001*.

Note 1 The requirement for a supplier to update the information provided by it for inclusion in the national database imposed under subsection 4.2A (3) is an ongoing requirement. Under section 187A of the Act, a supplier that fails to comply with a specific requirement that must be met after a label has been applied to a device may be subject to a pecuniary penalty.

Note 2 Information provided by a supplier for inclusion on the national database for the purposes of this Notice will be made publicly available.

4.2B Use of C-Tick mark

A supplier must not apply a compliance label, consisting of the C-Tick mark to a device unless the supplier has been issued a supplier code number by the ACMA.

4.2C Issue of supplier code number

- (1) This section applies unless the ACMA has designated in writing a national database for the purposes of Part 4.
- (2) A supplier may apply in writing to the ACMA for a supplier code number.
- (3) The application must be in a form approved by the ACMA.

Note The ACMA makes approved forms available on its website.

- (4) Upon such application being made, the ACMA may issue to the supplier a supplier code number.

[18] Schedule 3, Part 1, note after C-Tick mark design

substitute

Note The C-Tick mark is a protected symbol for section 188A of the Act.

[19] Schedule 3, Part 2, note after RCM design

substitute

Note The RCM is a protected symbol for section 188A of the Act. The RCM is a trademark owned by Australian and New Zealand Regulators.