

## **EXPLANATORY STATEMENT**

### *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2005 (No.1)*

Issued by the authority of the Australian Communications Authority  
*Radiocommunications Act 1992*

#### **Legislative provisions**

The *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2005 (No.1)* (“the amendment Notice”) is made by the Australian Communications Authority (“ACA”) under subsection 182 (1) of the *Radiocommunications Act 1992* (the Act).

Subsection 33 (3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make an instrument the power shall, unless the contrary intention appears, be construed as including a power to amend the instrument.

Subsection 162 (1) empowers the ACA to make a standard in the form of a written instrument regulating the performance of specified devices. In addition, devices covered by standards under section 162 may be subject to labelling requirements under paragraph 182 (1) (a) of the Act.

#### **Purpose of this amendment**

The amendment Notice has been made to amend the *Radiocommunications Devices (Compliance Labelling) Notice 2003* (the Labelling Notice) to:

- give regulatory effect to incorporate two new standards into the Labelling Notice; and
- remove references to previously applicable standards that have been revoked.

#### **Background**

The object of Part 4.1 of the Act is to establish an efficient, flexible and responsive system for technical regulation of equipment that uses, or is affected by, radio emissions. The fundamental policy approach reflected in the system is to rely on industry self-regulation with the regulatory body empowered to intervene only where it is considered necessary for limited purposes relating to the maintenance of certain safeguards.

Under section 162 of the Act, the ACA may, by written instrument, make a radiocommunications standard for the performance of specified devices or the maximum levels of radio emissions for devices within specified parts of the spectrum.

The standards made under section 162 are to consist of only such requirements as are necessary or convenient for managing radiocommunications interference and to address health and safety issues in relation to the operation of radiocommunications devices (subsection 162 (3) of the Act).

Under section 182 of the Act, the ACA may, by written instrument, require any person who is a supplier (manufacturer or importer) of a device included in a specified class of devices, to apply to the device a label that indicates either:

- whether the device meets the requirements of the standards specified in the notice; or
- whether the device complies with the class licence specified in the notice, or both.

The current instrument is the Labelling Notice which is amended from time to time to incorporate changes to the regulatory requirements for radiocommunications devices. This is the first amendment of the Labelling Notice for 2005.

The Labelling Notice specifies, amongst other things, the applicable standards (made under section 162 of the Act) with which a device must comply before it is labelled with a compliance label. A device that does not meet the requirements of the applicable standards specified in the Labelling Notice cannot be labelled under the compliance regime.

The Labelling Notice also specifies the compliance levels that must be followed to demonstrate compliance with the applicable standards for a device. Compliance levels are established by the ACA in consultation with industry. They balance a supplier's requirement to provide evidence of compliance with a standard, against the interference potential of a device covered by that standard. In accordance with the Labelling Notice, this tiered scheme has three compliance levels:

- **Compliance level 1** applies to radiocommunications products whose non-compliance would have a low interference impact on other devices. For this level, suppliers need to sign and hold the Declaration of Conformity and keep a product description;
- **Compliance level 2** applies to radiocommunications products whose non-compliance would have a moderate interference impact on other devices. Suppliers hold the documentation required for Compliance Level 1, as well as the documentary evidence used as the basis for signing the Declaration of Conformity. The documentary evidence may or may not be a test report from an accredited test house and may include a wide range of other supporting documentation. These may include a manufacturer's performance specifications or a manufacturer's test report; and
- **Compliance level 3** applies to radiocommunications products whose non-compliance has a high interference impact on other devices. Suppliers must hold all of the documentation required for Compliance Level 1, as well as a technical test report from a National Association of Testing Authorities (NATA) accredited test house, or a test house accredited by a body that has a mutual recognition agreement with NATA.

The amendment Notice has been made to give effect to two new radiocommunications standards:

- *Radiocommunications (Analogue Speech (Angle Modulated) Equipment) Standard 2005*; and
- *Radiocommunications (406 MHz Satellite Distress Beacons) Standard 2005*.

by including a reference to these standards in Schedule 3 of the Labelling Notice.

This amendment Notice removes references to the following previously applicable standards which were revoked upon the making of the new standards:

- *Radiocommunications Standard (Analogue Speech (Angle Modulated) Equipment) No. 1 of 1995*; and
- *Radiocommunications Standard (406MHz Satellite Distress Beacons) No. 1 of 1996*.

### **Impact and Effect**

This amendment will have no effect on the implementation of the radiocommunications compliance arrangements nor will it have any substantive effect on industry. Grandfathering provisions in the standards allow for the continued supply of devices previously approved under a revoked standard, thus reducing

### **Consultation**

The Office of Regulation Review has provided a Regulation Impact Statement exception advice (Reference No 7184) on the basis that proposals are minor and machinery in nature and do not substantially alter existing arrangements.

The Act does not place a specific obligation on the ACA to undertake a period of public and/or industry consultation when making the Labelling Notice (or amending it). The ACA did seek comment on the proposal to make two new standards under subsection 162 (1) and revoke two existing standards from the public and industry.

### **Other Documents Incorporated in this Instrument by Reference**

- *Radiocommunications (Analogue Speech (Angle Modulated) Equipment) Standard 2005*;
- *Radiocommunications (406 MHz Satellite Distress Beacons) Standard 2005*;
- *Radiocommunications Standard (Analogue Speech (Angle Modulated) Equipment) No. 1 of 1995*; and
- *Radiocommunications Standard (406MHz Satellite Distress Beacons) No. 1 of 1996*.

### **Detailed description of this Instrument**

Details of the Standard are in Attachment 1.

## NOTES ON CLAUSES

### Section 1—Name of Notice

This section details the name of the notice as the *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2005 (No. 1)*.

### Section 2—Commencement

This section provides that the amendment to the *Radiocommunications Devices (Compliance Labelling) Notice 2003* (‘the Labelling Notice’) commences on 15 June 2005 which is the same date of commencement as the replacement standards.

### Section 3—Amendment of *Radiocommunications Devices (Compliance Labelling) Notice 2003*

This section introduces Schedule 1. Schedule 1 contains the amendments to the Labelling Notice.

### Schedule 1—Amendment

Schedule 1 lists the amendments to the Labelling Notice.

#### Item [1]      Schedule 3

Removes reference to the following previously applicable standard:

- *Radiocommunications Standard (Analogue Speech (Angle Modulated) Equipment) No. 1 of 1995*

#### Item [2]      Schedule 3

Removes reference to the following previously applicable standard:

- *Radiocommunications Standard (406MHz Satellite Distress Beacons) No. 1 of 1996*

#### Item [3]      Schedule 3

Inserts reference to the following standards as applicable standards:

- *Radiocommunications (Analogue Speech (Angle Modulated) Equipment) Standard 2005*; and
- *Radiocommunications (406 MHz, Satellite Distress Beacons) Standard 2005*.