

Explanatory Statement

Issued by the Australian Communications and Media Authority

Telecommunications Cabling Provider Amendment Rules 2012 (No. 1)

Telecommunications Act 1997

Purpose

The *Telecommunications Cabling Provider Amendment Rules 2012 (No. 1)* (the Amendment Rules) have been made by the Australian Communications and Media Authority (the ACMA). In the context of the National Broadband Network (NBN), changes have been made to the regulatory arrangements for customer cabling to ensure that cabling providers have the relevant skills in the NBN cabling environment. The Amendment Rules amend the *Telecommunications Cabling Provider Rules 2000* (the Rules).

Legislative provisions

Under subsection 421(1) of the *Telecommunications Act 1997* (the Act), the ACMA may, by written instrument, make rules (cabling provider rules) that are expressed to apply to specified persons and relate to the performance and/or supervision of cabling work. A person subject to the cabling provider rules must comply with the rules. An instrument made under subsection 421(1) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Background

The *Telecommunications Cabling Provider Rules 2000* (the CPRs) were made under section 421 of the Act and are one of a set of regulatory tools which govern customer cabling in order to protect the health or safety of persons, and the integrity of the telecommunications network.

Public Consultation

Section 422 of the Act provides that the ACMA must, so far as practicable, try to ensure that interested persons have had an adequate opportunity to make representations on proposed changes to the CPRs. The ACMA released a consultation paper and a copy of the draft Amendment Rules on 28 September 2011 for a period of 64 days.

The ACMA received 17 submissions. In response to the consultation process, the ACMA modified its approach to amending the Rules. Relevantly, a cabling provider will now only be required to have competencies in the types of cabling work that they perform or supervise.

Regulation Impact

The ACMA consulted with the Office of Best Practice Regulation (OBPR) regarding the changes in the Amendment Rules. OBPR have confirmed that the changes would have a low impact on cabling providers and that a formal regulatory impact statement would not be required. The OBPR assessment number is: **13602**.

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is at Attachment A.

Notes on the instrument

Section 1 – Name of Rules

Section 1 provides that the name of the Amendment Rules is the *Telecommunications Cabling Provider Amendment Rules 2012 (No. 1)*.

Section 2 – Commencement

Section 2 provides that the Amendment Rules commence on 1 July 2012.

Section 3 – Amendment

Section 3 amends the existing Rules known as the *Telecommunications Cabling Provider Rules 2000*.

Schedule 1 Amendments

Item [1] inserts a definition of ‘customer cabling’ into section 1.3 of the Rules to specifically state that the term has the same meaning as in section 20 of the Act.

Item [2] substitutes the definition of ‘Labelling Notice’ in section 1.3 of the existing Rules to refer to the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* which replaced the 1997 Labelling Notice that the existing Rules reference.

Item [3] substitutes the definition of ‘Wiring Rules’ in section 1.3 of the existing Rules. The definition previously referred to a specific version of the industry standard - ‘*Australian Standard AS/ACIF S009:2006 – Installation Requirements for Customer Cabling (Wiring Rules)*’ (the 2006 Standard). The new definition of ‘Wiring Rules’ defines the term by reference to the 2006 Standard as in force from time to time, or a standard published in substitution for the 2006 Standard as in force from time to time. The intention is to allow for amended versions of the 2006 Standard or a future edition of the 2006 Standard to be included in the definition of ‘Wiring Rules’.

Item [4] substitutes section 1.5 of the Rules. The existing Rules specified that the Rules apply to any individual that ‘wishes’ to perform or supervise the performance of specified types of cabling work. The new section 1.5 clarifies that the Rules apply to any person who performs or supervises the performance of cabling work rather than a person who wishes to do so.

Item [5] amends the definition of ‘open cabling work’. In addition to aerial and underground cabling, the types of cabling work that can be performed by cabling providers who hold an ‘open’ cabling registration now includes structured, coaxial and optical fibre cabling.

Item [6] amends the definition of ‘restricted cabling work’. In addition to aerial and underground cabling, the types of cabling work that can be performed by cabling providers who hold a ‘restricted’ cabling registration now includes coaxial and broadband cabling.

Item [7] substitutes subsection 3.1 (2) of the existing Rules with a new subsection 3.1(2). The changes made to the provision are to remove the now redundant paragraph 3.1(2)(c) (Part 6 of the Rules no longer exist), and to amend paragraph 3.1(2)(a) to expressly provide that a cabling provider must have evidence that they meet the competency requirements when they apply to renew their cabling registration in addition to showing evidence of competency when they first register. This amendment to paragraph 3.1(2)(a) clarifies that a cabling provider must show evidence of competency when they renew their registration as specified in the *Arrangements for the Operation of the Registration System (No. 3)*.

Item [8] substitutes subsection 3.1 (6). The changes to the provision clarify that a person may simultaneously operate a registration system as well as act as a registrar. The wording of the existing Rules suggests that a person could either only operate a registration system or only act as a registrar but not both simultaneously. The changes also correct an error in the numbering of the provision.

Item [9] amends subsection 4.2 by separating out the compliance requirements in relation to the Wiring Rules and competency requirements, into two different sections. Competency requirements are now mentioned in a new section 4.2A.

Item [10] inserts a new section 4.2A which provides that cabling work of any of the types mentioned in Part 2 of the Rules must be performed or supervised in accordance with the competency requirements mentioned in paragraph 3.1 (2)(a) of the Rules that are specific to that type of cabling work. For example, in practice this means that a cabling provider must have the competency in structured cabling if they perform structured cabling work and so on.

Item [11] inserts a new Part 6 into the Rules detailing the transitional arrangements for the introduction of the new competency requirements which are specified in the *Arrangements for the Operation of the Registration System (No. 3)*. New section 6.1 contains the definitions relevant to Part 6. Any person who registers as a new cabling provider on or after 1 July 2012 (the day the Amendment Rules commence) will be required to meet the new competency requirements which also commence on that day.

New section 6.3 provides that a person who is a registered cabling provider on 1 July 2012 will be given a two year transition period to meet the new competency requirements and may continue to perform and supervise cabling work in accordance with the former competency requirements (as defined in new section 6.1) during the transition period.

The two year transition period commences on 1 July 2012 and ends on 30 June 2014. After the transition period, all persons must comply with the new competency requirements. New section 6.2 provides that after the transition period, a cabling provider cannot use a current registration in the

way specified in paragraph 3.1(4)(a) or 3.1(4)(b) of the Rules if their registration was granted on the basis that the provider complied with the former competency requirements.

Notwithstanding the commencement of the new competency requirements, under the provisions relating to supervision of cabling work in the Rules a cabling provider that has not yet completed their training may install cabling under the supervision of a registered cabling provider.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Telecommunications Cabling Provider Amendment Rules 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument amends the *Telecommunications Cabling Provider Rules (2000)* (the CPRs) which are made under the *Telecommunications Act 1997*. The CPRs are one of a set of regulatory tools used to govern customer cabling in order to protect the health and safety of persons and the integrity of the telecommunications network. The CPRs provide rules that persons who perform or supervise cabling work of a type specified in the CPRs must comply with. The amendments have been introduced to ensure that cabling providers have the skills required to perform or supervise cabling work related to the National Broadband Network.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Australian Communications and Media Authority