



# Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015

*Telecommunications Act 1997*

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The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Instrument under subsection 407(1)<sup>1</sup> of the *Telecommunications Act 1997*.

Dated: 17<sup>th</sup> February 2015

*Chris Chapman*  
[signed]  
Member

*Richard Bean* [signed]  
Member /  
~~General Manager~~

Australian Communications and Media Authority

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## Part 1 – Preliminary

### 1      Name of Instrument

This Instrument is the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015*.

### 2      Commencement

This Instrument commences on the day after it is registered.

*Note*      All legislative instruments must be registered on the Federal Register of Legislative Instruments required to be maintained under the *Legislative Instruments Act 2003*.

### 3      Revocation

The *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* [F2005B00329] is revoked.

## Part 2 – Interpretation

### 4      Definitions and other interpretative provisions

(1) In this Instrument:

*ABN* has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

*accreditation body* means a person or association that is an accreditation body for the purposes of section 409 of the Act.

*ACN* has the meaning given by section 9 of the *Corporations Act 2001*.

*Act* means the *Telecommunications Act 1997*.

*applicable technical standard* has the meaning given by:

- (a) in the case of customer equipment (other than surge protectors) – section 8; or
- (b) in the case of customer cabling and surge protectors – clause 1 of Schedule 4.

*ARBN* has the meaning given by section 9 of the *Corporations Act 2001*.

*A-tick* means the compliance mark set out in Part 2 of Schedule 3.

*authorised officer* means:

- (a) an inspector; or
- (b) a person who is authorised, in writing by the ACMA, to be an authorised officer for the purposes of this Instrument.

*built-in display*, in relation to an item that is customer equipment (other than a surge protector), means an electronic display or screen integral to the item, and does not include a display or screen that can be used independently of the item.

**CB Testing Laboratory** has the meaning given by the IECCEB Rules of Procedure.

**compliance label** means a label required to be applied to an item by section 9 or clause 4 of Schedule 4.

**compliance records** has the meaning given by section 22.

**criminal law-enforcement agency** has the meaning given by section 5 of the *Telecommunications (Interception and Access) Act 1979*.

**declarant**, in relation to a declaration of conformity, means the person who makes the declaration.

**declaration of conformity** has the meaning given by section 6.

**endorsed test report** means a test report for an item that shows the endorsement or mark of:

- (a) an accreditation body;
  - (b) a body with which an accreditation body has an agreement for the mutual recognition of test reports; or
  - (c) if there is an agreement to which Australia is a party that:
    - (i) deals with mutual recognition in relation to conformity assessment; and
    - (ii) specifies, or provides for the specification of, a body that, for the purposes of the agreement, is able to conduct testing against, or in accordance with, an applicable technical standard in relation to the item;
- the body that has been so specified in, or under, the agreement.

*Note* An example of an endorsement or mark of such a body is the trade mark of “NATA” which stands for the National Association of Testing Authorities, Australia.

**high risk applicable technical standard**, in relation to an item, means an applicable technical standard, or a part of an applicable technical standard, in relation to the item that is specified to be a high risk standard in:

- (a) if the item is customer equipment (other than a surge protector) – column 4 of the table in Schedule 1; or
- (b) if the item is customer cabling or a surge protector – column 4 of the table in clause 1 of Schedule 4.

*Note* If only a part of an applicable technical standard in relation to an item is specified to be a high risk standard, that part is a high risk applicable technical standard, and the remainder is not such a standard, in relation to the item. For example, the part of AS/CA S042-2015 that relates to AS/CA S042.1:2010 (within the meaning of AS/CA S042-2015) is a high risk applicable technical standard, and the remainder is not such a standard, in relation to the kind of customer equipment mentioned in item 2 of the table in Schedule 1.

**IECEE CB Rules of Procedure** means the Rules of Procedure of the IECEE Certification Body (CB) Scheme contained in the publication ‘IECEE 02 – Scheme of the IECEE for Mutual Recognition of Test Certificates for Electrotechnical Equipment and Components (CB Scheme) – Rules of Procedure’ published by the International Electrotechnical Commission as in force from time to time.

*Note* The IECEE CB Rules of Procedure can be accessed from the IECEE CB Scheme’s website at <http://www.iecee.org/cbscheme/default.htm>.

**IECEE CB Test Certificate** means a certificate issued by an Issuing and Recognizing NCB in accordance with the IECEE CB Rules of Procedure.

**IECEE CB Test Report** means a test report issued by a CB Testing Laboratory in accordance with the IECEE CB Rules of Procedure, which is accompanied by an IECEE CB Test Certificate.

**included in a class of items** has the meaning given by section 5.

**industry standard** means a standard approved by Standards Australia or any other body or association.

*Note* In this Instrument, an **industry standard** is not a standard referred to in section 108 of the Act.

**Issuing and Recognizing NCB** has the meaning given by the IECEE CB Rules of Procedure.

*Note* In the IECEE CB Rules of Procedure, “NCB” stands for National Certification Body.

**item** means:

- (a) in Part 4 – a thing that is customer equipment (other than a surge protector), and includes a modified item;
- (b) in Schedule 4 – a thing that is customer cabling or a surge protector, and includes a modified item; or
- (c) in any other case – a thing that is customer equipment or customer cabling, and includes a modified item.

*Note 1* Subsection 7(1) provides that this Instrument does not apply to certain items.

*Note 2* “Customer cabling” may also cover things such as sockets or plugs.

**manufacturer**, in relation to an item, includes (but is not limited to) a person who modifies the item.

**modified item** means an item that has been modified, by or on behalf of the manufacturer or importer of the item, after the item was manufactured or imported and, for the avoidance of doubt, is the item as modified.

**national database** means:

- (a) the Supplier and Equipment Registration Database maintained by the Electrical Regulatory Authorities Council; or

- (b) if the ACMA designates, in writing, another database for the purposes of this Instrument – that database.

*Note* The Supplier and Equipment Registration Database can be accessed from the Electrical Regulatory Authorities Council's website at <http://www.erac.gov.au>.

***national database manager*** means:

- (a) the Electrical Regulatory Authorities Council; or  
(b) if the ACMA designates, in writing, a database under paragraph (b) of the definition of ***national database*** – the ACMA.

***non-compliance label*** means a label required to be applied to an item by section 13 or clause 11 of Schedule 4.

***officer of the manufacturer or importer*** means:

- (a) if the manufacturer or importer is a corporation for the purposes of the *Corporations Act 2001* – an officer of the corporation within the meaning of section 9 of the *Corporations Act 2001*; or  
(b) if the manufacturer or importer is, or is part of, an entity that is neither an individual nor a corporation for the purposes of the *Corporations Act 2001* – an officer of the entity within the meaning of section 9 of the *Corporations Act 2001*.

***original item*** has the meaning given by subsection 5(1).

***original modified item*** has the meaning given by subsection 5(2).

***previous Notice*** means the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*.

***RCM*** means the regulatory compliance mark set out in Part 1 of Schedule 3.

***recognised testing authority*** means a person that is a recognised testing authority for the purposes of Division 7 of Part 21 of the Act.

***representative of the manufacturer or importer*** means:

- (a) an employee of the manufacturer or importer;  
(b) if the manufacturer or importer is not an individual – an officer of the manufacturer or importer; or  
(c) a person authorised in writing for the purposes of this Instrument by the manufacturer or importer, or by an employee or officer of the manufacturer or importer.

*Note* Section 406A of the Act provides that a reference to a manufacturer or importer of customer equipment or customer cabling includes a reference to a person who is authorised in writing by such a manufacturer or importer to act in Australia as an ***agent*** of the manufacturer or importer for the purposes of Division 7 of Part 21 of the Act, which includes the purposes of this Instrument.

***significant event*** means an event at a location or locations specified in a notice approved by the Chair of the ACMA and published on the ACMA's website at <http://www.acma.gov.au>.

**supplier code number** means a code number issued to a person:

- (a) in accordance with an instrument made by the ACMA under subsection 407(1) of the Act;
- (b) in accordance with a notice made by the ACMA under section 182 of the *Radiocommunications Act 1992*; or
- (c) by Standards Australia under the Australian/New Zealand Standard AS/NZS 4417:2009 – *Marking of electrical and electronic products to indicate compliance with regulations* jointly published by Standards Australia and Standards New Zealand in December 2009, or an earlier version of that standard.

**supply** includes supply (including re-supply) by way of sale, exchange, lease, hire or hire-purchase.

**surge protector** means customer equipment that is a multi-terminal device consisting of single or multiple components which, within its operating range, limits the voltage present on its output terminals when a preset voltage is exceeded on its input terminals.

**technical standard** means a technical standard made by the ACMA under subsection 376(1) of the Act.

*Note* A technical standard which is made by the ACMA under subsection 376(1) of the Act may incorporate all or one or more parts of an industry standard.

**test report**, for an item, means a report in English that shows the results of a test of the item against, or in accordance with, an applicable technical standard in relation to the item.

**working day**, in relation to the time for doing a thing, means a day that is not:

- (a) a Saturday or a Sunday; or
- (b) a public holiday;

in the place in which the thing is to be or may be done.

*Note* In accordance with paragraph 13(1)(b) of the *Legislative Instruments Act 2003*, other expressions in this Instrument have the same meaning as in the Act, including:

- ACMA (see section 7)
- certification body (see section 410)
- customer cabling (see sections 7 and 20)
- customer equipment (see sections 7 and 21)
- facility (see section 7 and subsection 374(2))
- import (see section 7)
- inspector (see sections 7 and 533)
- label and when it is taken to be applied (see section 406)
- manager of a telecommunications network or facility (see section 375)
- manufacturer or importer of customer equipment or customer cabling (see section 406A)

- public mobile telecommunications service (see sections 7 and 32)
  - satellite-based facility (see section 7)
  - standard telephone service (see section 7)
  - telecommunications network (see section 7 and subsection 374(1)).
- (2) If, apart from this subsection, a provision of this Instrument would impose an obligation on a manufacturer or importer of an item and the item was imported:
- (a) if the item has subsequently been modified – the obligation is imposed on the manufacturer who modified the item; or
  - (b) otherwise – the obligation is imposed on the importer.
- (3) For the avoidance of doubt, this Instrument does not apply to a manufacturer of an item unless:
- (a) the item was manufactured in Australia; or
  - (b) the item was modified by the manufacturer in Australia (irrespective of whether the item was manufactured in Australia).
- (4) In this Instrument, a reference to *the date a modified item was made* is a reference to the date of making of the modification which resulted in that item.

## **5 Class of items and obligations relating to certain compliance records**

- (1) In this Instrument:
- (a) an item (other than a modified item) is *included in a class of items* if the item:
    - (i) is identical to each other item of the class (irrespective of when the items were manufactured or imported); and
    - (ii) has the same manufacturer or importer as each other item; and
  - (b) the *original item*, in relation to the class of items, is the item of the class that was the first to be manufactured in Australia or imported.
- (2) In this Instrument:
- (a) a modified item is *included in a class of items* if:
    - (i) the modification which resulted in that item is identical to the modification which resulted in each other item of the class (irrespective of when the items were so modified);
    - (ii) the modified item is, in all other respects, identical to each other item (irrespective of when the items were manufactured or imported); and
    - (iii) the modified item has the same manufacturer or importer as each other item; and
  - (b) the *original modified item*, in relation to the class of items, is the item of the class that was the first to be so modified in Australia or imported.

(3) If:

- (a) a provision of this Instrument requires a manufacturer or importer of an item to do any of the following things:
  - (i) complete a declaration of conformity for the item in accordance with subsection 20(1);
  - (ii) prepare a description of the item in accordance with subsection 23(3);
  - (iii) update or correct the description in accordance with subsection 23(4);
  - (iv) prepare a written statement in relation to the item in accordance with:
    - (A) subsection 11(4);
    - (B) paragraph 13(2)(b);
    - (C) subsection 21(2);
    - (D) paragraph 4(2)(b) of Schedule 4; or
    - (E) paragraph 11(2)(b) of Schedule 4;
- (b) the item is included in a class of items;
- (c) the manufacturer or importer has done such a thing in relation to another item of the class; and
- (d) the declaration, description or statement which resulted from doing such a thing would be the same for each item of the class;

the manufacturer or importer is taken to have done such a thing in relation to the first-mentioned item, and the doing of such a thing is taken to have resulted in the declaration, description or statement referred to in paragraph (d).

*Example* If a manufacturer or importer has prepared a declaration of conformity for an item that is included in a class of items, the manufacturer or importer is not required to prepare such a declaration in the same terms for any other item included in the class.

## **6 Declaration of conformity**

In this Instrument, *declaration of conformity*, for an item, means a declaration that:

- (a) is made by:
  - (i) if the manufacturer or importer of the item is a corporation for the purposes of the *Corporations Act 2001* – any of the following:
    - (A) a director of the manufacturer or importer;
    - (B) a secretary of the manufacturer or importer;
    - (C) a person authorised by the manufacturer or importer to make the declaration;
  - (ii) if the manufacturer or importer of the item is an individual – the individual; or



- (iii) if the manufacturer or importer of the item is, or is part of, an entity that is neither a corporation nor an individual – any of the following:
  - (A) an officer of the entity for the purposes of the *Corporations Act 2001*;
  - (B) a person authorised by the manufacturer or importer to make the declaration;
- (b) contains the following information:
  - (i) the current model number of the item and, if relevant, any related model numbers;
  - (ii) the name of the manufacturer or importer of the item and, if the manufacturer or importer is a body corporate, the ACN or ARBN of the manufacturer or importer;
  - (iii) an address in Australia and contact details for the manufacturer or importer, or a representative of the manufacturer or importer;
    - Note* Section 4 defines who is a representative of a manufacturer or importer.
  - (iv) the title of each applicable technical standard in relation to the item;
  - (v) the following date:
    - (A) if the item is included in a class of items – the date the original item of the class was manufactured in Australia or imported, or (in the case of a modified item) the date the original modified item of the class was made in Australia or imported;
    - (B) otherwise – the date the item was manufactured in Australia or imported, or (in the case of a modified item) the date the modified item was made in Australia or imported;
  - (vi) a statement that the declarant is reasonably satisfied, having had regard to particular documents, that the item complies with each applicable technical standard in relation to the item;
    - Note* See subsection 20(2) for the kinds of documents to which a person may have regard in order to be reasonably satisfied that an item complies with an applicable technical standard.
  - (vii) details of the documents to which the declarant has had regard for the purposes of subparagraph (vi);
    - Example* If, in accordance with paragraph 20(2)(b), the declarant has had regard to a test report prepared by an entity stating that the item complies with each applicable technical standard, subparagraph (b)(vii) would be satisfied if the declaration contained details identifying the document as a test report, the entity which prepared the test report and the date the test report was prepared.
  - (viii) a statement that the declarant:
    - (A) is satisfied that the information contained in the declaration is true and correct; and

- (B) understands that giving false or misleading information is a serious offence;
- (c) bears the signature of the declarant and the date the declaration was made.

*Note 1* The ACMA may make a sample declaration of conformity available on its website at <http://www.acma.gov.au>.

*Note 2* Section 137.1 of the *Criminal Code* imposes penalties for giving false or misleading information to the ACMA. Section 137.2 imposes penalties for producing false or misleading documents to the ACMA. The ACMA may require documents to be produced to it under this Instrument or under the Act.

## Part 3 – Application

### 7 Application of this Instrument

- (1) This Instrument applies to an item, other than an item mentioned in Schedule 2.
- (2) Schedule 4 has effect.

*Note 1* Schedule 4 only applies to customer cabling and surge protectors.

*Note 2* If an item, or a class of items, to which this Instrument applies is also an item, or a class of items, to which a notice under section 182 of the *Radiocommunications Act 1992* applies, the requirements of this Instrument are additional to the requirements of that notice. A manufacturer or importer may have to comply with requirements of both this Instrument and that notice.

## Part 4 – Labelling requirements

### Division 1 – Interpretation

#### 8 Applicable technical standards

- (1) This section sets out when a technical standard is an *applicable technical standard* in relation to an item for the purposes of this Instrument.

*Note* This section deals with applicable technical standards for customer equipment (other than surge protectors). Clause 1 of Schedule 4 deals with applicable technical standards for customer cabling and surge protectors.

- (2) A technical standard is an *applicable technical standard* in relation to an item if:
  - (a) the item is of a kind mentioned in column 1 of the table in Schedule 1;
  - (b) the technical standard:
    - (i) is a corresponding applicable technical standard mentioned in column 2 of that table; and
    - (ii) was in force at the time the item was manufactured in Australia or imported; and

- (c) the technical standard consists of or includes requirements that apply to the item.

## Division 2 – Applying a compliance label

### 9 Requirement to apply a compliance label

- (1) If:
  - (a) there are one or more applicable technical standards in relation to an item; and
  - (b) the item complies with each standard referred to in paragraph (a);this section applies to the item.
- (2) The manufacturer or importer of the item must, before supplying the item, apply a compliance label to the item in accordance with Division 3.
- (3) If:
  - (a) there is a reasonable likelihood that the item could be installed or operated in a manner which is inconsistent with a standard referred to in paragraph (1)(a); and
  - (b) the installation or operation of the item in such a manner could constitute a risk to public safety;

the manufacturer or importer must ensure that the item, when supplied, is accompanied by documentation that specifies how to install and operate the item in a manner which is consistent with the standard.

## Division 3 – Form and application of a compliance label

### 10 Form of a compliance label

- (1) A compliance label must be in the form of the RCM no smaller than 3 mm in height.
- (2) Except as otherwise provided by this Instrument, a compliance label must be:
  - (a) durable; and
  - (b) applied to an item permanently or in a way that makes removal or obliteration difficult.

*Note* In this Division, a reference to an *item* is a reference to an item to which section 9 applies.

## **11 Application of a compliance label**

- (1) A compliance label must be affixed to the surface of an item where the label is readily accessible to a person, unless:
  - (a) it is impossible or impractical to do so because of the size or physical nature of the item and the manufacturer or importer of the item otherwise meets the requirements of this section; or
  - (b) the item has a built-in display that may be used to apply a compliance label and the manufacturer or importer of the item meets the requirements of section 12.
- (2) A compliance label is not readily accessible to a person if it is necessary for the person to use a specialised tool to gain access to the label.
- (3) Where it is impossible or impractical to affix a compliance label to the surface of an item because of the size or physical nature of the item, a compliance label must:
  - (a) be affixed to the external surface of the packaging used for the item;
  - (b) be clearly visible on that external surface; and
  - (c) be incorporated in the documentation that accompanies the item when supplied.
- (4) The manufacturer or importer of an item to which subsection (3) applies must prepare a written statement in relation to the item specifying:
  - (a) the reasons why subsection (3) applies to the item; and
  - (b) where, on the external surface of the packaging and in the documentation referred to in subsection (3), each compliance label has been applied.

*Note* See *Note 2* to section 6.

## **12 Electronic labelling of customer equipment**

- (1) A manufacturer or importer of an item that has a built-in display may apply a compliance label to the item using the built-in display if the manufacturer or importer meets the requirements of this section.
- (2) The manufacturer or importer must ensure that the documentation that accompanies the item when supplied sets out a method for displaying the label.
- (3) The method for displaying the label must, when the item is being used by a person, make it difficult for the person to prevent the display of the label.
- (4) Subsection 10(2) does not apply to a compliance label applied in accordance with this section.

## Division 4 – Applying a non-compliance label and preparing a written statement

### 13 Requirement to apply a non-compliance label and prepare a written statement

- (1) If:
- (a) there are one or more applicable technical standards in relation to an item; and
  - (b) the item does not comply with each standard referred to in paragraph (a);
- this section applies to the item.
- (2) The manufacturer or importer of the item must, before supplying the item:
- (a) apply a non-compliance label to the item; and
  - (b) prepare a written statement in relation to the item;
- in accordance with Division 5.

## Division 5 – Form and application of a non-compliance label and preparation of a written statement

### 14 Form of a non-compliance label

- (1) A non-compliance label applied to an item must contain a statement to the effect that the item does not comply with each applicable technical standard in relation to the item.
- Note* In this Division, a reference to an *item* is a reference to an item to which section 13 applies.
- (2) The statement must be:
- (a) in English; and
  - (b) printed in a font of not less than 12 points.
- (3) A non-compliance label must be:
- (a) durable; and
  - (b) applied to an item permanently or in a way that makes removal or obliteration difficult.

### 15 Application of a non-compliance label

A non-compliance label must:

- (a) be affixed to the external surface of the packaging used for an item;

- (b) be clearly visible on that external surface; and
- (c) be incorporated in the documentation that accompanies the item when supplied.

**16 Preparation of a written statement and obligation to keep the statement**

- (1) A written statement prepared under paragraph 13(2)(b) in relation an item must:
- (a) identify the item; and
  - (b) specify:
    - (i) where, on the external surface of the packaging and in the documentation referred to in paragraph 15(c), each non-compliance label has been applied; and
    - (ii) the wording of the statement contained in each non-compliance label.

*Note* See *Note 2* to section 6.

- (2) A written statement prepared under paragraph 13(2)(b) in relation to an item must be kept for the period:
- (a) commencing:
    - (i) if the item is included in a class of items – when the original item, or (in the case of a modified item) the original modified item, of the class is supplied in Australia; or
    - (ii) otherwise – when the item is supplied in Australia; and
  - (b) ending two years after the item or all items of the class cease to be supplied in Australia, whichever is the later.

## **Part 5 – Declaration of conformity and record keeping requirements**

### **Division 1 – Application of this Part**

**17 Application of Part 5**

This Part applies to:

- (a) an item to which section 9 applies; and
- (b) an item to which clause 4 of Schedule 4 applies.

## Division 2 – Registration on national database and issue of supplier code numbers

### 18 Registration on national database or issue of supplier code number before compliance label is applied

- (1) A manufacturer or importer of an item must:
- (a) if the item is an item to which section 9 applies – before applying a compliance label to the item; or
  - (b) if the item is an item to which clause 4 of Schedule 4 applies – before supplying the item;

be registered within the meaning of subsection (2).

- (2) For the purposes of subsection (1):
- (a) before 1 March 2016, a manufacturer or importer of an item is **registered** if the manufacturer or importer:
    - (i) is registered on the national database; or
    - (ii) has been issued with a supplier code number; and
  - (b) on or after 1 March 2016, a manufacturer or importer of an item is **registered** only if the manufacturer or importer is registered on the national database.

### 19 Registration on national database

- (1) To be registered on the national database, a manufacturer or importer of an item must, using a method required by the national database manager, provide information that sets out:
- (a) the identity of the manufacturer or importer;
  - (b) the address in Australia of the manufacturer or importer; and
  - (c) the name and contact details of a representative of the manufacturer or importer.

*Note* Section 4 defines who is a representative of a manufacturer or importer.

- (2) For the purposes of paragraph (1)(a), information that sets out the identity of the manufacturer or importer consists of the ABN of the manufacturer or importer and one of the following:
- (a) if the manufacturer or importer is a body corporate or an individual – the name of the body corporate or the individual;
  - (b) if the manufacturer or importer uses a business name in connection with its business as a manufacturer or importer and the business name is registered under the *Business Names Registration Act 2011* – the business name.

- (3) If the information provided by a manufacturer or importer in accordance with this section subsequently changes, the manufacturer or importer must, using a method required by the national database manager, provide information that sets out details of the change within 30 days after the change occurs.

*Note 1* If a manufacturer or importer contravenes a specific requirement that must be met after a compliance label has been applied to an item (including the ongoing requirement under subsection 19(3)), the manufacturer or importer may be guilty of an offence under section 415 of the Act.

*Note 2* Information provided by a manufacturer or importer in accordance with this section for inclusion on the national database may be made publicly available.

## **Division 3 – Declaration of conformity**

### **20 Declaration of conformity**

- (1) A manufacturer or importer of an item must, before supplying the item, ensure that a declaration of conformity for the item has been completed in accordance with section 6.

*Note 1* These documents are to be kept in accordance with this Part and made available in accordance with Part 6.

*Note 2* If the item is a modified item, Division 4 also applies.

- (2) For the purposes of subparagraphs 6(b)(vi) and (vii):

- (a) a person can only be reasonably satisfied that an item complies with a high risk applicable technical standard if:
- (i) there is:
- (A) an endorsed test report;
  - (B) a statement prepared by a certification body;
  - (C) an IECEE CB Test Report that is accompanied by an IECEE CB Test Certificate, as well as a statement prepared by an Issuing and Recognizing NCB that operates in Australia or a recognised testing authority; or
  - (D) a certificate issued under a law of a State or Territory that deals with the safety of electrical equipment;
- containing information that indicates that the item or (if the item is included in a class of items) an item of the class complies with the high risk applicable technical standard; and
- (ii) the person has had regard to the document or documents;

*Note 1* The kinds of documents mentioned in sub-subparagraphs (a)(i)(C) and (D) are only prepared or issued for items in relation to which AS/NZS 60950.1-2011 is an applicable technical standard.

*Note 2* A certificate issued under a law of a State or Territory that deals with the safety of electrical equipment may be called a “Certificate of Approval”, a “Certificate of Conformity” or a “Certificate of Suitability”.



- (b) a person may be reasonably satisfied that an item complies with an applicable technical standard (other than a high risk applicable technical standard) if:
- (i) there is a statement prepared by a certification body or a test report containing information that indicates that the item or (if the item is included in a class of items) an item of the class complies with the applicable technical standard; and
  - (ii) the person has had regard to the document.

*Note* Unlike paragraph (a), paragraph (b) does not limit the kinds of documents to which a person may have regard in order to be reasonably satisfied that an item complies with an applicable technical standard.

## Division 4 – Additional requirements for modified items

### 21 Modified items

- (1) This section applies to a modified item.
- (2) The manufacturer or importer of the modified item must, before supplying that item, prepare a written statement that:
  - (a) identifies the modified item;
  - (b) identifies the modification which resulted in that item, being the difference between the item in its unmodified form (the *unmodified item*) and the modified item;
  - (c) indicates whether the modification is or is not material and specifies the reason why the modification is or is not material;
  - (d) if the modification is not material – contains the current model number of the modified item and the current model number of the unmodified item; and
  - (e) is signed by:
    - (i) if the manufacturer or importer is a corporation for the purposes of the *Corporations Act 2001* – any of the following:
      - (A) a director of the manufacturer or importer;
      - (B) a secretary of the manufacturer or importer;
      - (C) a person authorised by the manufacturer or importer to make the statement;
    - (ii) if the manufacturer or importer is an individual – the individual; or
    - (iii) if the manufacturer or importer of the item is, or is part of, an entity that is neither a corporation nor an individual – any of the following:
      - (A) an officer of the entity for the purposes of the *Corporations Act 2001*;

- (B) a person authorised by the manufacturer or importer to make the statement.

*Note 1* See *Note 2* to section 6.

*Note 2* If a modification is made to an item outside Australia and the modified item is imported, subsection (2) will apply, and subsection (3) may apply, to the importer.

- (3) If:
- (a) the modification is not material; and
  - (b) the manufacturer or importer has:
    - (i) completed a declaration of conformity for the unmodified item in accordance with subsection 20(1); and
    - (ii) prepared a written statement for the modified item in accordance with subsection (2);

the manufacturer or importer is taken to have completed a declaration of conformity for the modified item consisting of the declaration and the statement referred to in paragraph (b).

*Note* If the modification is material, the manufacturer or importer must complete a declaration of conformity for the modified item in accordance with subsection 20(1).

- (4) For the purposes of subsections (2) and (3), the modification is **material** if the modification would or could reasonably be expected to affect whether the modified item complies with any applicable technical standard in relation to the modified item.

*Note* This section imposes additional requirements on an item that has been modified, by or on behalf of the manufacturer or importer of the item, after the item was manufactured or imported. The item as modified must comply with each applicable technical standard in relation to the modified item before a compliance label is applied to that item.

## **Division 5 – Compliance records**

### **22 Compliance records – general requirement**

- (1) In this Instrument, **compliance records**, in relation to an item, means:
- (a) a written statement prepared under subsection 11(4) or subsection 21(2) or paragraph 4(2)(b) of Schedule 4 in relation to the item;
  - (b) a declaration of conformity completed for the item under subsection 20(1);
  - (c) a description of the item prepared under subsection 23(3);
  - (d) an entry, for the item or (if the item is included in a class of items) the class, listed on a register established under subclause 10(1) of Schedule 4;
  - (e) if subsection 9(3) applies to the item – a copy of the documentation that must accompany the item when supplied; and

- (f) if an agent of the manufacturer or importer of the item keeps compliance records in relation to the item pursuant to an agreement with the manufacturer or importer – the agreement.
- (2) For the purposes of this Instrument, a compliance record may form part of another compliance record.

*Example* A declaration of conformity for an item may contain a written statement prepared under subsection 11(4). In that case, a manufacturer or importer would only need to keep the declaration of conformity to comply with the obligation to keep both of the compliance records.

## **23 Compliance records – specific requirements**

- (1) A manufacturer or importer of an item must keep compliance records in relation to the item in accordance with this Division.
- (2) A compliance record in relation to an item:
  - (a) must be in English; and
  - (b) may be a certified reproduction of an original record.
- (3) The manufacturer or importer must ensure that a description of the item is prepared that contains the following information:
  - (a) the current model number of the item and, if relevant, any related model numbers;
  - (b) one or more photographs of the item, showing the item’s internal and external aspects (including the printed circuit boards);
  - (c) if the item incorporates software – details of the version of the software installed when the item was manufactured or imported;
  - (d) sufficient information for a person to determine whether the item is:
    - (i) an item; or
    - (ii) if the item is included in a class of items – identical to another item of the class;in relation to which there is:
    - (iii) a declaration of conformity; and
    - (iv) a document or documents to which the declarant has had regard for the purposes of subparagraph 6(b)(vi);
  - (e) sufficient information for a person to distinguish the item from:
    - (i) any other item; or
    - (ii) if the item is included in a class of items – another item that is not included in the class.

*Note* An example in relation to paragraph (d) or (e) is information that includes a block diagram of the item.

- (4) If any of the information included in the description in accordance with subsection (3) subsequently changes or becomes incorrect, the manufacturer or importer must update or correct the description within 30 days after the information changes or becomes incorrect.

*Note* See *Note 2* to section 6.

## **24 Compliance records – obligation to keep records**

A compliance record in relation to an item must be kept for the period:

- (a) commencing:
- (i) if the item is included in a class of items – when the original item, or (in the case of a modified item) the original modified item, of the class is supplied in Australia; or
  - (ii) otherwise – when the item is supplied in Australia; and
- (b) ending two years after the item or all items of the class cease to be supplied in Australia, whichever is the later.

## **Part 6 – Inspection and auditing of compliance records**

### **25 Availability of compliance records for inspection**

The manufacturer or importer of an item must ensure that the compliance records in relation to the item are available for inspection by the ACMA upon request.

### **26 Authorised officer may require documents, material or information**

- (1) An authorised officer may, by written notice, require the manufacturer or importer of an item to produce specified documents or material, or to give specified information, in relation to the item to the officer for the purposes of investigating compliance with the provisions of this Instrument.
- (2) If a declaration of conformity is required by a notice under subsection (1), the manufacturer or importer must produce the declaration within five working days after the day the notice is received.
- (3) If a document (other than a declaration of conformity), material or information is required by a notice under subsection (1), the manufacturer or importer must produce the document or material, or give the information, within 10 working days, or such longer period as is specified in writing by the authorised officer, after the day the notice is received.
- (4) An authorised officer may only specify a longer period under subsection (3) if the manufacturer or importer has requested in writing a longer period for compliance with the notice.

- (5) After receiving any document, material or information from the manufacturer or importer in response to a notice under subsection (1), the authorised officer must give the manufacturer or importer a receipt.
- (6) The authorised officer may make and retain copies of the whole or any part of the any document or material received in response to a notice under subsection (1).
- (7) The authorised officer must return the original of any document or material received in response to a notice under subsection (1) to the manufacturer or importer as soon as practicable and, in any case, not more than 60 days after receiving the document or material.

**27 Authorised officer may require an endorsed test report or statement**

- (1) If an authorised officer has reason to believe that items included, or claimed to be included, in a class of items do not comply with an applicable technical standard in relation to the items, the authorised officer may, by written notice given to the manufacturer or importer of the items, require the manufacturer or importer to produce to the officer:
  - (a) an endorsed test report stating whether three, or fewer than three, of the items comply with the applicable technical standard; or
  - (b) a written statement prepared by a certification body stating whether three, or fewer than three, of the items comply with the applicable technical standard.
- (2) The manufacturer or importer who receives a notice under this section must, within 30 working days after the day the notice is received, or such longer period as is specified in writing by an authorised officer, comply with the notice.
- (3) The ACMA is not liable for any costs incurred by the manufacturer or importer in complying with a notice under this section.

## **Part 7 – Savings and transitional arrangements**

### **Division 1 – Transitional arrangements in relation to the previous Notice**

**28 Item labelled in accordance with previous Notice not later than two years after commencement**

- (1) This section applies to an item if:
  - (a) the manufacturer or importer of the item has applied a compliance label (within the meaning of section 1.4 of the previous Notice) to the item not later than two years after the commencement of this Instrument; and

- (b) the manufacturer or importer has met all of the requirements of the previous Notice in relation to the application of the label.
- (2) The manufacturer or importer is taken to have met all the requirements of this Instrument in relation to the application of the label to the item.

*Note* If an item has been labelled in accordance with the previous Notice not later than two years after the commencement of this Instrument, the manufacturer or importer of the item is not required to label the item in accordance with this Instrument.
- (3) The manufacturer or importer must comply with:
  - (a) any other requirements of this Instrument that apply in relation to the item; or
  - (b) any other requirements of the previous Notice that would have applied in relation to the item had the previous Notice not been revoked.
- (4) If the manufacturer or importer complies with subparagraph 3(b):
  - (a) this Instrument (apart from this section) does not apply in relation to the item; and
  - (b) the previous Notice continues to apply in relation to the item as if the previous Notice had not been revoked.

## **Division 2 – Transitional arrangements in relation to the use of the A-tick**

### **29     Manufacturer or importer may use the A-tick instead of the RCM**

- (1) This section applies to an item if the manufacturer or importer applies a compliance label to the item before 1 March 2016.
- (2) Despite subsection 10(1), the label applied to the item may be in the form of the A-tick (instead of the RCM) no smaller than 3 mm in height.

**Schedule 1—Applicable technical standards for customer equipment (other than surge protectors)**

**Schedule 1—Applicable technical standards for customer equipment (other than surge protectors)**

(section 8)

In the following table, a reference to a part of an applicable technical standard that relates to an industry standard mentioned in column 4 of the table is taken to be a reference to the provisions of the applicable technical standard that have the effect of requiring an item to comply with:

- (a) if only a part of the industry standard is mentioned – that part of the industry standard as in force at any time specified, for the item, in the applicable technical standard or any corresponding part of a standard that replaces the industry standard; or
- (b) otherwise – the industry standard as in force at any time specified, for the item, in the applicable technical standard or any standard that replaces the industry standard.

**Table—Applicable technical standards**

<i>Item</i>	<i>Column 1</i> <b>Customer equipment (other than surge protectors)</b>	<i>Column 2</i> <b>Applicable technical standard</b>	<i>Column 3</i> <b>Long title of the standard</b>	<i>Column 4</i> <b>Whether the standard is a high risk standard</b>
1.	Customer equipment that is proposed to be connected to a telecommunications network, other than:  (a) customer equipment that is proposed to be connected to a telecommunications network that is used to supply a public mobile telecommunications service; and  (b) customer equipment that is mentioned in item 4 of this table	AS/CA S002-2015	<i>Telecommunications Technical Standard (Analogue Interworking and Non-interference Requirements for Customer Equipment for Connection to the Public Switched Telephone Network – AS/CA S002) 2015</i>	All of AS/CA S002-2015 is a high risk standard
		AS/CA S003-2015	<i>Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to a Telecommunications Network – AS/CA S003) 2015</i>	All of AS/CA S003-2015 is a high risk standard

**Schedule 1—Applicable technical standards for customer equipment (other than surge protectors)**

<i>Item</i>	<i>Column 1</i> Customer equipment (other than surge protectors)	<i>Column 2</i> Applicable technical standard	<i>Column 3</i> Long title of the standard	<i>Column 4</i> Whether the standard is a high risk standard
		AS/CA S004-2015	<i>Telecommunications Technical Standard (Voice performance requirements for Customer Equipment – AS/CA S004) 2015</i>	All of AS/CA S004-2015 is a high risk standard
		AS/ACIF S016-2015	<i>Telecommunications Technical Standard (Requirements for Customer Equipment with hierarchical digital interfaces – AS/ACIF S016) 2015</i>	
		AS/ACIF S031-2015	<i>Telecommunications Technical Standard (Requirements for ISDN Basic Access Interface – AS/ACIF S031) 2015</i>	
		AS/ACIF S038-2015	<i>Telecommunications Technical Standard (Requirements for ISDN Primary Rate Access Interface – AS/ACIF S038) 2015</i>	
		AS/ACIF S041-2015	<i>Telecommunications Technical Standard (Requirements for DSL Customer Equipment for connection to the Public Switched Telephone Network – AS/ACIF S041) 2015</i>	All of AS/ACIF S041-2015 is a high risk standard
		AS/CA S043-2015	<i>Telecommunications Technical Standard (Requirements for Customer Equipment for connection to a metallic local loop interface of a Telecommunications Network – AS/CA S043) 2015</i>	All of AS/CA S043-2015 is a high risk standard
		AS/NZS 60950.1-2011	<i>Telecommunications Technical Standard (Information Technology Equipment – Safety, Part 1: General Requirements – AS/NZS 60950.1:2011) 2011</i>	All of AS/NZS 60950.1-2011 is a high risk standard
2.	Customer equipment that is proposed to be:  (a) connected to a telecommunications network that is used to supply a public mobile telecommunications service; and  (b) used to supply a	AS/CA S042-2015	<i>Telecommunications Technical Standard (Requirements for Connection to an Air Interface of a Telecommunications Network – AS/CA S042) 2015</i>	The part of AS/CA S042-2015 that relates to AS/CA S042.1:2010 (within the meaning of AS/CA S042-2015) is a high risk standard



**Schedule 1—Applicable technical standards for customer equipment (other than surge protectors)**

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	<b>Customer equipment (other than surge protectors)</b>	<b>Applicable technical standard</b>	<b>Long title of the standard</b>	<b>Whether the standard is a high risk standard</b>
	standard telephone service	AS/NZS 60950.1-2011	<i>Telecommunications Technical Standard (Information Technology Equipment – Safety, Part 1: General Requirements – AS/NZS 60950.1:2011) 2011</i>	All of AS/NZS 60950.1-2011 is a high risk standard
3.	Customer equipment that:  (a) is proposed to be connected to a telecommunications network that is used to supply a public mobile telecommunications service; and  (b) is not proposed to be used to supply a standard telephone service	AS/CA S042-2015	<i>Telecommunications Technical Standard (Requirements for Connection to an Air Interface of a Telecommunications Network – AS/CA S042) 2015</i>	
		AS/NZS 60950.1-2011	<i>Telecommunications Technical Standard (Information Technology Equipment – Safety, Part 1: General Requirements – AS/NZS 60950.1:2011) 2011</i>	All of AS/NZS 60950.1-2011 is a high risk standard
4.	Customer equipment that is proposed to be connected to a telecommunications network that consists solely of satellite-based facilities	AS/CA S042-2015	<i>Telecommunications Technical Standard (Requirements for Connection to an Air Interface of a Telecommunications Network – AS/CA S042) 2015</i>	
		AS/NZS 60950.1-2011	<i>Telecommunications Technical Standard (Information Technology Equipment – Safety, Part 1: General Requirements – AS/NZS 60950.1:2011) 2011</i>	All of AS/NZS 60950.1-2011 is a high risk standard
<i>Example 1</i>	Customer equipment that is covered by item 1 includes: <ul style="list-style-type: none"> <li>• PBX;</li> <li>• analogue telephones;</li> <li>• VoIP telephones;</li> </ul>			

**Schedule 1—Applicable technical standards for customer equipment (other than surge protectors)**

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- ADSL or DSL modems;
- dial-up modems;
- cordless telephone handsets and base units;
- telephone headsets;
- amplifiers;
- answering machines; and
- fax machines.

*Example 2* Customer equipment that is covered by item 2 includes:

- mobile telephones; and
- cellular modems.

*Example 3* Customer equipment that is covered by item 3 includes:

- machine-to-machine communication devices;
- automatic teller machines; and
- vending machines.

*Example 4* Customer equipment that is covered by item 4 includes satellite telephones.

*Note 1* Column 3 is included for information only.

*Note 2* Customer equipment mentioned in item 2 may also be customer equipment mentioned in item 3.

## Schedule 2—Items to which this Instrument does not apply

(subsection 7(1))

1. An item that is manufactured or imported solely for use by:
  - (a) a criminal law-enforcement agency;
  - (b) the Department of Defence or the Defence Force as a temporary facility; or
  - (c) the Australian Secret Intelligence Service or the Australian Security Intelligence Organisation.
2. Test equipment for a telecommunications network.
3. A handset or headset manufactured or imported solely for use with an internet or voice modem connection to a telecommunications network.
4. An item that is manufactured or imported solely to be exported.
5. An item that is imported for connection to a telecommunications network or to a facility of such a network in relation to a significant event in circumstances where the manager of the network or facility has given written consent to the connection for the duration of the event.
6. An item that is manufactured or imported solely for incorporation into another item and that, before such incorporation, cannot be used to connect to a telecommunications network or to a facility of such a network.

## Schedule 3—Compliance marks

(section 4)

### Part 1 – The RCM



*Note* The RCM is a protected symbol for the purposes of section 417 of the Act.

### Part 2 – The A-tick



*Note* The A-tick is a protected symbol for the purposes of section 417 of the Act.

## Schedule 4—Customer cabling and surge protectors

(subsections 4(1) and 7(2))

### Part 1 – Interpretation

#### 1 Applicable technical standards

- (1) This clause sets out when a technical standard is an *applicable technical standard* in relation to an item for the purposes of this Instrument.

*Note* This clause deals with applicable technical standards for customer cabling and surge protectors. Section 8 deals with applicable technical standards for customer equipment (other than surge protectors).

- (2) A technical standard is an *applicable technical standard* in relation to an item if:
- (a) the item is of a kind mentioned in column 1 of the table in this clause;
  - (b) the technical standard:
    - (i) is a corresponding applicable technical standard mentioned in column 2 of that table; and
    - (ii) was in force at the time the item was manufactured in Australia or imported; and
  - (c) the technical standard consists of requirements that apply to the item.

**Table—Applicable technical standards**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
Customer cabling and surge protectors	Applicable technical standard	Long title of the standard	Whether the standard is a high risk standard
Customer cabling and surge protectors	AS/CA S008-2015	<i>Telecommunications Technical Standard (Requirements for customer cabling products – AS/CA S008) 2015</i>	
	AS/NZS 4117-2015	<i>Telecommunications Technical Standard (Surge Protective Devices for Telecommunications Applications – AS/NZS 4117) 2015</i>	

*Note* Column 3 is included for information only.

**2 Class of items to which a compliance label has, or has not, been applied**

In this Schedule:

- (a) a reference to a *class of items to which a compliance label has been applied* is a reference to a class of items in which each item that is included has had applied to it a compliance label; and
- (b) a reference to a *class of items to which a compliance label has not been applied* is a reference to a class of items in which each item that is included has not had applied to it a compliance label.

**3 Particular cabling item**

In this Schedule, *particular cabling item* means an item that is customer cabling or a surge protector where:

- (a) the item complies with either of the following technical standards:
  - (i) AS/CA S008-2015;
  - (ii) AS/NZS 4117-2015; and
- (b) the installation of the item for connection to, or the connection of the item to, a telecommunications network or to a facility would be a type of cabling work for the purposes of Division 9 of Part 21 of the Act.

**Part 2 – Applying a compliance label and preparing a written statement**

**4 Requirement to apply a compliance label and prepare a written statement**

- (1) If:
  - (a) there are one or more applicable technical standards in relation to an item; and
  - (b) the item complies with each standard referred to in paragraph (a);this clause applies to the item.
- (2) The manufacturer or importer of the item must, before supplying the item:
  - (a) apply a compliance label to the item in accordance with clause 5 and subclause 6(1); and
  - (b) prepare a written statement in relation to the item in accordance with subclause 6(2);

unless the manufacturer or importer is exempt from compliance with this subclause under clause 7 or 8.

## Part 3 – Form and application of a compliance label and preparation of a written statement

### 5 Form of a compliance label

- (1) A compliance label must be in the form of the RCM no smaller than 3 mm in height.
- (2) A compliance label must be:
  - (a) durable; and
  - (b) applied to an item permanently or in a way that makes removal or obliteration difficult.

*Note 1* In this Part, a reference to an *item* is a reference to an item to which clause 4 applies.

*Note 2* Clause 5 does not apply to a manufacturer or importer if, under clause 7 or 8, the manufacturer or importer is exempt from compliance with subclause 4(2).

### 6 Application of a compliance label and preparation of a written statement

- (1) A compliance label must:
  - (a) be affixed to the external surface of the packaging used for an item;
  - (b) be clearly visible on that external surface; and
  - (c) be incorporated in the documentation that accompanies the item when supplied.
- (2) A written statement prepared under paragraph 4(2)(b) in relation to an item must specify where, on the external surface of the packaging and in the documentation referred to in subclause (1), each compliance label has been applied.

*Note* Clause 6 does not apply to a manufacturer or importer if, under clause 7 or 8, the manufacturer or importer is exempt from compliance with subclause 4(2).

### 7 Exemption for items that meet other requirements

A manufacturer or importer of an item is exempt from compliance with subclause 4(2) if there is displayed on the sheath of the item at regular intervals of not more than 2 metres:

- (a) a company name, business name or trade mark of:
  - (i) the manufacturer or importer; or
  - (ii) a person who:
    - (A) is supplied the item by the manufacturer or importer; and
    - (B) supplies the item in Australia; and

- (b) a part name or number, identification number or product name of the item.

## **8 Exemption for particular cabling items that meet other requirements**

A manufacturer or importer of an item is exempt from compliance with subclause 4(2) if:

- (a) the item is a particular cabling item; and
- (b) the manufacturer or importer has complied with clauses 9 and 10 before supplying the item.

## **9 Requirements to be met before supplying particular cabling items without a compliance label**

- (1) For the purposes of paragraph 8(b), the manufacturer or importer must:
  - (a) give the ACMA a written notice that it proposes to supply a particular cabling item without applying to it a compliance label; and
  - (b) be registered within the meaning of subclause (2).
- (2) For the purposes of subclause (1):
  - (a) before 1 March 2016, a manufacturer or importer of an item is **registered** if the manufacturer or importer:
    - (i) is registered on the national database; or
    - (ii) has been issued with a supplier code number; and
  - (b) on or after 1 March 2016, a manufacturer or importer of an item is **registered** only if the manufacturer or importer is registered on the national database.
- (3) A manufacturer or importer is only required to give the ACMA one written notice under paragraph (1)(a) even if the manufacturer or importer proposes to supply more than one particular cabling item without applying to each a compliance label and irrespective of whether the items are included in a class of items or different classes of items.
- (4) A written notice given under paragraph (1)(a) must be in the form approved by the ACMA.

*Note* The ACMA makes approved forms available on its website at <http://www.acma.gov.au>.

## **10 Register of particular cabling items without a compliance label**

- (1) For the purposes of paragraph 8(b), the manufacturer or importer must:
  - (a) establish on the internet a publicly available register that:
    - (i) states the name of the manufacturer or importer;



- (ii) lists:
      - (A) each particular cabling item of the manufacturer or importer to which a compliance label has not been applied; or
      - (B) if the particular cabling item is included in a class of items to which a compliance label has not been applied, the class;
    - (iii) includes an entry, for each item or class of items listed on the register, setting out the information mentioned in subclause (2); and
  - (b) inform the ACMA in writing of the internet address for the register.
- (2) An entry for an item or class of items listed on the register must set out the following information:
- (a) a company name, business name or trade mark of:
    - (i) the manufacturer or importer; or
    - (ii) the person who:
      - (A) is supplied the item or items of the class by the manufacturer or importer; and
      - (B) supplies the item or items of the class in Australia; (irrespective of whether each item was manufactured in Australia);
  - (b) a part name or number, identification number or product name of the item or each item of the class;
  - (c) if the item or each item of the class has capacity for multiple pairs of cables – the number of pairs.
- (3) An entry for an item or class of items listed on the register may also include other information that may help to identify the item or class.
- (4) The register may list, and include an entry for, an item or class of items to which a compliance label has been applied, but only if the register clearly distinguishes between:
- (a) items or classes of items to which a compliance label has been applied; and
  - (b) items or classes of items to which a compliance label has not been applied.
- (5) Each entry for an item or class of items listed on the register must be clearly distinguished entries for different items or classes of items listed on the register.

## Part 4 – Applying a non-compliance label and preparing a written statement

### 11 Requirement to apply a non-compliance label and prepare a written statement

- (1) If:
- (a) there are one or more applicable technical standards in relation to an item; and
  - (b) the item does not comply with each standard referred to in paragraph (a);
- this clause applies to the item.
- (2) The manufacturer or importer of the item must, before supplying the item:
- (a) apply a non-compliance label to the item; and
  - (b) prepare a written statement in relation to the item;
- in accordance with Part 5.

## Part 5 – Form and application of a non-compliance label and preparation of a written statement

### 12 Form of a non-compliance label

- (1) A non-compliance label applied to an item must contain a statement to the effect that the item does not comply with each applicable technical standard in relation to the item.
- Note* In this Part, a reference to an **item** is a reference to an item to which clause 11 applies.
- (2) The statement must be:
- (a) in English; and
  - (b) printed in a font of not less than 12 points.
- (3) A non-compliance label must be:
- (a) durable; and
  - (b) applied to an item permanently or in a way that makes removal or obliteration difficult.

### 13 Application of a non-compliance label

A non-compliance label must:

- (a) be affixed to the external surface of the packaging used for an item;

- (b) be clearly visible on that external surface; and
- (c) be incorporated in the documentation that accompanies the item when supplied.

**14 Preparation of a written statement and obligation to keep the statement**

- (1) A written statement prepared under paragraph 11(2)(b) in relation to an item must:
- (a) identify the item; and
  - (b) specify:
    - (i) where, on the external surface of the packaging and in the documentation referred to in paragraph 13(c), each non-compliance label has been applied; and
    - (ii) the wording of the statement contained in the non-compliance label.

*Note* See *Note 2* to section 6.

- (2) A written statement prepared under paragraph 11(2)(b) in relation to an item must be kept for the period:
- (a) commencing:
    - (i) if the item is included in a class of items – when the original item, or (in the case of a modified item) the original modified item, of the class is supplied in Australia; or
    - (ii) otherwise – when the item is supplied in Australia; and
  - (b) ending two years after the item or all items of the class cease to be supplied in Australia, whichever is the later.

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<sup>1</sup>This instrument also specifies matters mentioned in subsections 408(2) and (3), and requirements mentioned in subsections 408(5) and (6), of the Act.