Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2017

The Australian Communications and Media Authority makes the following Notice under section 182 of the *Radiocommunications Act 1992*.

Dated: 18 December 2017

Nerida O'Loughlin
[signed]
Member

Brendan Byrne
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

Contents

Part 1—Preliminary

1.1 Name of Notice

This is the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2017*.

1.2 Commencement

This Notice commences on the later of:

(a) the start of the day after it is registered on the Federal Register of Legislation; and

(b) the start of the day on which the *Radiocommunications (Electromagnetic Compatibility) Standard 2017* commences.

Note 1: The Federal Register of Legislation may be accessed at http://www.legislation.gov.au.

Note 2: Both of the events mentioned in section 1.2 must occur before this Notice commences.

1.3 Authority

This Notice is made under section 182 of the Act.

1.4 Repeal of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*

The *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008* (F2008L00262) is repealed.

1.5 Interpretation

(1) In this Notice:

accredited, in relation to a test report, means a report that was produced by the following process:

(a) the test was conducted by an accredited testing body;

(b) the test was conducted against an applicable standard;

(c) at the time the test was conducted, the applicable standard was within the terms of the accredited testing body's accreditation, designation, notification or recognition.

accredited testing body means a laboratory:

(a) that is a testing body; and

(b) that is:

(i) accredited by NATA to conduct testing against an applicable standard; or

(ii) accredited, by a body that has entered into a mutual recognition agreement with NATA, to conduct testing against an applicable standard; or

(iii) designated, notified or recognised under an agreement about mutual recognition on conformity assessment to which Australia is a party, to conduct testing against an applicable standard.

agent, of a manufacturer or importer, means a person who is authorised in writing by the manufacturer or importer to act in Australia as an agent of the manufacturer or importer for Division 7 of Part 4.1 of the Act.

applicable standard, in relation to a device, means an applicable industry standard in relation to the device, within the meaning given by a standard mentioned in the table in Schedule 1.

Note: The list of applicable standards may be found at the website address http://www.acma.gov.au/standards/emc.

AS/NZS, in relation to the prefix of a document, has the meaning given by subsection 1.10(1).

authorised officer means:

(a) an inspector under subsection 267(1) of the Act; or

(b) a person authorised in writing by the ACMA for this Notice.

battery-powered device means a device that is not capable of being connected, directly or indirectly, to an external power supply.

built-in display, for a device, means an electronic display or screen integral to the device, and does not include a display or screen that can be used independently of the device.

CISPR, in relation to the prefix of a document, has the meaning given by subsection 1.10(3).

CMEIG means Construction & Mining Equipment Industry Group Inc, an incorporated association registered under the *Associations Incorporation Act 2009* (NSW), with incorporation number INC9879927.

competent body means a body accredited by NATA under subsection 183(3) of the Act.

compliance label means a label that complies with the requirements mentioned in Part 3.

Note: Section 2.4 extends some references to ***compliance label*** in this Notice to include a compliance label under an instrument made under subsection 407(1) of the *Telecommunications Act 1997* as in force from time to time.

compliance records has the meaning given by section 1.6.

declaration of conformity means a declaration that:

(a) is in a form approved by the ACMA; or

(b) contains the information required in that approved form, whether or not the declaration is accompanied by other material.

Note: The ACMA makes approved forms available on its website at http://www.acma.gov.au/Industry/Suppliers/Product-supply-and-compliance/Supplier-resources/equipment-compliance-forms.

description of the device has the meaning given by section 1.7.

device that complies with New Zealand labelling legislation has the meaning given by section 1.9.

EN, in relation to the prefix of a document, has the meaning given by subsection 1.10(4).

FCAI means the Federal Chamber of Automotive Industries (ACN 008 550 347).

fixed installation: see subsection (2).

high risk device means a device described as 'Group 2 ISM equipment' in AS/NZS CISPR 11:2011.

Note: A copy of the AS/NZS CISPR 11:2011 standard created by Standards Australia could, at the date of making this Notice, be obtained for a fee from SAI Global's website at https://infostore.saiglobal.com/, or could be viewed at an office of the ACMA or ACCC on prior request and subject to licensing conditions.

IEC, in relation to the prefix of a document, has the meaning given by subsection 1.10(2).

included, or to be included, in a fixed installation: see subsection (2).

kind of device: see subsection (3).

low risk device means a device that is neither:

(a) a medium risk device; nor

(b) a high risk device.

medium risk device has the meaning given by section 1.8.

NATA means the National Association of Testing Authorities Australia (ACN 004 379 748).

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

Note 1: A database may be designated by the ACMA for the purposes of Part 4 even if it forms part of another database or also serves purposes other than purposes provided for in this Notice.

Note 2: See section 4.8.

New Zealand labelling legislation means:

(a) the *Radiocommunications (EMC Standards) Notice 2015* of New Zealand; and

(b) the *Radiocommunications (Radio Standards) Notice 2016* of New Zealand;

as in force from time to time.

RCM means the Regulatory Compliance Mark set out in Schedule 3.

supplier, in relation to a device, means a person in Australia who is:

(a) the manufacturer or the importer of the device; or

(b) an agent of the manufacturer or importer of the device.

technical construction file means documentary material in English that includes a report produced by a competent body assessing a device against the requirements of an applicable standard, in which the report:

(a) identifies the device assessed; and

(b) identifies the applicable standard against which the device was assessed; and

(c) includes a statement by the competent body stating that, in the opinion of the competent body, the device complies with the applicable standard.

test report means a report in English showing the results of testing as produced by a testing body or an accredited testing body assessing a device against the requirements of an applicable standard, that:

(a) identifies the device tested; and

(b) identifies the applicable standard against which the assessment was made; and

(c) includes a statement by the testing body or accredited testing body stating that the device complies with each relevant requirement of the applicable standard.

testing body means a laboratory that has the equipment, resources and technical capability to conduct testing against an applicable standard.

TIC means Truck Industry Council (ACN 097 387 954).

TMA means Tractor and Machinery Association of Australia (ACN 004 237 209).

variant, of a device (the ***original device***), means a version of the original device that is not identical to the original device but is not sufficiently different from the original device to affect the application to that version of an applicable standard in relation to the original device.

working day, in relation to a request, means a day other than:

(a) a Saturday or a Sunday; or

(b) a day that is a public holiday or a public holiday in the place where the request is made.

Note 1: A number of expressions used in this Notice are defined in the Act and the *Radiocommunications (Interpretation) Determination 2015*, including the following:

(a) Act (see section 4 of that determination);
(b) ACMA (see section 5 of the Act).
(c) Australia (see section 5 of the Act);
(d) device (section 5 and subsection 9(1) of the Act);
(e) import (see section 5 of the Act);
(f) inspector (see section 5 and section 267 of the Act);
(g) radiocommunications device (see section 5 and subsection 7(1) of the Act);
(h) radio emission (see section 5 and subsection 8(1) of the Act);
(i) radiocommunications transmitter (see section 5 and subsection 7(2) of the Act);
(j) supply (see section 5 of the Act).

Note 2: See paragraph 3(2)(h) of the *Radiocommunications (Interpretation) Determination 2015,* which is made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005*, for the application of that determination to this Notice.

(2) In this Notice, if:

(a) a device (the ***relevant device***) was manufactured or imported; and

(b) at the time the relevant device was manufactured or imported a person (whether or not the supplier of the device) intended to install the relevant device as part of a combination of devices or other things (the ***combination***);

(c) the combination, if created:

(i) would be placed at a location; and

(ii) could not be moved from that location without one or more of the devices or other things being removed from the combination, or the combination being disassembled; and

(iii) could only function if the relevant device, and one or more of the other devices or other things, were not removed from the combination; and

(d) if subsection (2A) applies in relation to the combination – at the time the relevant device was manufactured or imported, it was reasonable for the supplier of the relevant device to believe that the person mentioned in paragraph (b) intended to install the relevant device as part of the combination;

then:

(e) from the time the combination is created, the combination is a ***fixed installation***; and

(f) from the time the relevant device is manufactured or imported, the relevant device is ***included, or to be included, in a fixed installation***.

Note 1: Attaching a device to a thing does not necessarily create a fixed installation.

Note 2: Not every device that forms part of a fixed installation is 'included, or to be included, in a fixed installation'. Paragraph (b) requires that either the supplier must intend for the device to form part of a fixed installation at the time the device is manufactured or imported or the supplier must reasonably believe that another person intended for the device to form part of a fixed installation at the time the device is manufactured or imported.

Note 3: Section 2.2 provides that this Notice does not apply to devices listed in Schedule 2, including a fixed installation and a device included, or to be included, in a fixed installation (item 11).

Example 1: A single device that is bolted to a wall does not create a fixed installation.

Example 2: An automotive production line may be a fixed installation. The combination of the equipment and devices that form the automotive production line may be exempt from the requirements of this Notice (see section 2.2 and Schedule 2). A device that is installed as part of the automotive production line may be exempt from the requirements of this Notice if, among other things, at the time the device was manufactured or imported, it was reasonable for the supplier of the device to believe that another person intended to install the device as part of the automotive production line (see section 2.2 and Schedule 2).

(2A) For the purposes of paragraph (2)(d), this subsection applies in relation to the combination if, at the time the relevant device was manufactured or imported, the person who intended to install the relevant device as part of the combination was a person other than the supplier of the relevant device.

(3) In this Notice, subject to subsection (4), a ***kind of device*** refers to a class of devices that:
  (a) are identical; and
  (b) have the same supplier.

(4) Despite subsection (3), a device (the ***first device***) is not the same kind of device as another device (the ***second device***) if:
  (a) the first device was imported or manufactured before the second device; and
  (b) at least one applicable standard for each of the first and second devices was amended or replaced in the period:
    (i) commencing when the first device was imported or manufactured; and
    (ii) ending when the second device was imported or manufactured.

1.6 Meaning of *compliance records*

In this Notice, the ***compliance records*** for a kind of device are mentioned in the table.

Item	For this device ...	these are the compliance records ...
1	a device other than a low risk device or a variant of a low risk device	(a) a description of the device; and (b) a declaration of conformity; and (c) a test report or a technical construction file; and (d) for a device to which a compliance label is not applied because of section 3.6—the records mentioned in subsection 3.6(3); and (e) a copy of any explanatory documentation required by section 3.7
2	a low risk device that has not been labelled or has been labelled otherwise than as required or provided for by this Notice	a description of the device

3	a low risk device that has been labelled as required or provided for by this Notice	(a) a description of the device; and (b) a declaration of conformity
4	a variant of a device other than a low risk device	(a) a description of the variant; and (b) a declaration of conformity that relates to the variant; and (c) a test report or a technical construction file for the original device; and (d) for a device to which a compliance label is not applied because of section 3.6—the records mentioned in subsection 3.6(3); and (e) a statement by the supplier about the variant that is mentioned in subsection 4.7(2)
5	a variant of a low risk device that has not been labelled or has been labelled otherwise than as required or provided for by this Notice	a description of the variant
6	a variant of a low risk device that has been labelled as required or provided for by this Notice	(a) a description of the variant; and (b) a declaration of conformity that relates to the variant

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

1.7 Meaning of *description of the device*

In this Notice, a ***description of the device*** must contain sufficient information for a person to determine whether the device is the same as a device for which a declaration of conformity, test report or statement by a competent body was prepared, and:

(a) must include the model number for the device and, if relevant, any related model numbers for the device; and

(b) must include the version of any software or firmware incorporated into or supplied with the device where changes in that software or firmware may affect compliance with the applicable standard; and

(c) may include a photograph, or photographs, of the device showing the device's internal and external aspects (including the printed circuit boards).

1.8 Meaning of *medium risk device*

(1) In this Notice, subject to subsection (2), a device is a ***medium risk device*** if it is not a high risk device and contains 1 or more of the following:

(a) a switch mode power supply;

(b) a transistor switching circuit;

(c) a microprocessor;

(d) a commutator;

(e) a slip-ring motor;

(f) an electronic device operating in a switching mode or a non-linear mode.

(2) A battery-powered device is not a medium risk device unless the ACMA has declared the device to be a medium risk device under subsection (3).

(3) The ACMA may declare, in writing, that a particular battery-powered device specified in the declaration is a medium risk device if:
   (a) the common operation of the device causes radio emissions; and
   (b) those radio emissions have caused, or are likely to cause, interference, disruption or disturbance to other devices or to radiocommunications services; and
   (c) the device is not a high risk device.

(4) A declaration under subsection (3) is a notifiable instrument for the purposes of the *Legislation Act 2003*.

1.9 Meaning of *device that complies with New Zealand labelling legislation*

In this Notice, a ***device that complies with New Zealand labelling legislation*** is a device that bears a New Zealand compliance mark in accordance with the New Zealand labelling legislation.

1.10 Other interpretation matters

(1) A reference in this Notice to a document with the prefix 'AS/NZS' is a reference to a document that is a joint Australian and New Zealand Standard approved for publication on behalf of the Standards organisations of those countries.

(2) A reference in this Notice to a document with the prefix 'IEC' is a reference to a document that is an International Electrotechnical Commission Standard approved for publication.

(3) A reference in this Notice to a document with the prefix 'CISPR' is a reference to a document that is an International Special Committee on Radio Interference Standard approved for publication.

(4) A reference in this Notice to a document with the prefix 'EN' is a reference to a document that has been made, published or adopted as a European Standard by:
   (a) the European Committee for Standardization; or
   (b) the European Committee for Electrotechnical Standardization; or
   (c) the European Telecommunications Standards Institute.

(5) Reference may be made in this Notice to a standard mentioned in this section by number alone without inclusion of the edition or year of publication of the standard.

Example: CISPR 32:2015 may be referred to as CISPR 32.

1.11 References to other instruments

In this Notice, unless the contrary intention appears:
   (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
   (b) a reference to any other kind of instrument or writing is a reference to that other kind of instrument or writing as in force or in existence from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Note 3: For paragraph (b), see section 314A of the Act.

Part 2—Application of Notice

2.1 Devices to which this Notice applies

This Notice applies to a device:

(a) that is:

(i) manufactured in Australia; or

(ii) imported into Australia;

for supply in Australia; and

(b) to which an applicable standard applies.

Note: Section 5 of the Act contains the following definition:

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

2.2 Devices to which this Notice does not apply—general

This Notice does not apply to a device that is mentioned in Schedule 2.

2.3 Devices to which this Notice does not apply—New Zealand devices

Parts 3, 4 and 5 of this Notice do not apply to a device that:

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

(b) is a device that complies with New Zealand labelling legislation.

Note 1: The effect of this section is to exempt the devices from the labelling requirements of this Notice.

Note 2: Section 1.9 explains when a device is a device that complies with New Zealand labelling legislation.

2.4 Relationship between this Notice and a labelling instrument made under the *Telecommunications Act 1997*

If a device to which this Notice applies is also customer equipment or customer cabling to which an instrument made under subsection 407(1) of the *Telecommunications Act 1997,* applies:

(a) the requirements in this Notice are additional to the requirements under that Notice; and

(b) Part 3 of this Notice does not apply in relation to the device; and

(c) a reference in this Notice (except section 1.5) to a compliance label includes a reference to a compliance label under that Notice.

2.5 Relationship between this Notice and another labelling notice made under the Act

If a device to which this Notice applies contains a device, or incorporates a device to which another notice made under subsection 182(1) of the Act, applies, the requirements in this Notice are additional to the requirements under that notice.

Note: An effect of section 2.5 is that a compliance mark can only be applied to a device if it complies with the requirements of this Notice and any other notice made under subsection 182(1) of the Act.

2.6 Devices incorporating a radiocommunications transmitter

(1) If a device (a ***parent device***) contains or incorporates a radiocommunications transmitter, the transmitter must be switched off, or placed in an idle state, before the parent device is assessed for compliance against this Notice.

Note: Subsection 7(2) of the Act contains the definition of ***radiocommunications transmitter***.

(2) For the avoidance of doubt, if a parent device contains or incorporates a radiocommunications transmitter, the transmitter need not comply with this Notice.

Note: A device that contains or incorporates a radiocommunications transmitter(s) and which can be operated whilst the radiocommunications transmitter is not active (for example, a smart phone switched on to "Aeroplane mode" or a "smart meter" or a "data logger" which only transmits intermittently) must comply with the requirements of this Notice.

Part 3—Form and placement of compliance labels

3.1 Compliance labels

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

(1) If an applicable standard applies to a device that is not a low risk device, and the device complies with the standard, the device must bear a compliance label, consisting of the RCM.

Location of compliance label

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

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

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

3.2 Compliance labels for low risk devices

(1) The supplier of a low risk device may choose whether or not to apply a compliance label to the device.

Note: Section 4.2 applies to a supplier that chooses to apply a compliance label to a low risk device.

(2) A low risk device must comply with an applicable standard that is applicable to it, whether or not it has a compliance label applied to it.

(3) If a supplier chooses not to apply a compliance label to a low risk device then, for the application of the following provisions of this Notice, the low risk device is taken to have a compliance label applied to it:

(a) section 3.7;

(b) Part 4 (other than section 4.3A);

(c) Part 5.

Note: The effect of applying these provisions to a low risk device is to require the supplier to comply with record-keeping obligations, whether or not the low risk device has a compliance label applied to it.

3.3 Who must apply a compliance label to a device?

(1) If a device that is required to have a compliance label attached is manufactured in Australia, the compliance label must be applied to the device by:

(a) the manufacturer; or

(b) an agent of the manufacturer; or

(c) a person who is authorised by the manufacturer or agent to apply the label on behalf of the manufacturer or agent.

(2) If a device that is required to have a compliance label attached is manufactured outside Australia, the compliance label must be applied to the device by:

(a) the importer; or

(b) an agent of the importer; or

(c) a person who is authorised by the importer or agent to apply the label on behalf of the importer or agent.

3.4 Durability of compliance label

(1) A compliance label must be durable.

(2) A compliance label must be applied to a device:
   (a) permanently; or
   (b) in a way that makes removal or obliteration difficult.

(3) This section is subject to section 3.6A.

3.5 Format of compliance label

A compliance label must be at least 3 mm high.

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

3.6 Placement of compliance label

(1) If it is not possible to apply a compliance label to the surface of a device because of the size or physical nature of the device, or it is not practical to apply a compliance label to the surface of a device, the compliance label must be applied to:
   (a) the external surface of the packaging used for the device; and
   (b) the documentation (including any warranty or guarantee certificates) that accompanies the device when it is supplied to the user.

(2) The compliance label applied to the external surface of the packaging used for the device must:
   (a) occupy an area that is greater than 1% of that external surface; and
   (b) be clearly visible.

(3) The supplier must make and keep a record of:
   (a) the reasons why subsection (1) applies to the device; and
   (b) where each compliance label is applied.

(4) This section is subject to section 3.6A.

3.6A Electronic labelling

(1) A supplier may apply a compliance label to a device using the built-in display of the device.

(2) The supplier must ensure that the documentation that accompanies the device when it is supplied to the user sets out a method for displaying the compliance label.

(3) The compliance label must be applied to the device in a way that would make it difficult to prevent the display of the label when the method set out in the documentation is used.

(4) Subsection 3.1(2) and sections 3.4 and 3.6 do not apply to a label applied under this section.

3.7 Explanatory documentation to be supplied with a device

If it is possible for a device, to which a compliance label is applied, to be installed or operated incorrectly, to the extent that the device may be used in a way that the device does not comply with an applicable standard for the device, the supplier of the device must supply documentation with the device that sets out specifications for correct installation and operation to minimise that possibility.

Example: If a variable speed drive was fitted with a 1.2 m cable from the controller to the motor when it was tested and shown compliant, the instructions must specify that the same type and length of cable must be used when installed, unless testing was performed with different cables.

Part 4—Conditions for application of compliance label

4.1 Application of Part 4

(1) Subject to subsection (2), this Part applies in relation to a device to which an applicable standard applies.

(2) Sections 4.3, 4.4, 4.5 and 4.6 do not apply in relation to a variant of a device (***original device***) if:

(a) the relevant requirements of this Part have been met in relation to the original device; and

(b) the radiofrequency emission characteristics of the variant are not likely to exceed those of the original device.

4.2 Use of RCM subject to registration on national database

A supplier must be registered on the national database before a compliance label is applied to a device.

Note: Under section 187 of the Act, a supplier that fails to comply with requirements that must be met before a label is applied to a device may commit an offence.

4.2A Registration on national database

(1) To be registered on the national database a supplier must, using a method which the database indicates is a method for including information on the database, provide:

(a) information identifying the supplier;

(b) the supplier's address in Australia; and

(c) the name and contact details of a representative of the supplier.

(2) For paragraph (1)(a), information identifying a supplier consists of the supplier's ABN and 1 of the following pieces of information in relation to the supplier:

(a) if the supplier is a body corporate, the name of the body corporate;

(b) if the supplier is an individual, the name of the individual;

(c) a business name used by the supplier in connection with its business as a supplier and registered as a business name under the *Business Names Registration Act 2011*.

(3) If the information provided by a supplier for inclusion in the national database subsequently changes, the supplier must, within 30 days after the change occurs, update the national database with the changed information using a method which the database indicates is a method for updating information on the database.

(4) In this section:

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

officer of the supplier means:

(a) if the supplier is a corporation for the purposes of the *Corporations Act 2001*, an officer of that corporation as defined in section 9 of the *Corporations Act 2001*; or

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

representative of the supplier means:

(a) an employee of the supplier;

(b) an officer of the supplier; or

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

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

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

4.3 Meeting compliance levels

If an applicable standard applies to a device, the supplier must, before a compliance label is applied (or is taken to be applied by section 3.2):

(a) prepare a description of the device; and

(b) meet the relevant compliance level for the device (being the requirements set out in section 4.4, 4.5 or 4.6).

4.3A Declaration of conformity

(1) If a supplier applies a compliance label to a device, the supplier must complete and sign a declaration of conformity in relation to the device.

(2) If the device:

(a) is a low risk device or a medium risk device; and

(b) is manufactured outside Australia;

the supplier is taken to have complied with subsection (1) if the declaration of conformity is completed and signed by the manufacturer of the device.

(3) Subsection (2) does not affect:

(a) the other obligations of the supplier under this Notice; or

(b) the liability of the supplier under Part 4.1 of the Act.

(4) If, in relation to a device (the ***relevant device***):

(a) the supplier applies a compliance label to the relevant device; and

(b) before the supplier applied the compliance label, the supplier had complied with subsection (1) in relation to another device (the ***earlier device***); and

(c) the relevant device and the earlier device are the same kind of device;

the supplier is taken to have complied with subsection (1) in relation to the relevant device.

4.4 Compliance level 1—low risk device

There are no additional requirements for a low risk device that complies with an applicable standard.

4.5 Compliance level 2—medium risk device

For a medium risk device, the supplier must establish that the device complies with an applicable standard by:

(a) obtaining a test report from a testing body; or

(b) obtaining a technical construction file.

4.6 Compliance level 3—high risk device

For a high risk device, the supplier must establish that the device complies with an applicable standard by:

(a) obtaining an accredited test report from an accredited testing body; or

(b) obtaining a technical construction file.

4.7 Additional requirements for variants

(1) This section applies to a variant of a device (***original device***).

(2) The supplier must prepare a written statement for inclusion in the compliance record that:

(a) identifies the original device and the variant; and

(b) describes the differences between the original device and the variant; and

(c) provides a technical rationale for the conformity of the variant with each applicable standard that applies to the variant; and

(d) includes a declaration of conformity for the variant.

(3) A variant is not required to be assessed at a compliance level if:

(a) the supplier of the original device has complied with section 4.3 in relation to the original device at that compliance level;

(b) the supplier of the variant complies with subsection (2); and

(c) the supplier of the variant has a copy of the compliance records for the original device.

(4) If, in relation to a variant (the ***relevant variant***):

(a) the supplier applies a compliance label to the relevant variant; and

(b) before the supplier applied the compliance label, the supplier had complied with subsection (2) in relation to another variant of the original device (the ***earlier variant***); and

(c) the relevant variant and the earlier variant are the same kind of device;

the supplier is taken to have complied with subsection (2) in relation to the relevant variant.

4.8 Transitional – national database

(1) In this section, ***existing national database*** means the Supplier and Equipment Registration Database maintained by the Electrical Regulatory Authorities Council.

Note 1: The existing national database was designated by the ACMA for the purposes of Part 4 of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008* as the 'national database'.

Note 2: At the time of making this Notice, the Supplier and Equipment Registration Database could be accessed from the website of the Electrical Regulatory Authorities Council: http://www.erac.gov.au.

(2) The existing national database is taken to have been designated as the national database by the ACMA in writing for the purposes of this Part.

Note: This section does not prevent the ACMA from designating another database as the national database for the purposes of this Part.

Part 5—Compliance records

5.1 Compliance records—general requirements

(1) A compliance record:
  (a) must be in English; and
  (b) may be a copy of an original record; and
  (c) may be kept in electronic form.

(2) The description of a device must be updated when necessary to ensure that the description complies with section 1.7.

(3) If an agent of a manufacturer or importer keeps compliance records for the manufacturer or importer under this Part, the agent must also keep a copy of its agency agreement with the manufacturer or importer for the same period as the compliance records are kept.

5.2 Keeping records

(1) The supplier of a device to which a compliance label is applied must keep all compliance records for the device for 5 years after:
  (a) if the device is not the same kind of device as another device – the device is first supplied in Australia; or
  (b) if the device is the same kind of device as another device – the last date a device of that kind is first supplied in Australia.

(2) The supplier of a low risk device who decides not to apply a compliance label to the device must keep all compliance records for the device for 5 years after:
  (a) if the device is not the same kind of device as another device – the device is first supplied in Australia; or
  (b) if the device is the same kind of device as another device – the last date a device of that kind is first supplied in Australia.

5.3 Availability of compliance records for inspection

The supplier of a device must ensure that the compliance records for the device are available for inspection within 10 working days of receiving a notice of intent to inspect the records from an authorised officer.

5.4 Provision of information to authorised officer

(1) An authorised officer may, in writing, request the supplier of a device who keeps compliance records in accordance with section 5.2 to give to the officer specified compliance records for the device.

(2) If the request is for a specified record, the supplier must produce the record within 10 working days after the date of the request.

(3) If the request is for a specified circuit diagram or manual for the device, the supplier must produce the document within 30 working days after the date of the request.

(4) After receiving the information from the supplier, the authorised officer must give the supplier a receipt for the information supplied.

(5) The authorised officer must return any original document given to the authorised officer under subsection (1) to the supplier as soon as practicable and, in any case, not more than 60 days after receiving the document.

5.5 Request for test reports from accredited testing body

If an authorised officer believes that the records kept by a supplier do not provide sufficient evidence that the device (the ***relevant device***) complies with an applicable standard, the officer may, by written notice, request the supplier to:

(a) obtain 3 or more devices that are the same kind of device as the relevant device (***samples***) and have the samples tested, in Australia, by an accredited testing body to the applicable standard or a specified part of the applicable standard at the supplier's expense; and

(b) provide to an authorised officer, within the period specified in the notice, certified true copies of the accredited test report for each sample from the accredited testing body showing that the sample complies with the applicable standard or the specified part of the applicable standard.

5.6 Evidence of compliance with applicable standard under section 5.5

If an authorised officer makes a request under section 5.5 in relation to a device (the ***relevant device***) and an applicable standard, the device will be taken to comply with the applicable standard:

(a) if 3 or 4 devices that are the same kind of device as the relevant device (***samples***) were tested—all samples complied with the applicable standard, according to the test reports supplied under section 5.5;

(b) if more than 4 samples were tested—at least 80% of the samples tested complied with the applicable standard, according to the test reports supplied under section 5.5.

Part 6—Special requirements for supply of devices after changes to applicable standard or this Notice

6.1 Devices labelled with a compliance label before this Notice

(1) This section applies to a device if:

(a) a device complied with an applicable standard prior to the commencement of this Notice; and

(b) the label that was applied to the device shows that the device complied with the applicable standard when it was first manufactured or imported; and

(c) the label was applied in accordance with the *Radiocommunications (Electromagnetic Compatibility) Notice 2008*; and

(d) the label has not been removed from the device.

(2) For a device to which this section applies, the supplier:

(a) is not required to demonstrate whether the device complies with the applicable standard; and

(b) is taken to have complied with Part 3 in relation to the device; and

(c) is taken to have complied with Part 4 in relation to the applicable standard.

6.2 Changes to an applicable standard

(1) This section applies to a device if:

(a) the device complied with an applicable standard immediately before the applicable standard was amended or replaced; and

(b) the label that was applied to the device shows that the device complied with the applicable standard when it was first manufactured or imported; and

(c) the label that was applied to the device was applied in accordance with this Notice.

Note: If section 6.1 applies to a device, it is taken to have had a label applied to it in accordance with this Notice.

(2) If the applicable standard is amended on or after the day on which the device was first manufactured or imported, the supplier:

(a) is not required to demonstrate whether the device complies with the applicable standard as amended; and

(b) is taken to have complied with Part 4 in relation to the applicable standard as amended.

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

(3) If a standard (the ***new standard***) becomes an applicable standard on or after the day on which the device was first manufactured or imported, the supplier:

(a) is not required to demonstrate whether the device complies with the new standard; and

(b) is taken to have complied with Part 4 in relation to the new standard.

6.3 Transitional—devices to which IEC, CISPR or AS/NZS standards apply

(1) This section applies to a device if:

(a) a IEC, CISPR or AS/NZS standard (the ***old standard***), if it were in force, would be an applicable standard for the first device; and

(b) the old standard was amended (the ***amended standard***) or replaced by a new standard (the ***new standard***) before the day on which device was manufactured or imported; and

(c) the amended standard or new standard is an applicable standard for the device.

(2) For a device to which this section applies, the supplier of a device mentioned in subsection (1) may, for a device supplied within a period of 2 years after the old standard is amended or replaced, choose that the applicable standard for this Notice is:

(a) the old standard; or

(b) the new standard or the amended standard.

6.4 Transitional—devices to which EN standard applies

(1) This section applies to a device if:

(a) an EN standard (the ***old EN standard***), if it were in force, would be the applicable standard for the device; and

(b) the old EN standard was amended (the ***amended EN standard***) or replaced by a new EN standard (the ***new EN standard***) before the day on which the device was first manufactured or imported; and

(c) the amended EN standard or new EN standard is an applicable standard for the device.

(2) For a device to which this section applies, the supplier of a device mentioned in subsection (1) may, for a device supplied within the Official Journal period after the old EN standard is amended or replaced, choose that the applicable standard for this Notice is:

(a) the old EN standard; or

(b) the new EN standard or the amended EN standard.

(3) In this section:

Official Journal period means the period:

(a) commencing on the day the old EN standard is amended or replaced; and

(b) ending on the date of cessation of presumption of conformity mentioned from time to time in the Official Journal of the European Union for the old EN standard.

Note: At the date of making this Notice, the Official Journal of the European Union was published on the European Union Law website http://eur-lex.europa.eu.

Part 7—Requirements to be met after labels applied—devices imported from New Zealand

7.1 Purpose of this Part

This Part provides ways for the ACMA to investigate devices labelled under New Zealand labelling legislation and imported into Australia.

Note: Section 1.9 explains when a device complies with New Zealand labelling legislation.

7.2 Provision of information to authorised officer

(1) An authorised officer may, by notice in writing, require the importer of a device imported from New Zealand, to give to the officer, within 10 working days after the notice is given, specified records that show that the device complies with New Zealand labelling legislation.

(2) If an authorised officer believes that the records provided by the importer do not provide sufficient evidence that the device complies with New Zealand labelling legislation, the officer may request in writing that the Radio Spectrum Management (***RSM***) unit of the Ministry of Business, Innovation and Employment, New Zealand investigate whether the device complies with New Zealand labelling legislation.

(3) Section 2.3 does not apply to the device if RSM:

(a) states in writing that the device does not comply with New Zealand labelling legislation; or

(b) does not comply with the request within 60 days of the request mentioned in subsection (2).

Schedule 1—Standards

(section 1.5, definition of ***applicable standard***)

Standards

Item	Standard
1	*Radiocommunications (Electromagnetic Compatibility) Standard 2017*

Schedule 2—Devices to which this Notice does not apply

(section 2.2)

Note: Even where this Notice does not apply to a device, section 197 of the Act will still prohibit the user of a device from knowingly or recklessly causing substantial interference to radiocommunications.

1 A device that:
   (a) meets the following requirements:
      (i) the device contains or incorporates one or more radiocommunications transmitters; and
      (ii) the device retains minimal or no functionality if each such radiocommunications transmitter is not transmitting; and
   (b) complies with a radio emission standard that applies to the device under a law of the Commonwealth (except for this Notice) or of a State or Territory.

Examples: Garage door remotes or car keyless entry remotes that are compliant with the *Radiocommunications (Short Range Devices) Standard 2014* and the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2014*.

Note: A device that contains or incorporates a radiocommunications transmitter to which this item does not apply must comply with section 2.6, which provides that such a device must be assessed for compliance against this Notice with the transmitter turned off.

2 A device that:
   (a) does not contain or incorporate a radiocommunications transmitter; and
   (b) complies with a radio emission standard that applies to the device under a law of the Commonwealth (except for this Notice) or of a State or Territory.

Example: A device that is compliant with the EMC requirements specified by the Therapeutic Goods Administration under the *Therapeutic Goods Act 1989*.

3 A device that is a prototype.

4 A device used in military equipment or weapons systems of the Defence Force or by the defence force of another country operating in cooperation with the Defence Force.

5 A device with a power consumption not exceeding 1 milliwatt.

6 A device that is designed or adapted for conducting a test, measurement or study of electromagnetic phenomena in an educational, training or research establishment.

7 A spare part that has:
   (a) identical specifications to the device it is to replace; or
   (b) the same radiofrequency emission characteristics as that device.

8 A component, except a component that is an assembly of components that forms part of a finished device.

9 A device that is for incorporation into another device and is not to be supplied to an end-user.

10 A device that is used for exhibition or demonstration, if it is the sole example of the device used for that purpose.

11 A device that is a fixed installation, or is included, or to be included, in a fixed installation.

12 A device that is designed for and operates from an electrical supply of greater than 600 volts AC or 1000 volts DC.

13 A vehicle or machine that:

(a) is supplied by an organisation that is a member of:

(i) the CMEIG; or

(ii) the FCAI; or

(iii) the TIC; or

(iv) the TMA; and

(b) is compliant with all broadband and narrowband emission standards and requirements as specified in:

(i) if the organisation is a member of the CMEIG or the TMA – the CMEIG/TMA code, 'Voluntary Code of Practice for Electromagnetic Compatibility (EMC) of Machinery'; or

(ii) if the organisation is a member of the FCAI – the FCAI code, 'Voluntary Code of Practice for Electromagnetic Compatibility (EMC) of Motor Vehicles'; or

(iii) if the organisation is a member of the TIC – the TIC code, 'Voluntary Code of Practice for Electromagnetic Compatibility (EMC)'.

Note: At the date of making this Notice:

- the CMEIG/TMA code could be obtained from CMEIG's website (http://www.cmeig.com.au/documents/TMA-CMEIGCodeofpractice_1.pdf);
- the FCAI code could be obtained from the FCAI's website (http://www.fcai.com.au/news/codes-of-practice);
- the TIC code could be obtained from the TIC's website http://www.truck-industry-council.org.

14 A device that is used solely for law enforcement activities by any of the following agencies:

(a) the Australian Federal Police;

(b) a police force or service of a State or Territory;

(c) a body that performs functions related to the investigation, prevention or prosecution of serious crime, or of corruption (whether or not the body also performs other functions);

(d) a criminal law enforcement authority established by or under a law of the Commonwealth, a State or Territory.

Note 1: Subsection 24(1) and section 25 of the Act provide for exemptions for specified Defence Force activities from the operation of the Act. Section 26 of the Act and, at the date of making this Notice, regulation 6 of the *Radiocommunications Regulations 1993* provide for exemptions for specified Defence Force activities from the operation of Parts 3.1, 4.1 and 4.2 of the Act.

Note 2: Subsection 24(2) of the Act provides for exemptions for the Australian Secret Intelligence Service and the Australian Security Intelligence Organisation from the operation of the Act.

15 A personal computer that is assembled in Australia and is assembled from components that are individually compliant with the requirements specified in:

(a) this Notice; and

(b) if the component is intended for connection to a telecommunications network, the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015*.

Note: This exemption allows a person who assembles personal computers in Australia from compliant and labelled parts to supply such personal computers without the necessity to comply with this Notice.

Schedule 3—RCM

(section 1.5, definition of ***RCM***)

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