

Explanatory Statement

Issued by the Australian Communications and Media Authority

Telecommunications (Types of Cabling Work) Declaration 2013

Telecommunications Act 1997

Purpose

The *Telecommunications (Types of Cabling Work) Declaration 2013* (the Declaration) declares that specified kinds of cabling work are types of cabling work for the purposes of Division 9 of Part 21 of the *Telecommunications Act 1997* (the Act). The Declaration derives the scope of 'regulated' cabling work by specifying that any cabling work that is not of a kind specified in Schedule 1 of the Declaration is a kind of cabling work for the purposes of the Act. Any cabling work other than that specified in Schedule 1 must be performed in compliance with the requirements of Division 9 of Part 21, including the provisions of the *Telecommunications Cabling Provider Rules 2000* (CPRs) made under section 421 of the Act.

The Declaration replaces the *Telecommunications (Types of Cabling Work) Declaration 1997* (the previous Declaration).

Legislative provisions

Under subsection 419(1) of the Act the Australian Communications and Media Authority (the ACMA) may declare that a specified kind of cabling work is a type of cabling work for the purposes of Division 9 of Part 21 of the Act. Section 5 of the Declaration provides that any kind of cabling work which is not of a kind mentioned in Schedule 1 of the Declaration is a type of cabling work for the purposes of Division 9 of Part 21 of the Act.

The Declaration is a legislative instrument under the *Legislative Instruments Act 2003*.

Background

The main differences between the Declaration and the previous Declaration relate to cabling work that involves the connection of 'plug and play' customer equipment using pre-terminated patch cords, leads, adaptors or extension cords (referred to in the Declaration as 'associated customer cabling products' and in the previous Declaration as 'associated customer equipment') by any person.

Item 4 of Schedule 1 of the previous Declaration exempted, amongst other things, 'cabling work that involves the connection of associated customer equipment by end-users if the associated customer equipment bears a compliance label' from being cabling work for the purposes of the Act. The purpose of the provision was to allow any person (skilled or unskilled) to connect customer equipment using associated customer cabling products without the requirement to engage a registered cabling provider to perform such work. Pre-terminated computer leads commonly found in home networks are an example of associated customer cabling products.

The safety risks associated with the connection of such equipment is managed through the application of the technical standards, record keeping requirements and labelling requirements that apply to the associated customer equipment under the ACMA's *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*.

In recent years, ambiguity has arisen about the application of Item 4 of Schedule 1 of the previous Declaration to the connection of customer cabling that is concealed in building cavities (that is, concealed in the floor, wall or ceiling cavity of a building). Item 4 of Schedule 1 was never intended to cover cabling work where part or all of the customer cabling is concealed in wall, floor and roof cavities. The act of concealing associated customer cabling products in a building cavity corresponds, in the ACMA's view to its 'installation' and such cabling work was not meant to come within the scope of Item 4 of Schedule 1 of the previous Declaration.

The performance of cabling work involving the concealment of customer cabling in building cavities raises safety risks and therefore that type of cabling work should be subject to the customer cabling regulatory arrangements - that is, the intent is that such cabling work must be performed by a registered customer cabling provider in accordance with the CPRs.

Item 4 of Schedule 1 of the Declaration clarifies the policy intent by specifying that the provision only applies to cabling work where the associated customer cabling product is not concealed in a building cavity.

The Declaration also updates a number of outdated references and definitions that existed in the previous Declaration. Except for the changes described above, the Declaration is substantially the same as the previous Declaration.

Public consultation

Section 17 of the *Legislative Instruments Act 2003* requires the ACMA to be satisfied that any consultation it considers to be appropriate and that is reasonably practicable to undertake has been undertaken. The ACMA released a [consultation paper](#) via the ACMA website on 25 March 2013 for a period of 61 days. In addition, the consultation paper was also emailed to various relevant industry bodies as part of the standard public consultation process adopted for changes to technical regulation. A total of 17 submissions were received in response to the consultation paper.

The consultation paper proposed that the Declaration include an additional provision relating to cabling work involved in the connection or installation of home theatre and home entertainment systems. It was proposed that such cabling work, when performed by specified persons in compliance with specified requirements, should not be a type of cabling work for the purposes of Division 9 of Part 21 of the Act. A majority of the submissions received in response to the consultation paper opposed the proposed inclusion of such a provision. In response the ACMA decided not to proceed with the proposal.

The submissions received supported all other proposals canvassed in the consultation paper. In addition to the specific proposals for amendment put forward by the ACMA, persons making submissions were also invited to make any other suggestions for changes to the Declaration that they thought should be considered. No other substantive proposals for change were put forward.

Regulation Impact

The ACMA consulted with the Office of Best Practice Regulation (OBPR) regarding the revocation of the previous Declaration and the making of the Declaration. OBPR have confirmed that the changes are minor and machinery and that a formal regulatory impact statement would not be required. The OBPR assessment number is: **ID 14279**.

Statement of Compatibility with Human Rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule maker in relation to a legislative instrument to which section 42 (disallowance) of the *Legislative Instruments Act 2003* applies to cause a statement of compatibility to be prepared in respect of that legislative instrument. This statement is in Attachment A.

Documents Incorporated by Reference

The Declaration incorporates the following documents by reference:

- the *Telecommunications Technical Standard (Broadcaster Interface Standard – ACA TS 024 – 1997)* made by the Australian Communications Authority, as in force from time to time.
- the Australian Standard, AS 1851-2012 *Routine service of fire protection systems and equipment*, published by Standards Australia Limited, as in force from time to time.
- the Australian Standard, AS/ACIF S035:2008 *Requirements for installation of temporary field telecommunications customer cabling for defence purposes* published by Communications Alliance Ltd, as in force from time to time;
- the Australian Standard AS/CA S009:2013 – *Installation requirements for Customer Cabling (Wiring Rules)* as in force from time to time; and
- the Industry Guideline G642:2010 *Installation of Broadcast Cabling and connection of Digital Broadcast Equipment to a Telecommunications Network* issued by Communications Alliance Ltd, as in force from time to time.

Notes on the instrument

Section 1 – Name of Declaration

Section 1 provides that the name of the Declaration is the *Telecommunications (Types of Cabling Work) Declaration 2013*.

Section 2 – Commencement

Section 2 provides that the Declaration commences on the later of the following dates:

- a) the day after it is registered on the Federal Register of Legislative Instruments;
- b) the day that it is published in the Gazette.

Section 3 – Revocation

Section 3 revokes the *Telecommunications (Types of Cabling Work) Declaration 1997*.

Section 4 – Interpretation

Section 4 contains the definitions of terms used in the Declaration. The following definitions have been updated or added (compared to the previous Declaration):

- the Australian Standard AS1851-2012 *Routine service of fire protection systems and equipment* published by Standards Australia Limited replaces the following standards – AS 1851.3, AS 1851.8, AS 1851.10 and AS 1851.14.
- ‘Associated customer equipment’ has been re-named ‘Associated customer cabling product’. The change in terminology is more in line with the definitions of ‘customer equipment’ and ‘customer cabling’ in the Act. The definition has also been updated to include ‘customer equipment connecting cords’ and ‘plug/socket adaptors’.
- The definition of ‘broadcaster’ has been updated to reflect changes to the *Broadcasting Services Act 1992*.
- The definition of ‘criminal law-enforcement agency’ has been revised to reflect changes to the definition of the same term in the *Telecommunications (Interception and Access) Act 1979*.
- The definition of ‘customer equipment connecting cord’ has been included to recognise that in some instances customer equipment can be supplied with a cord (as part of the equipment) that enables a person to connect the customer equipment to a telecommunications network. ‘Customer equipment connecting cord’ is a type of associated customer cabling product.
- The definition of ‘Wiring Rules’ now refers to the Australian Standard AS/CA S009:2013 – Installation requirements for customer cabling (Wiring Rules) as in force from time to time, or a standard that is published in its place. The 2013 standard commenced on 1 July 2013 and replaces the 2009 version.

Section 5 - Types of cabling work

Section 5 provides that any cabling work that is not listed in Schedule 1 of the Declaration is cabling work for the purposes of Division 9 of Part 21 of the Act. Cabling work that is not of a kind specified in Schedule 1 must comply with the provisions of the Act.

Schedule 1 Cabling work that is not a type of cabling work for Division 9 of Part 21 of the Act

Items 1 to 9 of Schedule 1 specify the types of cabling work that are not subject to the requirements of Division 9 of Part 21 of the Act. Each type of cabling work in Schedule 1 is subject to specified conditions such as that:

- the cabling work be performed by members of a particular organisation;
- the cabling work be used for a particular purpose;
- the cabling work is connected or installed in a particular manner;
- the cabling work be performed in accordance with specified technical requirements; and/or
- the cabling work must utilise certain specified cabling products.

Item [1] specifies cabling work where the customer cabling is used by broadcasters and narrowcasters and the work is in accordance with either the Australian Standard ACA TS 024-1997 or Industry Guideline G642:2010 or in accordance with the written consent of the manager of the network.

Item [2] specifies cabling work used by criminal law enforcement agencies under a warrant issued under a law of the Commonwealth, a State or Territory.

Item [3] specifies cabling work used by the Department of Defence or the Defence Force for temporary field telecommunications installations that meet the requirements of AS/ACIF S035:2008.

Item [4] specifies cabling work that involves the connection of associated customer cabling products. This provision allows an unskilled person to connect compliant pre-terminated 'plug-and-play' type cabling work without the requirement to engage the services of a registered cabling provider. The exemption does not allow the connection of cabling work where any part of the cabling is concealed within roof, ceiling or wall cavities. Where the concealment of cabling work within the cavities of a building is required, a registered cabling provider must be used for the work to comply with the Act.

Items [5], [6], [7] and [8] specify cabling work that is undertaken for the sole purpose of inspecting, testing and maintaining:

- automatic fire sprinkler systems;
- fire detection and alarm systems;
- an emergency warning and intercommunication system; and
- a pumpset system.

The performance of this type of cabling work is subject to the requirements of AS 1851-2012, the Australian Standard which has replaced the previous 2005 standards. Only cabling work that is compliant with that standard is not a type of cabling work for the purposes of Division 9 of Part 21 of the Act.

Item [9] specifies cabling work that involves the installation and maintenance of customer cabling that is used in relation to broadcasting content during a significant event. 'Significant event' is defined in section 4. The cabling work must be connected in accordance to the requirements of the manager of the network and must be completely dismantled at the end of the significant event, for it to fall within the scope of Item 9.

Attachment A - Statement of Compatibility with Human Rights

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

Telecommunications (Types of Cabling Work) Declaration 2013

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

The *Telecommunications (Types of Cabling Work) Declaration 2013* (the Declaration) is made by the Australian Communications and Media Authority under subsection 419(1) of the *Telecommunications Act 1997* (the Act). The Declaration revokes the *Telecommunications (Types of Cabling Work) Declaration 1997*. This Declaration is one of a set of regulatory tools used to govern the performance of customer cabling in order to protect the health and safety of persons and the integrity of the telecommunications network. Section 5 of the Declaration provides that any kind of cabling work which is not of a kind mentioned in Schedule 1 is a type of cabling work for the purposes of Division 9 of Part 21 of the Act, and as such is subject to the provisions of the Act.

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.