

SUPPLEMENTARY EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Exemption – Corrective Services NSW) Determination 2021

Authority

The Australian Communications and Media Authority (ACMA) has made the *Radiocommunications (Exemption – Corrective Services NSW) Determination 2021 (Determination)* under subparagraph 27(1)(be)(ii) and subsection 27(2) of the *Radiocommunications Act 1992 (Act)*.

This supplementary explanatory statement amends the explanatory statement to the Determination as set out below.

Purpose and operation of the instrument

Before the line that reads “A provision-by-provision description of the Determination is set out in the notes at **Attachment A.**”, insert:

Relief extends to certain associated persons

Subsection 27(2) of the Act allows the ACMA to determine that acts or omissions of persons to whom section 27 applies are exempt from all or any of Parts 3.1, 4.1 and 4.2 of the Act. Subsection 27(1) of the Act defines to whom the section applies, including a person performing a function or duty in relation to a body that performs functions related to the investigation, prevention or prosecution of serious crime and is covered by a written determination made by the ACMA. The Determination covers Corrective Services NSW for this purpose.

The capacity of the ACMA to determine exemptions applies to all person performing duties or functions *in relation to* Corrective Services NSW. The exemption power is not confined to officers of Corrective Services NSW, but is intended to extend to those persons who may play an important auxiliary role in relation to the duties and functions of Corrective Services NSW, such as technical experts who need to supply or repair the relevant devices, or train Corrective Services NSW officers in their use.

The exemptions provided by the Determination extend to contractors to Corrective Services NSW, and the employees of those contractors, where the contract relates to the use, operation, possession or supply of PMTS Jamming Devices at the Goulburn Correctional Complex or the Lithgow Correctional Centre. As such, contractors and their employees will, under those contracts, be performing functions and duties in relation to Corrective Services NSW, and the ACMA has the power to exempt those contractors and their employees from the application of Parts 3.1, 4.1 and 4.2 of the Act in relation to the performance of those functions and duties. The ACMA has done so, subject to the limitations and safeguards set out in the Determination.

Without the Determination providing an exemption for such contractors, Corrective Services NSW may not have access to properly-tested and properly-maintained PMTS Jamming Devices.

Other matters