



## Communications Legislation (Protected Symbols) Determination 2023

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The Australian Communications and Media Authority makes the following determination under subsections 165(9) and 166(2) of the *Radiocommunications Act 1992* and subsection 417(7) and subparagraph 417(8)(b)(i) of the *Telecommunications Act 1997*.

Dated: 23 February 2023

Chris Jose  
[signed]  
Member

Linda Caruso  
[signed]  
~~Member~~/General Manager

Australian Communications and Media Authority

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## 1 Name

This is the *Communications Legislation (Protected Symbols) Determination 2023*.

## 2 Commencement

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

Note: The Federal Register of Legislation is available, free of charge, at [www.legislation.gov.au](http://www.legislation.gov.au).

## 3 Authority

This instrument is made under subsections 165(9) and 166(2) of the *Radiocommunications Act 1992* and subsection 417(7) and subparagraph 417(8)(b)(i) of the *Telecommunications Act 1997*.

## 4 Repeal

The *Protected Symbols Determination 2013* [F2013L00087] is repealed.

Note: At the time of making this instrument, the *Protected Symbols Determination 2013*, so far as it was made under subsection 188A(7) and subparagraphs 188A(8)(a)(i) and (b)(i) of the *Radiocommunications Act 1992*, as in force before the commencement of Part 1 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020*, had effect as if it had been made under subsections 165(9) and 166(2) of the *Radiocommunications Act 1992* (see item 48 of Part 4 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020*).

## 5 Interpretation

In this instrument, unless the contrary intention appears:

**accreditation body** means a person or association that is an accreditation body for the purposes of section 409 of the *Telecommunications Act 1997*.

Note: See subsection 409(1) of the *Telecommunications Act 1997*.

**competent body** means a person or association that is a competent body for the purposes of Division 7 of Part 21 of the *Telecommunications Act 1997*.

Note: See subsection 409(3) of the *Telecommunications Act 1997*.

**radiocommunications standard** means a standard for equipment prescribed by equipment rules.

**RCM** (short for Regulatory Compliance Mark) means the symbol known as the RCM, the design of which is set out in Schedule 3.

**telecommunications technical standard** means a standard made under subsection 376(1) of the *Telecommunications Act 1997*.

Note 1: A number of other expressions used in this instrument, when used in relation to the *Radiocommunications Act 1992*, are defined in that Act, including the following:

- (a) accreditation (see sections 5 and 263);
- (b) ACMA (see section 5);
- (c) device (see section 5);
- (d) equipment (see section 5);
- (e) equipment rules (see sections 5 and 156);
- (f) label (see section 5);
- (g) protected symbol (see sections 5 and 166);

- (h) supply (see section 5).

Note 2: A number of other expressions used in this instrument, when used in relation to the *Telecommunications Act 1997*, are defined in that Act, including the following:

- (a) ACMA (see section 7);
- (b) customer cabling (see sections 7 and 20);
- (c) customer equipment (see sections 7 and 21);
- (d) label, and when it is taken to be applied (see section 406);
- (e) protected symbol (see subsection 417(8));
- (f) recognised testing authority (see section 7 and subsection 409(2)).

## 6 References to other instruments

In this instrument, 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 instrument or writing as in force or 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: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Note 3: See section 314A of the *Radiocommunications Act 1992* and section 589 of the *Telecommunications Act 1997*.

## 7 Protected symbol

### *Radiocommunications*

- (1) For the purposes of paragraph 166(1)(a) of the *Radiocommunications Act 1992*, the design of the RCM as set out in Schedule 3 is determined.

Note: This means that, for the purposes of the *Radiocommunications Act 1992*, the RCM is a **protected symbol** (a purpose of which is to indicate compliance by equipment with applicable radiocommunications standards).

### *Telecommunications*

- (2) For the purposes of subparagraph 417(8)(b)(i) of the *Telecommunications Act 1997*, the design of the RCM as set out in Schedule 3 is determined.

Note: This means that, for the purposes of the *Telecommunications Act 1997*, the RCM is a **protected symbol** (a purpose of which is to indicate compliance by customer equipment or customer cabling with applicable telecommunications technical standards).

## 8 Permitted purposes

### *Radiocommunications*

- (1) For the purposes of subsection 165(8) of the *Radiocommunications Act 1992*, each of the purposes specified in Schedule 1 is determined unless the purpose is excluded by subsection (2).
- (2) For the purposes of subsection (1), a purpose specified in Schedule 1 is excluded if:
  - (a) the purpose refers to a radiocommunications standard and to equipment; and
  - (b) no equipment rules require any person to apply a label to that equipment to indicate compliance by the equipment with the radiocommunications standard.

*Telecommunications*

- (3) For the purposes of subsection 417(7) of the *Telecommunications Act 1997*, each of the purposes specified in Schedule 2 is determined unless the purpose is excluded by subsection (4).
- (4) For the purposes of subsection (3), a purpose specified in Schedule 2 is excluded if:
  - (a) the purpose refers to a telecommunications technical standard and to customer equipment or customer cabling; and
  - (b) no instrument made under section 407 of the *Telecommunications Act 1997* requires any person to apply a label to that equipment or cabling to indicate compliance by the equipment or cabling with the telecommunications technical standard.

## 9 Transitional

*Radiocommunications*

- (1) If:
  - (a) a person used or applied a symbol that was a protected symbol before the commencement day; and
  - (b) the use or application was for a purpose specified in the *Protected Symbols Determination 2013*, as in force at the time of that use or application:
    - (i) in a case where that time is before the modernisation day – under subsection 188A(7) of the *Radiocommunications Act 1992*, as in force at that time; or
    - (ii) in any other case – as if it had been made under subsection 165(9) of the *Radiocommunications Act 1992*; and
  - (c) the symbol continues to be a protected symbol after the start of the commencement day; and
  - (d) the use or application continues after the start of the commencement day for the same purpose;

the use or application that occurs after the start of the commencement day is taken to be for a purpose specified in this instrument under subsection 165(9) of the *Radiocommunications Act 1992* (except to the extent that the use or application is already for such a purpose or otherwise authorised by or under that Act or the equipment rules).

Note: For paragraph (b), see item 48 of Part 4 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020*.

*Telecommunications*

- (2) If:
  - (a) a person used or applied a symbol that was a protected symbol before the commencement day; and
  - (b) the use or application was for a purpose specified in the *Protected Symbols Determination 2013*, as in force at the time of that use or application under subsection 417(7) of the *Telecommunications Act 1997*; and
  - (c) the symbol continues to be a protected symbol after the start of the commencement day; and
  - (d) the use or application continues after the start of the commencement day for the same purpose;

the use or application that occurs after the start of the commencement day is taken to be for a purpose specified in this instrument under subsection 417(7) of the *Telecommunications Act 1997* (except to the extent that the use or application is already for such a purpose or otherwise authorised by or under that Act).

*Definitions*

(3) In this section:

***commencement day*** means the day this instrument commences.

***modernisation day*** means the day item 48 of Part 4 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* commenced.

Note: Item 48 of Part 4 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* commenced on 17 June 2021.

## Schedule 1—Permitted purposes for the *Radiocommunications Act 1992*

(subsection 8(1))

Column 1	Column 2
Item	Purpose
1	Showing that equipment complies with a radiocommunications standard, other than as covered by paragraph 165(7)(a) of the <i>Radiocommunications Act 1992</i>
2	Showing that a person provides services to assist others to ensure that equipment complies with a radiocommunications standard
3	Provision of information or comment about a radiocommunications standard
4	Showing that a person: <ul style="list-style-type: none"> <li>(a) holds an accreditation of a specified kind; and</li> <li>(b) may exercise powers under equipment rules, conferred on persons who hold such an accreditation, in relation to a radiocommunications standard</li> </ul>
5	Showing that a person: <ul style="list-style-type: none"> <li>(a) satisfies conditions specified in equipment rules; and</li> <li>(b) may exercise powers under equipment rules, conferred on persons who satisfy such conditions, in relation to a radiocommunications standard</li> </ul>
6	Showing that a person may exercise a power under equipment rules not otherwise specified in this table in relation to a radiocommunications standard
7	Supplying a copy of a protected symbol to a person entitled to use or apply it
8	Showing that a person supplies: <ul style="list-style-type: none"> <li>(a) copies of a protected symbol to a person entitled to use or apply it; or</li> <li>(b) copies of radiocommunications standards</li> </ul>
9	Showing that a person supplies equipment that complies with a radiocommunications standard
10	Publicising compliance with a radiocommunications standard
11	Complying with a law of a State or Territory in relation to electrical safety

## Schedule 2—Permitted purposes for the *Telecommunications Act 1997*

(subsection 8(3))

Column 1	Column 2
Item	Purpose
1	Showing that customer equipment or customer cabling complies with a telecommunications technical standard, other than as covered by subsection 417(6) of the <i>Telecommunications Act 1997</i>
2	Showing that a person provides services to assist others to ensure that customer equipment or customer cabling complies with a telecommunications technical standard
3	Provision of information or comment about a telecommunications technical standard
4	Showing that a person or association: <ul style="list-style-type: none"> <li>(a) is an accreditation body; and</li> <li>(b) may determine that a specified person is a recognised testing authority or that a specified person or association is a competent body</li> </ul>
5	Showing that a person: <ul style="list-style-type: none"> <li>(a) is a recognised testing authority; and</li> <li>(b) may test customer equipment or customer cabling for compliance with a telecommunications technical standard</li> </ul>
6	Showing that a person or association: <ul style="list-style-type: none"> <li>(a) is a competent body; and</li> <li>(b) may provide services in relation to compliance with telecommunications technical standards and instruments made under section 407 of the <i>Telecommunications Act 1997</i></li> </ul>
7	Supplying a copy of a protected symbol to a person entitled to use or apply it
8	Showing that a person supplies: <ul style="list-style-type: none"> <li>(a) copies of a protected symbol to a person entitled to use or apply it; or</li> <li>(b) copies of telecommunications technical standards</li> </ul>
9	Showing that a person supplies customer equipment or customer cabling that complies with a telecommunications technical standard
10	Publicising compliance with a telecommunications technical standard
11	Complying with a law of a State or Territory in relation to electrical safety

## **Schedule 3—RCM**

(sections 5 and 7)

