

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

The Australian Communications and Media Authority makes the following Determination under subparagraph 27(1)(be)(ii) and subsection 27(2) of the *Radiocommunications Act 1992*.

Dated: 24 August 2018

Nerida O’Loughlin

[signed]

Member

James Cameron

[signed]

Member/~~General Manager~~

Australian Communications and Media Authority

1 Name

 This is the *Radiocommunications (Use by Corrective Services NSW of PMTS Jamming Devices at Lithgow Correctional Centre) Exemption Determination 2018*.

2 Commencement

 This Determination commences on 1 November 2018.

3 Authority

 This Determination is made under subparagraph 27(1)(be)(ii) and subsection 27(2) of the *Radiocommunications Act 1992.*

4 Definitions

 In this Determination:

***ACMA*** means the Australian Communications and Media Authority.

***Act*** means the *Radiocommunications Act 1992.*

***base transmit frequencies*** means frequencies within a segment of spectrum licensed for the provision of a public mobile telecommunications service which may be used at a base station for transmission only.

***carrier liaison agreement*** means an agreement entered into between Corrective Services NSW and one or more relevant carriers in relation to the use, operation, possession or supply of a nominated PMTS jamming device at the Lithgow Correctional Centre.

***Corrective Services NSW*** has the same meaning as in the *Crimes (Administration of Sentences) Act 1999* of New South Wales.

***CSNSW staff*** means:

1. the staff of Corrective Services NSW as provided for in section 231 of the *Crimes (Administration of Sentences) Act 1999* of New South Wales;
2. a person who has a contract with Corrective Services NSW in relation to the use, operation, possession or supply of a nominated PMTS jamming device at the Lithgow Correctional Centre; or
3. a person who is employed or engaged by a person who has a contract with Corrective Services NSW in relation to the use, operation, possession or supply of a nominated PMTS jamming device at the Lithgow Correctional Centre.

***designated frequencies*** mean any of the frequency bands used for the supply of a public mobile telecommunications service.

***field zone*** means any area the location of which is:

1. wholly within the Lithgow Correctional Centre; and
2. depicted on a map of the Lithgow Correctional Centre, as approved by the ACMA and published on its website.

Note: The ACMA website is located at [www.acma.gov.au](http://www.acma.gov.au)

***harmful interference to radiocommunications*** means interference that obstructs, repeatedly interrupts or seriously degrades radiocommunications.

Note: ***interference*** is defined in the Act.

***Lithgow Correctional Centre*** means the maximum security centre at 596 Great Western Highway, Marrangaroo in New South Wales.

***nominated PMTS jamming device*** means a PMTS jamming device of a kind agreed in writing by the ACMA and Corrective Services NSW.

***non-designated frequencies*** means frequencies that are not designated frequencies.

***PMTS jamming device*** has the same meaning as in the *Radiocommunications (Prohibition of PMTS Jamming Devices) Declaration 2011.*

***public mobile telecommunications service*** or ***PMTS*** has the same meaning as in the *Telecommunications Act 1997*.

***relevant carriers*** means NBN Co Limited, Telstra Corporation Limited, Optus Mobile Pty Limited, Vodafone Hutchison Australia Pty Limited and Vodafone Network Pty Limited.

5 References to other instruments

 In this Determination, unless the contrary intention appears:

1. a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
2. a reference to any other kind of instrument is a reference to that other instrument as existing 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: For paragraph (b), see section 314A of the Act.

Note 3: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

Note 4: All New South Wales legislation is available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

6 Corrective Services NSW is a body for the purposes of paragraph 27(1)(be) of the Act

For the purposes of paragraph 27(1)(be) of the Act, Corrective Services NSW is a body to which section 27 of the Act applies.

**7 Exemption**

1. Any act or omission by Corrective Services NSW or CSNSW staff in relation to the use, operation, possession or supply (***exempt activity***) of a nominated PMTS jamming device is exempt from Parts 3.1, 4.1 and 4.2 of the Act in the circumstances specified in subsection (2).
2. For the purposes of subsection (1), all of the following circumstances must exist:
3. before undertaking exempt activities, Corrective Services NSW has published a notice on its website indicating that Corrective Services NSW and CSNSW staff are relying on this exemption to undertake exempt activities;

Note: The Corrective Services NSW website is located at [www.correctiveservices.justice.nsw.gov.au](http://www.correctiveservices.justice.nsw.gov.au)

1. either:
2. the ACMA has not notified Corrective Services NSW in writing that Corrective Services NSW and CSNSW Staff are excluded from relying on this Determination for a period specified in the notice; or

(ii) the ACMA has notified Corrective Services NSW in writing that Corrective Services NSW and CSNSW Staff are excluded from relying on this Determination for a period specified in the notice and either:

1. the period specified, and any extension of that period, has expired; or
2. the notice has been withdrawn;
3. a carrier liaison agreement is in place between Corrective Services NSW and each of the relevant carriers;
4. the act is done, or the omission occurs, at the Lithgow Correctional Centre; and
5. in the case of the use or operation of a nominated PMTS jamming device – the act or omission:
6. is done or occurs for the purpose of causing harmful interference to radiocommunications on designated frequencies in the field zone;
7. causes harmful interference only to radiocommunications on base transmit frequencies;
8. does not cause radio emissions above -128.5 dBm/kHz on non-designated frequencies outside the field zone; and
9. complies with the electromagnetic radiation requirements in Part 3 of the *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2015* as if the nominated PMTS jamming device is a transmitter operated under a licence to which that Part applies.