

SUPPLEMENTARY EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Use by Corrective Services NSW of PMTS Jamming Devices at Lithgow Correctional Centre) Exemption Determination 2018

Purpose

This supplementary explanatory statement for the *Radiocommunications (Use by Corrective Services NSW of PMTS Jamming Devices at Lithgow Correctional Centre) Exemption Determination 2018* (the **Determination**) amends the initial explanatory statement to the Determination in accordance with paragraph 15J(1)(c) of the *Legislation Act 2003*.

Amendment to the initial explanatory statement for the Determination

Omit the paragraphs of the initial explanatory statement under the heading ‘Documents incorporated by reference’, substitute the paragraphs below:

The following Acts, legislative instruments and other instruments are incorporated by reference or otherwise mentioned in the Determination:

- the Act;
- the AIA;
- the *Crimes (Administration of Sentences) Act 1999 (NSW)*;
- the Declaration;
- the LA;
- the *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2015*;
- the *Telecommunications Act 1997*;
- a map of the Lithgow Correctional Centre approved by the ACMA (for the purpose of the definition of ‘field zone’ in section 4 of the Determination); and
- any document by which the ACMA and CSNSW have agreed the kind of PMTS jamming device referred to in the definition of ‘nominated PMTS jamming device’ in section 4 of the Determination (the **Written Agreement**).

References to Acts and legislative instruments are to the Act or legislative instrument as in force from time to time in accordance with section 10 of the AIA, and subsection 13(1) of the LA. The Commonwealth Acts and legislative instruments referenced in the Determination can be found on the Australian Government’s Federal Register of Legislation website at <http://www.legislation.gov.au>. The *Crimes (Administration of Sentences) Act 1999 (NSW)* is a NSW Act and can be found at <http://www.legislation.nsw.gov.au>. The Written Agreement and the map of the Lithgow Correctional Centre are documents incorporated as existing from time to time in accordance with subsection 314A(2) of the Act.

The map of the Lithgow Correctional Centre which outlines the field zone is available on the ACMA website www.acma.gov.au. The webpage on which the map can be accessed is titled ‘Mobile phone jammers in prisons’ and can be readily accessed by conducting a site search. At the time of registration of this supplementary explanatory statement, the specific website address for the map is: <https://www.acma.gov.au/Home/Industry/Spectrum/Radiocomms-licensing/Spectrum-licences/mobile-phone-jammers-in-prisons>.

The Written Agreement discloses the kind of PMTS jamming device authorised for use under the Determination and is not to be made publicly available. The Determination allows the use of a nominated PMTS jamming device by CSNSW (jamming devices being otherwise generally prohibited

as discussed above) to allow CSNSW to prevent the illicit use of mobile phones at the Lithgow Correctional Centre (it is an offence in NSW for an inmate to use or possess mobile phones, see for example section 253F of the *Crimes (Administration of Sentences) Act 1999* (NSW) and clause 122 of *Crimes (Administration of Sentences) Regulation 2014* (NSW)).

If the particular jamming device used by CSNSW was made publicly known, inmates and/or other persons seeking to make illicit use of mobile telephones in prison would more readily be able to subvert or avoid the operation of the jammer. Disclosure of such details would undermine the objective of the Determination. It is for this reason that the Written Agreement is not publicly available.

The ACMA, CSNSW and all relevant carriers will have access to the Written Agreement either directly, or in the case of parties defined as ‘relevant carriers’ in the Determination, through arrangements in place under the carrier liaison agreement which the relevant carriers make with CSNSW (referred to in paragraph 7(2)(c) of the Determination). Therefore, it will be possible for the ACMA, CSNSW and relevant carriers, as the parties most affected by this Determination, to determine if the jammer operated by the CSNSW is consistent with the terms of the Determination.