



Radiocommunications Equipment (General) Amendment Rules 2021 (No. 1)

The Australian Communications and Media Authority makes the following instrument under subsection 156(1) of the *Radiocommunications Act 1992*.

Dated: 11 November 2021

James Cameron
[signed]
Member

Cathy Rainsford
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

1 Name

This is the *Radiocommunications Equipment (General) Amendment Rules 2021 (No. 1)*.

2 Commencement

This instrument commences on the day after the day it is registered on the Federal Register of Legislation.

Note: The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 156(1) of the *Radiocommunications Act 1992*.

4 Amendments

The instrument that is specified in Schedule 1 is amended as set out in the applicable items in that Schedule.

Schedule 1—Amendments

Radiocommunications Equipment (General) Rules 2021 (F2021L00661)

1 Subsection 4(1)

Insert:

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

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

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

ARPANSA means the Australian Radiation Protection and Nuclear Safety Agency.

2 Subsection 4(1) (definition of *EME labelling notice*, including the note)

Repeal the definition and the note.

3 Subsection 4(1) (definition of *EME standard*, including the note)

Repeal the definition and the note, substitute:

EME standard: see clause 3 of Schedule 4.

4 Subsection 4(1)

Insert:

national database: see section 57.

RCM means the symbol at Schedule 2.

5 Subsection 4(1) (note 1, after paragraph (j))

Insert:

(ja) member of a visiting force;

6 Paragraph 6(d)

Repeal the paragraph.

7 Section 18

Omit ‘The ACMA has made equipment rules that prescribe standards in relation to the electromagnetic radiation of equipment.’, substitute ‘Part 2 of Schedule 4 prescribes standards in relation to the emission of electromagnetic energy from equipment.’

8 Subsection 25(5) (heading)

Omit ‘*EME labelling notice*’, substitute ‘*EME labelling requirements*’.

9 Paragraph 25(5)(b)

Repeal the paragraph, substitute:

(b) Part 2 of Schedule 3 requires the manufacturer to apply a label to the device in a particular form;

10 Subsection 25(5)

Omit ‘in accordance with the notice’, substitute ‘in accordance with Part 2 of Schedule 3’.

11 Paragraph 25(6)(b)

Repeal the paragraph, substitute:

- (b) Part 2 of Schedule 3 requires the importer to apply a label to the device in a particular form;

12 Subsection 25(6)

Omit ‘in accordance with the notice’, substitute ‘in accordance with Part 2 of Schedule 3’.

13 Subsection 25(6) (note)

Repeal the note.

14 Subsection 27(3) (heading)

Omit ‘*EME labelling notice*’, substitute ‘*EME labelling requirements*’.

15 Subsection 27(3)

Repeal the subsection, substitute:

- (3) If Part 2 of Schedule 3 requires a person to apply a label to a device, the person must not apply:
 - (a) the label; or
 - (b) a label that purports to be such a label;to the device before the person has complied with each requirement in Part 3 of Schedule 3 that applies to the person in relation to the device.

16 After subsection 28(2)

Insert:

- (3) Section 27 does not apply where:
 - (a) a person holds a permit that authorises the person to supply an unlabelled device; and
 - (b) the person supplies a device that does not have a label applied to it; and
 - (c) the supply occurs in accordance with the permit.

28A Obligation – complying with requirements after applying a label under Schedule 3

- (1) If Part 2 of Schedule 3 requires a person to apply a label to a device, the person must comply with each requirement in Part 4 or Part 5 of Schedule 3 that applies to the person in relation to the device.
- (2) Subsection (1) does not apply to a person unless:
 - (a) the person is a constitutional corporation; or
 - (b) the person manufactured or imported the device for the purposes of supply that is, or would be, in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the provision or use of a postal, telegraphic, telephonic or other like service; or
 - (vi) the defence of Australia; or

- (vii) the operation of lighthouses, lightships, beacons or buoys; or
- (viii) astronomical or meteorological observations; or
- (ix) an activity of a constitutional corporation; or
- (x) banking, other than State banking; or
- (xi) insurance, other than State insurance; or
- (xii) weighing or measuring.

(3) Subsection (1) does not apply if an exemption applies.

(4) Subsection (1) does not apply where:

- (a) a person holds a permit that authorises the person to supply an unlabelled device; and
- (b) the person supplies a device that does not have a label applied to it; and
- (c) the supply occurs in accordance with the permit.

17 Paragraph 29(1)(b)

Omit ‘or’.

18 Paragraph 29(1)(c)

Repeal the paragraph.

19 Subsection 29(1) (note)

Omit ‘, and the provision of information to authorised officers’.

20 Subsection 29(6)

Repeal the subsection.

21 Paragraph 48(d)

Repeal the paragraph, substitute:

- (d) section 52;
- (e) section 53;
- (f) subsection 54(1).

22 After section 52

Add:

53 Exemption – persons acting in relation to particular devices exempt from prohibitions in Part 4

A person does not contravene a prohibition in Part 4 of this instrument that relates to:

- (a) causing radio emission to be made by a device; or
- (b) possession of a device for the purpose of operation; or
- (c) supply of a device;

if the device is:

- (d) used solely as equipment, or as part of a weapons system, used by the Defence Force; or
- (e) used solely as equipment, or as part of a weapons system, used by a member of a visiting force; or
- (f) used solely for law enforcement activities by any of the following bodies:
 - (i) the Australian Crime Commission;
 - (ii) the Australian Federal Police;

- (iii) the Corruption and Crime Commission of Western Australia;
- (iv) the Crime and Corruption Commission of Queensland;
- (v) the Independent Commission Against Corruption of New South Wales;
- (vi) the Independent Commissioner Against Corruption of South Australia;
- (vii) the Integrity Commissioner (within the meaning of the *Law Enforcement Integrity Commissioner Act 2006*);
- (viii) the Law Enforcement Conduct Commission of New South Wales;
- (ix) the New South Wales Crime Commission;
- (x) the police force of a State or Territory; or
- (g) used solely for law enforcement activities by a body that is:
 - (i) not mentioned in paragraph (f); and
 - (ii) responsible for criminal law enforcement; and
 - (iii) established by or under a law of the Commonwealth, or a law of a State or Territory; or
- (h) used by a body that:
 - (i) is not mentioned in paragraph (f) or (g); and
 - (ii) performs functions related to the investigation, prevention and prosecution of serious crime, or of corruption (whether or not the body also performs other functions); and
 - (iii) is covered by a written determination made by the ACMA under paragraph 27(1)(be) of the Act;
solely for the investigation, prevention and prosecution activities of that body; or
- (i) a fire fighting, civil defence or rescue organisation; or
- (j) an ambulance service; or
- (k) any other organisation whose sole or principal purpose involves securing the safety of persons during an emergency.

54 Exemption – particular manufacturers and importers exempt from labelling in relation to certain equipment

- (1) Subject to subsection (2), a person does not contravene a prohibition in subsection 25(5), 25(6) or 27(3), or the obligation in subsection 28A(1), in relation to a device if:
- (a) the device:
 - (i) is manufactured in Australia as part of a motor vehicle, or installed in Australia in a motor vehicle, or imported as part of a motor vehicle, by a member of the Federal Chamber of Automotive Industries (ACN 008 550 347) (*FCAI*); and
 - (ii) is an integral part of the motor vehicle; or
 - (b) the device:
 - (i) is manufactured or imported by a member of the FCAI; and
 - (ii) can only be operated if it is installed in a motor vehicle; or
 - (c) the device is manufactured in Australia as part of a motor vehicle, or installed in Australia in a motor vehicle, or imported as part of a motor vehicle, by a member of the Construction & Mining Equipment Industry Group Inc, an incorporated association registered under the *Associations Incorporation Act 2009* (NSW), with incorporation number INC9879927 (*CMEIG*); or
 - (d) the device:
 - (i) is manufactured or imported by a member of the CMEIG; and
 - (ii) can only be operated if it is installed in a motor vehicle; or

- (e) the device is manufactured in Australia as part of a motor vehicle, or installed in Australia in a motor vehicle, or imported as part of a motor vehicle, by a member of the Tractor and Machinery Association of Australia (ACN 004 237 209) (*TMA*); or
 - (f) the device:
 - (i) is manufactured or imported by a member of the TMA; and
 - (ii) can only be operated if it is installed in a motor vehicle.
- (2) The exemption in subsection (1) only applies to a person in relation to a device if the person complies with Part 3, and Part 4 or Part 5, of Schedule 3, as if the person had been required to apply a label to the device in accordance with Part 2 of Schedule 3.
- (3) In this clause, *motor vehicle* means a motor-powered road vehicle (including a 4 wheel drive vehicle).

Note: This exemption only applies in relation to labelling requirements for the EME standard. A device mentioned in this exemption must still not be possessed, operated or supplied if it does not comply with the EME standard: see Part 4 of this instrument.

Part 9—National database

55 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 159 of the Act provides that the equipment rules may prohibit the doing of an act or thing by a person.

Subsection 27(3) of this instrument prohibits a person from applying a label to a device unless the person complies with any requirements to be met before applying the label. Clause 8 of Schedule 3 requires a person to be registered on a national database before applying a label to a device.

This Part establishes the national database.

56 Object of this Part

- (1) The object of this Part is to provide for registration, on a national database, of persons who manufacture or import equipment.
- (2) The object specified in subsection (1) is incidental or ancillary to the objects of the other Parts of this instrument.

57 National database

- (1) The ACMA may, by notifiable instrument, designate a database as the *national database*.
- (2) Subject to the ACMA designating a database under subsection (1), the database that was the national database for the purposes of the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014* is taken to be the national database.
- (3) If, before the commencement of this section, a person was registered on the database mentioned in subsection (2), the person is taken to be registered on the national database.

58 Registration on national database

- (1) To be registered on the national database, a person must provide to the database:
 - (a) the person's ABN; and
 - (b) one of the following:
 - (i) if the person is a body corporate – the name and ACN of the body corporate;
 - (ii) if the person is an individual – the name of the individual;
 - (iii) in any case – a business name that is used by the person in connection with its business in relation to the supply of devices and that is registered as a business name under the *Business Names Registration Act 2011*; and
 - (c) the person's address in Australia; and
 - (d) if the person is not an individual – the name and contact details of an individual who represents the person.
- (2) If information included on the national database about a person changes, the person must provide the changed information to the database within 30 days after the change occurs.
- (3) The person must provide the information in subsection (1) and (2) using a method indicated by the database for including information on the database.
- (4) In this section:

corporation has the meaning given by section 57A of the *Corporations Act 2001*.

representative of a person means:

- (a) an employee of the person; or
- (b) if the person is a corporation – an officer of the corporation, within the meaning of section 9 of the *Corporations Act 2001*; or
- (c) if the person is an entity that is neither an individual nor a corporation – an officer of the entity, within the meaning of section 9 of the *Corporations Act 2001*; or
- (d) another person authorised in writing for the purposes of this section by:
 - (i) the person; or
 - (ii) an employee of the person; or
 - (iii) an officer of the person.

23 After Schedule 1

Add:

Schedule 2—RCM

(section 4)



Schedule 3—Labelling requirements in relation to human exposure to electromagnetic energy

(sections 25, 27 and 28A)

Part 1—Preliminary

1 Object of this Schedule

The object of this Schedule is to:

- (a) protect the health or safety of individuals from any adverse effect likely to be attributable to radio emissions resulting from a reasonably foreseeable use (including a misuse) of radiocommunications transmitters;
- (b) ensure that persons who operate equipment have access to information about the equipment.

2 Interpretation

(1) In this Schedule:

accredited testing body, in relation to a standard that is prescribed by equipment rules, means a laboratory that is:

- (a) accredited by NATA to conduct testing against that standard; or
- (b) accredited, by a body that has entered into a mutual recognition arrangement with the International Laboratory Accreditation Cooperation, to conduct testing against:
 - (i) that standard; or
 - (ii) a standard or requirement that is equivalent to that standard.

Note 1: An accredited testing body does not necessarily have accreditation under Part 5.4 of the Act.

Note 2: More information about NATA can be obtained from its website, at www.nata.com.au. More information about the International Laboratory Accreditation Cooperation can be obtained from its website, at www.ilac.org.

agent, in relation to a person, means an agent of the person who is authorised to act on behalf of the person for the purposes of equipment rules.

applicable device has the same meaning as in Schedule 4.

built-in display, for a device, means an electronic display or electronic screen that:

- (a) is integral to the device; and
- (b) cannot be used independently of the device.

compliance record: see subclause 14(2).

high risk device means an applicable device that is neither a low risk device nor a medium risk device.

human body includes the head, neck, trunk and limbs.

low risk device: see subclause (3).

medium risk device means an applicable device that is:

- (a) not a low risk device; and
- (b) normally used more than 20 centimetres from the human body.

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

RPS S-1 Advisory Note means:

- (a) the document titled ‘RPS S-1 Advisory Note: Compliance of mobile or portable transmitting equipment (100 kHz to 300 GHz)’, published by ARPANSA; or
- (b) if a later document published by ARPANSA is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: RPS S-1 Advisory Note is available, free of charge, from the ARPANSA website:
www.arpansa.gov.au.

variant: see subclause (2).

- (2) A device (**the second device**) is a **variant** of another device (**the first device**) if:
 - (a) where the first device is manufactured in Australia – both:
 - (i) the second device is manufactured in Australia; and
 - (ii) the person who manufactured the first device also manufactured the second device; and
 - (b) where the first device is imported – both:
 - (i) the second device is imported; and
 - (ii) the person who imported the first device also imported the second device;
 - (c) the second device is not identical to the first device; and
 - (d) a measurement method or assessment method (**the relevant method**) for the first device is set out in Part 3 of Schedule 4; and
 - (e) in accordance with Part 3 of Schedule 4, the relevant method is also the measurement method or assessment method for the second device; and
 - (f) where the first device complies with the EME standard – the second device complies with the EME standard in the same, or a substantially similar, manner as the first device.
- (3) If, for an applicable device, the RPS S-1 Advisory Note provides that the evaluation of mobile or portable transmitting equipment for compliance with the ARPANSA standard is not required, the applicable device is a **low risk device**.

- (4) If:
- (a) a person manufactures or imports a kind of equipment; and
 - (b) this Schedule requires the person to do a thing in relation to a device the person manufactures or imports (*the relevant requirement*); and
 - (c) the device is an item of that kind of equipment;
- the person is taken to comply with the relevant requirement for each device of that kind of equipment the person manufactures or imports if:
- (d) each device of that kind of equipment is identical; and
 - (e) subject to paragraphs (f) and (g), the person complies with the relevant requirement for one device of that kind of equipment (*the model device*); and
 - (f) the person complies with the relevant requirement for the model device from the first time the person must, but for the effect of this subclause, comply with the relevant requirement in relation to a device of that kind of equipment; and
 - (g) where a person must continue to meet the relevant requirement during a period – the person continues to comply with the relevant requirement for the model device during the period:
 - (i) beginning at the first time the person must, but for the effect of this subclause, comply with the relevant requirement in relation to a device of that kind of equipment; and
 - (ii) ending at the last time the person must, but for the effect of this subclause, comply with the relevant requirement in relation to a device of that kind of equipment.

- (5) If:
- (a) a person manufactures or imports a kind of equipment (*the first kind of equipment*); and
 - (b) the person manufactures or imports another kind of equipment (*the second kind of equipment*); and
 - (c) each device of the second kind of equipment is a variant of a device of the first kind of equipment;
 - (d) a provision in Part 3 of this Schedule requires the person to do a thing in relation to a device the person manufactures or imports (*the relevant requirement*), before the person applies a label to the device; and
 - (e) the person complies with the relevant requirement in relation to each device of the first kind of equipment;
- the person is taken to comply with the relevant requirement for each device of the second kind of equipment if:
- (f) each device of the second kind of equipment is identical; and
 - (g) subject to paragraphs (h) and (i), the person complies with the relevant requirement for one device of that kind of equipment (*the model device*); and
 - (h) the person complies with the relevant requirement for the model device from the first time the person must, but for the effect of this subclause, comply with the relevant requirement in relation to a device of that kind of equipment; and
 - (i) where a person must continue to meet the relevant requirement during a period – the person continues to comply with the relevant requirement for the model device during the period:
 - (i) beginning at the first time the person must, but for the effect of this subclause, comply with the relevant requirement in relation to a device of that kind of equipment; and

- (ii) ending at the last time the person must, but for the effect of this subclause, comply with the relevant requirement in relation to a device of that kind of equipment.

Part 2—Applying a label

3 Requirement – applying a label to a device

- (1) For the purposes of subsections 25(5), 25(6), 27(3) and 28A(1), this clause requires a person to apply a label to a device.
- (2) Subject to subclause (4), if an applicable device is manufactured in Australia, the person who manufactured the device must apply a label to the device in accordance with this Part.
- (3) Subject to subclause (4), if an applicable device is imported, the person who imported the device must apply a label to the device in accordance with this Part.
- (4) If Schedule 4 does not prescribe a standard for an applicable device, this clause does not apply in relation to the device.

4 Who may apply a label to a device

- (1) For the purposes of subclause 3(2), a person who manufactures a device (*manufacturer*) is taken to apply a label to the device if the label is applied by an agent of the manufacturer, by a person who is authorised to apply the label by the manufacturer, or by a person who is authorised to apply the label by an agent of the manufacturer.
- (2) For the purposes of subclause 3(3), a person who imports a device (*importer*) is taken to apply a label to a device if the label is applied by an agent of the importer, by a person outside Australia who is authorised to apply the label by the importer, or by a person outside Australia who is authorised to apply the label by an agent of the importer.

5 The label

General requirements for the label and applying the label

- (1) The label must be:
 - (a) the RCM; or
 - (b) a QR code, or similar thing, if the relevant link is to information on a website that complies with subclause (8).
- (2) Subject to subclause (6) and clause 6, the label must be applied to the surface of the device in a place that is accessible to a user of the device without the use of any specialised equipment.
- (3) The label must be durable.
- (4) The label must be applied:
 - (a) permanently; or
 - (b) in a way that makes removal or obliteration difficult.
- (5) The label must be at least 3 mm high.

Applying the label to packaging

- (6) If, because of the size or physical nature of a device, it is impossible or impractical to apply the label to the surface of the device, the label must be applied to:
- (a) the external surface of the packaging used for the device, in a manner that complies with subclause (7); and
 - (b) the documentation, including any warranty or guarantee certificate, that accompanies the device when it is offered for supply.

Note: See subclause 14(3).

- (7) For the purposes of paragraph (6)(a), the label must:
- (a) occupy an area that is greater than 1% of the external surface of the packaging; and
 - (b) be clearly visible;
 - (c) be applied in accordance with subclauses (3) to (5).

QR code information

- (8) For the purposes of paragraph (1)(b), the information on the website must display the RCM prominently.

6 Electronic labelling

- (1) This clause applies in relation to a device (*relevant device*) that has a built-in display.
- (2) A person is taken to comply with subclause 5(2) in relation to a relevant device if:
- (a) when the relevant device is first offered for supply, and at all later times, the built-in display of the relevant device is capable of displaying the RCM;
 - (b) the documentation that accompanies the device at all times it is offered for supply by the person sets out instructions for displaying the RCM on the built-in display; and
 - (c) it is difficult or impossible to prevent the RCM from being displayed on the built-in display when a person follows the instructions mentioned in paragraph (b).

Part 3—Requirements to be met before applying a label

7 Application of Part - requirements

For the purposes of subsection 27(3), each of clauses 8 to 12 sets out a requirement to be met by a person before the person applies a label to a device in accordance with Part 2 of this Schedule.

8 Requirement – registration on national database

A person must be registered on the national database.

9 Requirement – making a declaration of conformity

- (1) If the device is manufactured in Australia, the person who manufactured the device must make a declaration of conformity for the device that complies with subclause (3).
- (2) If the device is imported, either:
- (a) the person who imported the device must make a declaration of conformity for the device that complies with subclause (3); or

- (b) both:
 - (i) the person who manufactured the device must make a declaration of conformity for the device that complies with subclause (3); and
 - (ii) the person who imported the device must obtain a copy of that declaration.
- (3) A declaration of conformity for a device must:
 - (a) either:
 - (i) be in the form approved by the ACMA; or
 - (ii) subject to paragraph (b), contain all the information required by the form approved by the ACMA, whether or not it includes other information; and
 - (b) except for a declaration of conformity that is mentioned in subparagraph (2)(b)(i) – if the person making the declaration of conformity is a body corporate, contain one or more of:
 - (i) an ABN; or
 - (ii) an ACN; or
 - (iii) an ARBN;of the person making the declaration; and
 - (c) must declare that the device complies with the EME standard;
 - (d) if the declaration is for a device other than a low risk device – must set out the measurement methods, or assessment methods, used to measure or assess whether the device complies with the EME standard, in accordance with Part 3 of Schedule 4.

Note: It is a serious offence to give false or misleading information (see section 137.1 of the *Criminal Code*).

- (4) The ACMA must approve a form for a declaration of conformity.
- (5) If the ACMA approved a form for a declaration of conformity for the purposes of the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014*, that form is taken to be approved under subclause (4), until the ACMA approves another form under subclause (4).

10 Requirement – obtaining or creating documents – low risk device

If the device is a low risk device, the person must prepare a description of the device that complies with subclause 13(1).

11 Requirement – obtaining or creating documents – medium risk device

If the device is a medium-risk device, the person must:

- (a) prepare a description of the device that complies with subclause 13(1); and
- (b) obtain a test report in relation to the device that complies with subclause 13(2).

12 Requirement – obtaining or creating documents – high risk device

If the device is a high-risk device, the person must:

- (a) prepare a description of the device that complies with subclause 13(1); and
- (b) obtain a test report in relation to the device prepared by an accredited testing body that complies with subclause 13(2).

13 Description and test report

- (1) For the purposes of clauses 10, 11 and 12, a description of a device must have sufficient information to determine whether the device described is the same as:
 - (a) a device for which a declaration of conformity is made; or
 - (b) a device identified in a test report.
- (2) For the purposes of clauses 11 and 12, a test report in relation to a device must:
 - (a) identify the device; and
 - (b) state whether device complies with the EME standard; and
 - (c) describe the methods used by the person who prepared the report to test whether the device complies with the EME standard; and
 - (d) state the results of that test, including any measurement or evaluation data obtained from the test; and
 - (e) state whether the methods used to test whether the device complies with the EME standard comply with Part 3 of Schedule 4; and
 - (f) if:
 - (i) Part 3 of Schedule 4 specifies measurement methods or assessment methods for the device by reference to a document; and
 - (ii) the test report describes those methods; and
 - (iii) the document sets out requirements for a test report for a test that uses those methods (*test report requirements*);comply with the test report requirements; and
 - (g) not be false or misleading in a material particular.

Note: It is a serious offence to give false or misleading information (see section 137.1 of the *Criminal Code*).

Part 4—Requirements to be met after applying a label

14 Requirement – creating and keeping records – generally

- (1) For the purposes of subsection 28A(1) of this instrument, this clause sets out requirements to be met by a person after the person applies a label to a device in accordance with Part 2 of this Schedule.
- (2) A person (*labeller*) who applies a label to a device in accordance with Part 2 of this Schedule must keep the following records (*compliance records*) in accordance with this clause:
 - (a) a declaration of conformity for the device, made in accordance with clause 9; and
 - (b) a description of the device, prepared in accordance with Part 3 of this Schedule; and
 - (c) if the device is a medium risk device or a high risk device – a test report obtained in accordance with Part 3 of this Schedule; and
 - (d) if subclause 5(6) applies to the device – a record made in accordance with subclause (3);
 - (e) if subclause (4) applies to the labeller – a record made in accordance with subclause (4);
 - (f) if subclause (5) applies to the device – a record made in accordance with subclause (5).
- (3) If subclause 5(6) applies to a device, the labeller must create a written record of:
 - (a) the reasons why subclause 5(6) applies to the device; and

- (b) where on the packaging of the device a label is applied.
- (4) If a labeller arranges for an agent to keep records on the person's behalf for the purposes of this clause, the labeller must create a written record of the agency agreement between the labeller and the agent.
- (5) If a device is a variant of another device (*the first device*), the labeller must create a written record of the variant that:
 - (a) identifies the first device; and
 - (b) identifies the variant; and
 - (c) describes the differences between the first device and the variant; and
 - (d) provides a technical rationale for why the variant complies with the EME standard; and
 - (e) includes evidence that the electromagnetic exposure caused by the variant is not likely to exceed that of the first device; and
 - (f) is not false or misleading in a material particular.

Note: It is a serious offence to give false or misleading information (see section 137.1 of the *Criminal Code*).

- (6) A compliance record for a device must be kept during the period:
 - (a) commencing on the day the record is created; and
 - (b) ending on the day occurring 5 years after the device is first supplied to a person.
- (7) A compliance record must be in English.

Part 5—Transitional

15 Requirement – applying a label – transitional provisions

- (1) For the purposes of subsection 28A(1) of this instrument, paragraph (2)(f) sets out a requirement to be met by a person after the person applies a label to a device in accordance with Part 2 of this Schedule.
- (2) If:
 - (a) an applicable device complies with the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014*, as in force immediately before the commencement day; and
 - (b) before the commencement day a person applied a label to the device in accordance with the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014*, as in force at the time the person applied the label to the device; and
 - (c) before the person applied the label to the device, the person complied with Part 2 of the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014*, as in force at the time the person applied the label to the device;then:
 - (d) the person is taken to have applied a label to the device in accordance with Part 2 of this Schedule; and
 - (e) the person is taken to have met the requirements in Part 3 of this Schedule before applying the label to the device; and
 - (f) the person is required to comply with Part 4 of the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014*, as in force at the time the person applied the label to the device, as if that instrument had not been repealed.

- (3) In this clause, *commencement day* means the day this clause commenced.

Schedule 4—Standard in relation to human exposure to electromagnetic energy

(section 4)

Part 1—Preliminary

1 Object of this Schedule

The object of this Schedule is to protect the health or safety of individuals from any adverse effect likely to be attributable to radio emissions resulting from a reasonably foreseeable use (including a misuse) of radiocommunications transmitters.

2 Interpretation

- (1) In this Schedule:

applicable device: see subclause 3(1).

ARPANSA standard means the *Radiation Protection Standard for Limiting Exposure to Radiofrequency Fields – 100 kHz to 300 GHz (2021)*, or any standard published as a replacement of that standard by ARPANSA.

Note: The ARPANSA standard is available, free of charge, from the ARPANSA website: www.arpansa.gov.au.

AS/NZS 2772.2 means:

- (a) the document titled ‘AS/NZS 2772.2:2016 Radiofrequency fields, Part 2: Principles and methods of measurement and computation – 3 kHz to 300 GHz’, published by Standards Australia; or
- (b) if a later document published by Standards Australia is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: AS/NZS 2772.2 may be obtained, for a fee, from a Standards Australia distributor listed on the Standards Australia website: www.standards.org.au. AS/NZS 2772.2 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

Aware User has the meaning given by paragraph 5.1.1(c) of the ARPANSA standard.

basic restrictions means the restrictions identified as basic restrictions in sections 2 and 3 of the ARPANSA standard.

C95.3 means:

- (a) the document titled ‘IEEE C95.3:2021 – IEEE Recommended Practice for Measurements and Computations of Electric, Magnetic, and Electromagnetic Fields with Respect to Human Exposure to Such Fields, 0 Hz to 300 GHz’, published by the Institute of Electrical and Electronics Engineers; or
- (b) if a later document published by the Institute of Electrical and Electronics Engineers is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: C95.3 may be obtained, for a fee, from the website of the Institute of Electrical and Electronics Engineers: standards.ieee.org. C95.3 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

EN 62209-1 means:

- (a) the document titled ‘EN 62209-1:2016 Measurement procedure for the assessment of specific absorption rate of human exposure to radio frequency fields from hand-held and body-mounted wireless communication devices – Part 1: Devices used next to the ear (frequency range of 300 MHz to 6 GHz)’, published by the European Committee for Electrotechnical Standardization; or
- (b) if a later document published by the European Committee for Electrotechnical Standardization is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: EN 62209-1 may be obtained, for a fee, from a Standards Australia distributor listed on the Standards Australia website: www.standards.org.au. EN 62209-1 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

EN 62209-2 means:

- (a) the document titled ‘EN 62209-2:2010 Human exposure to radio frequency fields from hand-held and body-mounted wireless communication devices – Human models, instrumentation, and procedures – Part 2: Procedure to determine the specific absorption rate (SAR) for wireless communication devices used in close proximity to the human body (frequency range of 30 MHz to 6 GHz)’, published by the European Committee for Electrotechnical Standardization; or
- (b) if a later document published by the European Committee for Electrotechnical Standardization is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: EN 62209-2 may be obtained, for a fee, from a Standards Australia distributor listed on the Standards Australia website: www.standards.org.au. EN 62209-2 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

human body includes the head, neck, trunk and limbs.

IEC 62209-3 means:

- (a) the document titled ‘IEC/IEEE 62209-3:2019 Measurement procedure for the assessment of specific absorption rate of human exposure to radio frequency fields from hand-held and body-mounted wireless communication devices – Part 3: Vector measurement-based systems (Frequency range of 600 MHz to 6 GHz)’, published by the International Electrotechnical Commission; or
- (b) if a later document published by the International Electrotechnical Commission is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: IEC 62209-3 may be obtained, for a fee, from a Standards Australia distributor listed on the Standards Australia website: www.standards.org.au. IEC 62209-3 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

IEC/IEEE 62209-1528 means:

- (a) the document titled ‘IEEE/IEC 62209-1528:2020 – Measurement procedure for the assessment of specific absorption rate of human exposure to radio frequency fields from hand-held and body-mounted wireless communication devices – Part 1528: Human models, instrumentation, and procedures (Frequency range of 4 MHz to 10 GHz)’, published by the International Electrotechnical Commission; or
- (b) if a later document published by the International Electrotechnical Commission is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: IEC/IEEE 62209-1528 may be obtained, for a fee, from a Standards Australia distributor listed on the Standards Australia website: www.standards.org.au. IEC/IEEE 62209-1528 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

IEC TR 63170 means:

- (a) the document titled ‘IEC TR 63170:2018 Measurement procedure for the evaluation of power density related to human exposure to radio frequency fields from wireless communication devices operating between 6 GHz and 100 GHz’, published by the International Electrotechnical Commission; or
- (b) if a later document published by the International Electrotechnical Commission is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: IEC TR 63170 may be obtained, for a fee, from a Standards Australia distributor listed on the Standards Australia website: www.standards.org.au. IEC TR 63170 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

integral antenna, for a device, means an antenna that is:

- (a) permanently attached to the device; or
- (b) designed to be directly attached to a fixed connection on the device, without the use of an external cable.

reference levels means the levels identified as reference levels in sections 2 and 3 of the ARPANSA standard.

RPS S-1 Advisory Note means:

- (a) the document titled ‘RPS S-1 Advisory Note: Compliance of mobile or portable transmitting equipment (100 kHz to 300 GHz)’, published by ARPANSA; or
- (b) if a later document published by ARPANSA is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: RPS S-1 Advisory Note is available, free of charge, from the ARPANSA website: www.arpansa.gov.au.

SA TR IEC 63170 means:

- (a) the document titled ‘SA TR IEC 63170:2020 Measurement procedure for the evaluation of power density related to human exposure to radio frequency fields from wireless communication devices operating between 6 GHz and 100 GHz’, published by Standards Australia; or
- (b) if a later document published by Standards Australia is expressed to replace the document mentioned in paragraph (a) – the later document.

Note: SA TR IEC 63170 may be obtained, for a fee, from a Standards Australia distributor listed on the Standards Australia website: www.standards.org.au. SA TR IEC 63170 is also available to be viewed, on prior request, at an ACMA office, subject to licensing conditions.

simultaneous multi-band transmission mode, in relation to a device, means an operating mode allowing the device to transmit on more than one frequency band simultaneously.

- (2) A term that is:
 - (a) used, but not defined, in this Schedule; and
 - (b) defined in the Glossary of the ARPANSA standard (**Glossary**);has the same meaning in this Schedule as given by the Glossary.

Part 2—EME standard

3 Standard – performance requirements for equipment

- (1) This clause prescribes a standard (**EME standard**) for each device (**applicable device**) that:
 - (a) is a mobile station; and

- (b) is capable of operating in the frequency band 100 kHz to 300 GHz (inclusive); and
 - (c) has an integral antenna; and
 - (d) is not intended to be used as an emergency location beacon.
- (2) If, for an applicable device:
- (a) the device is normally used 20 centimetres or less from the human body (***normal position***); and
 - (b) a measurement method is specified for the device in Part 3 of this Schedule;
- the device, when used in its normal position and in its normal mode of operation, must comply with:
- (c) if the device is used by an Aware User, or is reasonably likely only to be used by an Aware User – the basic restrictions for occupational exposure; and
 - (d) in any other case – the basic restrictions for general public exposure.
- Note: A device that is normally used in close proximity to the human head or ear is necessarily normally used 20 centimetres or less from the human body.
- (3) If, for an applicable device:
- (a) the device is normally used more than 20 centimetres from the human body (***normal position***); and
 - (b) an assessment method is specified for the device in Part 3 of this Schedule;
- the device, when used in its normal position and in its normal mode of operation, must comply with:
- (c) if the device is used by an Aware User, or reasonably likely only to be used by an Aware User – the reference levels for occupational exposure; and
 - (d) in any other case – the reference levels for general public exposure.
- (4) Whether a device complies with the standard in subclause (2) must be measured in accordance with one or more of the measurement methods specified for the device in clause 4.
- (5) Whether a device complies with the standard in subclause (3) must be assessed in accordance with one or more of the assessment methods specified for the device in clause 4.
- (6) For the purposes of this clause, if a device is capable of being used in simultaneous multi-band transmission mode, ***normal mode of operation*** means that mode.
- (7) Despite subclauses (2) and (3), if neither a measurement method nor an assessment method is specified for an applicable device in Part 3 of this Schedule, no standard is prescribed for the device.

Part 3—Measurement methods and assessment methods for EME standard

4 Measurement methods and assessment methods for EME standard

- (1) If an applicable device:
- (a) is normally used in the manner described in an item in column 1 of the table below; and
 - (b) operates in the frequency range specified in column 2 of that item;
- then, for the purposes of subclauses 3(2) and 3(3), the measurement methods or assessment methods specified for the device are those specified in column 3 of that item.

- (2) If, as a result of subclause (1), more than one measurement method or assessment method is specified for a device, any of those measurement methods or assessment methods may be used for the purposes of subclauses 3(4) and 3(5).

Item	Column 1	Column 2	Column 3
	Manner of use	Frequency range (inclusive of both boundaries)	Measurement methods or assessment methods
1	Normally used only in close proximity to the human ear	300 MHz to 6 GHz	Measurement methods set out in EN 62209-1
2	Normally used 20 centimetres or less from the human body, but not in close proximity to the human ear	30 MHz to 6 GHz	Measurement methods set out in EN 62209-2
3	Normally used 20 centimetres or less from the human body, including in close proximity to the human ear or human head	4 MHz to 10 GHz	Measurement methods set out in IEC/IEEE 62209-1528
4	Normally used 20 centimetres or less from the human body, including in close proximity to the human ear or human head	600 MHz to 6 GHz	Measurement methods set out in IEC 62209-3
5	Normally used 20 centimetres or less from the human body, including in close proximity to the human ear or human head	6 GHz and 100 GHz	Measurement methods set out in: (a) IEC TR 63170; or (b) SA TR IEC 63170
6	Normally used more than 20 centimetres from the human body	100 kHz and 100 GHz	Assessment methods set out in: (a) AS/NZS 2772.2; or (b) C95.3

Part 4—Transitional

5 Standard – transitional provisions

- (1) If an applicable device is manufactured in Australia before the commencement day, or not later than 12 months after the commencement day, the device is taken to comply with the EME standard if it complies with the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2014*, as in force immediately before the commencement day.
- (2) If an applicable device is imported before the commencement day, or not later than 12 months after the commencement day, the device is taken to comply with the EME standard if it complies with the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2014*, as in force immediately before the commencement day.
- (3) If an applicable device:
- is manufactured in Australia; and
 - before the commencement day, or not later than 12 months after the commencement day, is altered or modified in a material respect;

the device, as altered or modified, is taken to comply with the EME standard if it complies with the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2014*, as in force immediately before the commencement day.

(4) If an applicable device:

(a) is imported; and

(b) before the commencement day, or not later than 12 months after the commencement day, is altered or modified in a material respect;

the device, as altered or modified, is taken to comply with the EME standard if it complies with the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2014*, as in force immediately before the commencement day.

(5) In this clause, ***commencement day*** means the day this clause commenced.