

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Telecommunications Act 1997*

*Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2025*

*Telecommunications (Labelling Notice – Consequential Amendments) Instrument 2025*

## Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2025* (the **instrument**) under subsection 407(1) of the *Telecommunications Act 1997* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Subsection 407(1) of the Act provides that the ACMA may, by written instrument, require any person who is a manufacturer or importer of specified customer equipment or specified customer cabling to apply to the equipment or cabling a label that indicates whether the equipment or cabling meets the requirements of the technical standards specified in the instrument. Section 408 of the Act allows such an instrument to specify, among other things, the form of the label, the method of applying the label, and certain requirements that the manufacturer or importer must meet before and after applying a label to customer equipment and customer cabling.

Subsection 33(3) of the AIA relevantly provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The ACMA has also made the *Telecommunications (Labelling Notice – Consequential Amendments) Instrument 2025* (the **amendment instrument**) under subsections 376(1) and 419(1) of the Act and subsection 33(3) of the AIA. The amendment instrument specifies amendments to the *Telecommunications (Customer Equipment Safety) Technical Standard 2018* (the **CES Technical Standard**) and the *Telecommunications (Types of Cabling Work) Declaration 2024* (the **Cabling Work Declaration**).

Subsection 376(1) of the Act provides that the ACMA may, by written instrument, make a technical standard relating to specified customer equipment or specified customer cabling.

Subsection 419(1) of the Act provides that the ACMA may, by written instrument, declare that a specific kind of cabling work is a type of cabling work for the purposes of Division 9 of Part 21 of the Act.

## Purpose and operation of the instrument

### *Background*

The ACMA is responsible for technical regulation of telecommunications customer equipment and customer cabling under Part 21 of the Act.

The regulatory arrangements include:

- technical standards made by the ACMA under section 376 of the Act (**technical standards**);
- a written instrument made by the ACMA under subsection 407(1) of the Act (**section 407 instrument**) requiring any person who is a manufacturer or importer of specified customer

equipment or specified customer cabling to apply a label to the equipment or cabling that indicates whether the equipment or cabling complies with technical standards specified in it; and

- the provisions of the Act (including offence provisions) which apply in relation to the supply, labelling and connection to a telecommunications network of customer equipment and customer cabling.

The Act, the section 407 instrument, and the technical standards operate together to create the regulatory arrangements for the supply and connection of specified customer equipment or customer cabling. The objective of the arrangements is to manage both risks to consumers (related to health and safety, and access to the emergency call service) and risks to the telecommunications industry (related to health and safety, and network integrity and interoperability).

When the section 407 instrument specifies that a technical standard is an applicable technical standard in relation to an item, the item must be labelled with either a compliance label (where the item complies with the applicable technical standard) or a non-compliance label (where the item does not so comply), before it is supplied to the Australian market. The item cannot be connected, or maintain a connection, to a telecommunications network or a facility if the manufacturer or importer did not comply with the labelling requirements in the section 407 instrument, or if a non-compliance label was applied to the item, unless an exception applies (see section 411 of the Act).

#### *The basis for the instrument and the amendment instrument*

The ACMA has made the instrument to repeal and replace the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015* (the **2015 Labelling Notice**). The instrument is part of a package of instruments to be made, including technical standards and a disability standard made under section 380 of the Act. The ACMA has made the instrument and the amendment instrument as a result of the sunseting of technical standards and the 2015 Labelling Notice under Part 4 of Chapter 3 of the *Legislation Act 2003* (the **LA**) on 1 April 2025.

The sunseting of the 2015 Labelling Notice on 1 April 2025 triggered a review by the ACMA of the regulatory arrangements and provided an opportunity to revisit the structure of the 2015 Labelling Notice and address several issues that had developed over time. Some modifications have been made to reflect modern and emerging technologies and to improve clarity.

The instrument sets out the regulatory arrangements in relation to the labelling of specified customer equipment and customer cabling that has been manufactured in Australia, or imported, and that may be supplied and connected to a telecommunications network.

The requirements are intended as safeguards to ensure that customer equipment or customer cabling used in Australia meets the legislative objectives, which include:

- protecting the integrity of a telecommunications network or a facility;
- ensuring that customer equipment can be used to give access to an emergency call service;
- protecting the health and safety of persons who are reasonably likely to be affected by the operation of a telecommunications network or a facility; and
- ensuring, for the purposes of the supply of a standard telephone service or other carriage service, the interoperability of customer equipment with a telecommunications network to which the equipment is connected.

The instrument also incorporates drafting changes to update and clarify provisions.

Following review and consultation, the ACMA formed the view that the 2015 Labelling Notice continued to be an effective and efficient means of managing the risks associated with the supply and connection of specified customer equipment and customer cabling. Accordingly, the ACMA has made the instrument to replace the 2015 Labelling Notice in terms which ensure that the effect of the regulatory arrangements for specified customer equipment and customer cabling is preserved.

The amendment instrument makes consequential amendments to the CES Technical Standard and the Cabling Work Declaration which both incorporated by reference the 2015 Labelling Notice. The instruments have been amended as a result of the repeal of the 2015 Labelling Notice and the making of the instrument.

#### *Other matters*

It is an offence for the manufacturer or importer of an item of customer equipment or customer cabling to supply the item if the instrument requires the item to be labelled, but the item is not labelled (section 413 of the Act). The Act provides for a maximum fine of 100 penalty units (\$33,000, based on the current value of a penalty unit, which is \$330).

It is an offence for a person to apply a label to an item of customer equipment or customer cabling if the person has not complied with any requirements in the instrument that must be satisfied before the label is applied (section 414 of the Act). The Act provides for a maximum fine of 100 penalty units (\$33,000).

It is an offence for a person not to comply with any requirements in the instrument that must be satisfied after a label is applied to an item of customer equipment or customer cabling (section 415 of the Act). The Act provides for a maximum fine of 100 penalty units (\$33,000).

It is an offence for a person to apply a compliance label to an item of customer equipment or customer cabling, if the label is false or misleading (e.g., the item does not comply with an applicable technical standard) (section 416 of the Act). The Act provides for a maximum fine of 120 penalty units (\$39,660).

It is an offence for a person to connect an item of customer equipment or customer cabling to a telecommunications network or a facility, or to maintain such a connection, if:

- the item was required to be labelled by the instrument, but was not so labelled; or
- a non-compliance label was applied to the item (section 411 of the Act).

The Act provides for a maximum fine of 120 penalty units (\$39,660).

It is an offence for the manager of a telecommunications network or a facility to refuse to give written consent to the connection of an item of customer equipment or customer cabling to the network or facility, if the item was required by the instrument to be labelled and a compliance label was applied to the item (section 412 of the Act). The Act provides for a maximum fine of 100 penalty units (\$33,000).

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

A provision-by-provision description of the amendment instrument is set out in the notes at **Attachment B**.

The instrument and amendment instrument are legislative instruments for the purposes of the LA and are subject to disallowance.

The instrument, the CES Technical Standard and the Cabling Work Declaration are subject to the sunset provisions in Part 4 of Chapter 3 of the LA.

### **Documents incorporated by reference**

Subsection 589(1) of the Act provides that an instrument under the Act may make provision in relation to a matter by applying, adopting or incorporating (with or without modifications) provisions of any Act as in force at a particular time, or from time to time. Subsection 589(2) of the Act provides that an instrument under the Act may make provision in relation to a matter by applying, adopting or incorporating (with or without modifications) matter contained in any other instrument or writing as in force or existing at a particular time, or from time to time.

The instrument incorporates all or part of the following Acts and legislative instruments by reference, as in force from time to time:

- the *A New Tax System (Australian Business Number) Act 1999*;
- the Act;
- the *Business Names Registration Act 2011*;
- the *Corporations Act 2001*;
- the *Radiocommunications Equipment (General) Rules 2021*;
- the *Telecommunications (Analogue Interworking and Non-interference Requirements for Customer Equipment for Connection to a Switched Telephone Network – AS/CA S002) Technical Standard 2025*;
- the *Telecommunications (Customer Equipment Safety) Technical Standard 2018*;
- the *Telecommunications (Interception and Access) Act 1979*;
- the *Telecommunications (Mobile Equipment Air Interface) Technical Standard 2022 (the **Mobile Equipment Standard 2022**)*;
- the *Telecommunications (Requirements for Customer Access Equipment for Connection to a Telecommunications Network – AS/CA S003) Technical Standard 2025*;
- the *Telecommunications (Requirements for Customer Cabling Products – AS/CA S008) Technical Standard 2025*;
- the *Telecommunications (Requirements for Customer Equipment for Connection to a Metallic Local Loop Interface of a Telecommunications Network – AS/CA S043) Technical Standard 2025*;
- the *Telecommunications (Requirements for Customer Equipment with Hierarchical Digital Interfaces – AS/ACIF S016) Technical Standard 2025*;
- the *Telecommunications (Requirements for DSL Customer Equipment for Connection to a Switched Telephone Network – AS/CA S041) Technical Standard 2025*;
- the *Telecommunications (Voice Performance Requirements for Customer Equipment – AS/CA S004) Technical Standard 2025*.

The instrument also incorporates the 2015 Labelling Notice as in force immediately before the commencement of the instrument.

The amendment instrument amends the CES Technical Standard and the Cabling Work Declaration to incorporate the instrument by reference, as in force from time to time.

The Acts and legislative instruments are registered on the Federal Register of Legislation and can be accessed free of charge at <http://www.legislation.gov.au>.

The instrument also incorporates all or part of the following documents by reference, as existing from time to time:

- Australia/New Zealand Standard AS/NZS 62368.1:2022 Audio/video, information and communication technology equipment, Part 1: Safety requirements (IEC 62368-1:2018 (ED.3.0), MOD) (**AS/NZS 62368.1:2022**);
- IECEE 02 – IEC System of Conformity Assessment Schemes for Electrotechnical Equipment and Components (IECEE) – Rules of Procedure – CB Scheme of the IECEE for Mutual Recognition of Test Certificates for Electrotechnical Equipment and Components (CB Scheme) and its related services (the **IECEE CB Rules of Procedure**);
- IECEE Publication – IEC System of Conformity Assessment Schemes for Electrotechnical Equipment and Components (IECEE System) – Definitions (the **IECEE Definitions**).

The instrument also incorporates all or part of the following documents by reference, as existing at particular times:

- Australian Standard AS/CA S042.1:2020 – Requirements for connection to an air interface of a Telecommunications Network – Part 1: General (**AS/CA S042.1:2020**);
- Australian Standard AS/CA S042.1:2022 – Requirements for connection to an air interface of a Telecommunications Network – Part 1: General (**AS/CA S042.1:2022**).

The time of incorporation differs for particular items and depends on whether and how Part 4 of the Mobile Equipment Standard applies to the item. Part 4 of the Mobile Equipment Standard contains transitional provisions, allowing some items to comply with AS/CA S042.1:2020. If Part 4 applies to an item and:

- the item was manufactured in Australia or imported before 8 March 2022 – AS/CA S042.1:2020 is incorporated as existing on the date the item was manufactured in Australia or imported;
- the item was manufactured in Australia or imported on or after 8 March 2022 but before 22 December 2023:
  - AS/CA S042.1: 2020 is incorporated as existing immediately before 8 March 2022;
  - AS/CA S042.1:2022 is incorporated as existing on 8 March 2022.

If Part 4 of the Mobile Equipment Standard does not apply to an item, AS/CA S042.1:2022 is incorporating as existing on the date the item was manufactured in Australia or imported.

Australian Standards AS/CA S042.1:2020 and AS/CA S042.1:2022 are published by Communications Alliance Ltd (CA) and can be accessed free of charge on the CA website at <https://www.commsalliance.com.au/Documents/all/Standards>.

Australia/New Zealand Standard AS/NZS 62368.1:2022 can be obtained for a fee from the Standards Australia Store website at <https://store.standards.org.au>, or may be viewed at an office of the ACMA on request and subject to licensing conditions.

The IECEE CB Rules of Procedure and the IECEE Definitions can be accessed, free of charge, on the IECEE website at <https://www.iecee.org/resource/rules-operational-documents-guides>.

## Consultation

Before the instrument and the amendment instrument were made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

In relation to the amendment instrument, to the extent it amends the CES Technical Standard, section 378 of the Act requires that the ACMA must, so far as is practicable, try to ensure that interested persons have had an adequate opportunity to make representations about the proposed amendment, and that due consideration has been given to any representation so made. Section 378 provides that there has not been an adequate opportunity to make representations unless there was a period of at least 60 days during which the representations could be made.

A public consultation process was conducted during the period 21 October 2024 to 20 December 2024 in relation to the proposal to remake the instrument, technical standards, and the *Telecommunications (Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of people with disability – AS/ACIF S040) Standard 2015*, and to make the amendment instrument.

Draft instruments and a consultation paper containing explanatory information were made available on the ACMA website during the consultation period. Interested parties were notified of the release of the draft instruments and invited to comment.

The ACMA received 6 submissions in response to the consultation and considered those before making the instruments. The submissions expressed general support for the proposal to remake the instruments and identified some areas for further clarification. There were no submissions that specifically address the amendment instrument.

One submitter recommended changes to allow information setting out the method for displaying an electronic label to be provided on the website of the manufacturer or importer. In response to the submission, the instrument was changed to give manufacturers and importers the option of clearly and prominently publishing information on their website at the time the item is supplied.

Two submitters recommended changes to drafting, to better clarify the customer equipment to which the technical standards apply and address concerns about the compliance of equipment used on private networks. In response to the 2 submissions, the instrument was changed so that the technical standards apply if the customer equipment ‘is used, or is to be used’ for connection to a telecommunications network, and the other requirements for the relevant item are satisfied. A clarifying note was also included to indicate that a reference to a ‘telecommunications network’ in the instrument means a reference to a telecommunications network in Australia that is operated by a carrier or carriage service provider, which aligns with section 7 and subsection 374(1) of the Act.

One submitter recommended the ACMA continue to use the term ‘satellite-based facility’ in Schedule 1 to the instrument. The instrument was changed after consultation to maintain use of this term.

One submitter raised concerns that the drafting of the headset exemption did not sufficiently address the risk of ‘acoustic shock’. The instrument was changed after consultation to clarify that a headset used with customer equipment connected by an analogue interface to a telecommunications network

that operates at ES2 or ES3<sup>1</sup> is regulated, noting the higher risk of acoustic shock transients occurring at ES2 or higher.

The ACMA considered all of the submissions received. In addition to the issues and amendments identified above, some other minor changes to the instrument were made as a result of consultation. No changes were made to the amendment instrument.

### **Statement of compatibility with human rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility with human rights set out below has been prepared to meet that requirement.

### ***Overview of the instrument***

As noted above, the instrument repeals and replaces the 2015 Labelling Notice to ensure the requirements in relation to labelling of specified customer equipment and customer cabling, before and after the point of supply, continue to be mandated. The amendment instrument makes minor consequential amendments to the CES Technical Standard and the Cabling Work Declaration to replace references to the 2015 Labelling Notice with references to the instrument.

The requirements in the instrument are intended as safeguards by imposing obligations on manufacturers or importers of specified customer equipment and specified customer cabling both before and after the point of supply, including requirements in relation to labelling and record-keeping. These requirements for a manufacturer or importer to label and make and hold records is intended to provide confidence (to the ACMA, network operators and the public) that appropriate steps have been taken to ensure that specified customer equipment and customer cabling complies with applicable technical requirements made by the ACMA under section 376 of the Act.

### ***Human rights implications***

The ACMA has assessed whether the instrument and the amendment instrument are compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the amendment instrument, and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument and the amendment instrument do not engage any of those rights or freedoms.

### ***Conclusion***

The instrument and the amendment instrument are compatible with human rights as they do not raise any human rights issues.

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<sup>1</sup> ES2 (short for Electrical Energy Source Class 2) and ES3 (short for Electrical Energy Source Class 3) has the same meaning as in the Australian/New Zealand Standard *AS/NZS 62368.1:2022 Audio/video, information and communication technology equipment, Part 1: Safety requirements (IEC 62368-1:2018 (ED.3.0), MOD)*.

## Notes to the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2025*

### Part 1–Preliminary

#### Section 1 Name

This section provides for the instrument to be cited as the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2025*.

#### Section 2 Commencement

This section provides for the instrument to commence on 31 March 2025.

The instrument is registered on the Federal Register of Legislation, which may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

#### Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely subsection 407(1) of the *Telecommunications Act 1997* (the **Act**).

#### Section 4 Repeal of the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015*

This section provides that the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015* (F2015L00190) is repealed.

#### Section 5 Application

Subsection 5(1) provides that the instrument applies to an item of customer equipment or customer cabling, other than an item mentioned in Schedule 2. (The instrument does not apply to any item mentioned in Schedule 2.)

Subsection 5(2) provides that Schedule 4 has effect. Schedule 4 only applies to customer cabling and an item of ‘cabling-related customer equipment’.

In addition to the requirements of the instrument, an item may also be subject to equipment rules made under subsection 156(1) of the *Radiocommunications Act 1992*.

### Part 2–Interpretation

#### Section 6 Interpretation

This section assists in interpretation of the instrument.

Subsection (1) defines key terms used in the instrument. Most of the terms defined in this section are the same as those set out in the 2015 Labelling Notice. New definitions are discussed below.

The definitions of *CB Testing Laboratory*, *IECEE CB Rules of Procedure*, *IECEE CB Test Certificate* and *IECEE CB Test Report* contain updated references to documents published by the International Electrotechnical Commission (IEC), and a new term *IECEE Definitions* has been introduced to reflect changes in the IEC documentation.



The definition of ***national database*** in the instrument is different to the definition in the 2015 Labelling Notice. The term is defined to have the same meaning as that given by section 57 of the *Radiocommunications Equipment (General) Rules 2021* or, if another instrument replaces those rules and defines the term, the other instrument. The new definition improves consistency between our radiocommunications and telecommunications regulatory arrangements.

There are minor differences between the definition of ***cabling-related customer equipment*** in the 2015 Labelling Notice and the instrument, which include omission of the redundant phrase ‘on the customer side of the boundary of a telecommunications network’. The definitions of customer equipment and customer cabling in the Act already specify that the item must be used on the customer side of the boundary of a telecommunications network.

A new term ***AS/CA S042.1*** has been introduced with reference to the Mobile Equipment Standard 2022. The new term AS/CA S042.1 is used in item 2 of Schedule 1 to the instrument to specify which parts of the Mobile Equipment Standard 2022 are a high risk applicable technical standard.

The regulatory arrangements around headsets has changed (see further discussion below) and as a result, new terms have been defined including ***AS/NZS 62368.1:2022 Standard, analogue interface, ES2*** and ***ES3***. ES2 is short for electrical energy source class 2 and ES3 is short for electrical energy source class 3. ES2 and ES3 have the same meanings as in the AS/NZS 62368.1:2022 Standard.

Subsection (2) specifies the entity that is responsible for meeting the obligations imposed by the instrument in relation to an item that has been imported. For an item that has been imported and subsequently been modified, the obligation is imposed on the manufacturer who modified the item, or who caused the item to be modified. Otherwise, the obligation is imposed on the importer of the (unmodified) item.

Subsection (3) provides that the instrument only applies to a manufacturer of an item if the item is manufactured in Australia, or the item is modified in Australia after importation. If an item is manufactured overseas, the person who imported the item into Australia for supply must comply with the instrument (subject to subsection (2)).

Subsection (4) defines a reference to ‘the date a modified item was made’ as the date of making the modification which resulted in that item.

Several other expressions used in the instrument are defined in the Act and are listed in the note to subsection 6(1).

## **Section 7      References to other instruments**

This section provides that in the instrument, unless the contrary intention appears:

- a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- 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.

## **Section 8      Class of items, and obligations relating to certain compliance records**

The instrument requires all items of customer equipment and customer cabling to be labelled if there is a technical standard that applies to the item, unless an exemption applies. Manufacturers or importers must meet particular compliance record obligations before supplying an item. However, it may be impractical for a manufacturer or importer to be required to meet many of these obligations in relation to all items that it manufactures or imports, particularly in cases whether the items are

identical (for example, items of a particular model). Section 8 contains a mechanism for allowing a manufacturer or importer, in such cases, to comply with particular obligations only once. This mechanism will apply, in a relation to a particular obligation, when an item is ‘included in a class of items’ and the manufacturer or importer has complied with that obligation in relation to another item of the class.

Subsection (1) sets out when an item (other than a modified item) is included in a class of items. An item is included in a class of items if the item is identical to each other item of the class and has the same manufacturer or importer as each other item. So, for example, if a person imports 20,000 identical modems, those 20,000 modems form the one class of items, even if they were imported at different times.

In relation to a class of items, the first item to be manufactured in Australia or imported, as the case may be, is the ‘original item’ of the class. In practice, the original item is the item on which a manufacturer or importer will base its performance of compliance and record-keeping requirements.

Subsection (2) sets out when a modified item is included in a class of items. A modified item is included in a class of items if the modification is identical to the modification made to each other item of the class, the modified item is otherwise identical to each other item, and the modified item has the same manufacturer or importer as each other item of the class. Again, the first item to be modified in Australia is the ‘original modified item’ of the class. In practice, the original modified item is the item on which a manufacturer or importer will base its performance of compliance and record-keeping obligations.

Subsection (3) deems a manufacturer or importer to have complied with a requirement mentioned in that subsection (including the requirement to complete a declaration of conformity (DoC)) for every item included in a class of items, if the manufacturer or importer has complied with the requirement for another item of that class. So, for example, a person who imports 20,000 identical modems only needs to complete one DoC for one of those modems. The DoC is taken to be the DoC for each item of that class. If a requirement is not mentioned in subsection (3), the manufacturer or importer must comply with that requirement, where applicable, in relation to every item of the class. For example, the requirement to apply a compliance label under section 11 of the instrument is not mentioned in the subsection and so, if that requirement applies, every item of the class must have a compliance label applied to it.

### **Part 3—Applying a label**

Part 3 sets out the labelling requirements for customer equipment, other than customer cabling and cabling-related customer equipment. Schedule 4 sets out the labelling requirements for customer cabling and cabling-related customer equipment.

Divisions 2 and 3 of Part 3, which are about compliance labels, only apply when an item complies with each applicable technical standard in relation to the item.

Divisions 4 and 5 of Part 3, which are about non-compliance labels, only apply where an item does not comply with one or more applicable technical standard in relation to the item. Under the Act, such an item may still be supplied if it is labelled in accordance with the instrument, but there may be prohibitions on connecting the item to a telecommunications network or to a facility (see Division 7 of Part 21 of the Act, and in particular section 411 of the Act).

## **Division 1 – Interpretation and application**

### **Section 9      Applicable technical standards**

This section provides that a technical standard is an applicable technical standard for an item if:

- the item is of a kind mentioned in column 1 of the table in Schedule 1; and
- the technical standard is mentioned in column 2 of that table; and
- the technical standard consists of or includes requirements that apply to the item.

### **Section 10      Who may apply a label – importer**

This section specifies who may apply a label to an item if the item is imported.

Subsection (1) sets out that this section applies if an importer is required to apply a compliance label to an item under section 11, or non-compliance label under section 15.

Subsection (2) sets out that the importer is taken to comply with the labelling requirements in section 11 or section 15 if a person other than the importer applied the label to the item before the item was imported and the label, and the application of the label, complies with the requirements in the instrument. So, for example, a person who imports 20,000 modems is taken to comply with the labelling requirements in section 11 if the overseas manufacturer applied a label to the 20,000 modems before they were imported, and the form and application of the label met the requirements in Division 3 of Part 3 of the instrument.

Section 406A of the Act provides that a reference to a manufacturer or importer includes a person authorised in writing by such a manufacturer or importer to act in Australia as an agent for the purposes of Division 7 of Part 21 of the Act.

## **Division 2 – Applying a compliance label**

### **Section 11      Requirement to apply a compliance label**

This section provides the requirements relating to the application of a compliance label.

Subsection (1) provides that this section applies to an item if there is at least one applicable technical standard in relation to an item and the item complies with each applicable technical standard.

Subsection (2) requires the manufacturer or importer to apply a compliance label to the item in accordance with Division 3 before supplying the item.

## **Division 3 – Form and application of a compliance label**

### **Section 12      Form of a compliance label**

This section sets out the form of a compliance label.

Subsection (1) provides that a compliance label must be in the form of the Regulatory Compliance Mark (**RCM**), or a QR code or similar thing if the relevant link is to information on a website which displays the RCM prominently. The RCM is a protected symbol for the purposes of section 417 of the Act.

Subsection (2) provides that the compliance label must be durable and at least 3 mm high.

### **Section 13      Application of a compliance label**

This section provides the requirements for the application of a compliance label.

Subsection (1) provides that a compliance label must be applied in accordance with subsection (2) or (3), and permanently or in a way that makes removal or obliteration difficult.

Subsection (2) provides that a compliance label must be affixed to the surface of an item in a place that is readily accessible to a person.

Subsection (3) provides that if it is impossible or impractical to affix a compliance label to the surface of an item because of the size or physical nature of the item, the compliance label must:

- be affixed to the external surface of the packaging used for the item; and
- occupy an area that is greater than 1% of the external surface; and
- be clearly visible on the external surface; and
- be incorporated into the documentation, including any warranty or guarantee certificate, that accompanies the item when supplied.

Subsection (4) requires the manufacturer or importer of an item to which subsection (3) applies, before supplying the item, to prepare a written statement specifying why it is not possible or practical to affix the compliance label to the surface of the item. The written statement must also state where each compliance label has been applied on the external surface of the packaging used for the item and in the documentation that accompanies the item when supplied.

Subsection (5) provides that the importer of an item is taken to comply with subsection (4) if:

- before the item was imported, a person other than the importer prepared a written statement that addresses subsection (4); and
- before supplying the item, the importer obtained a copy of the statement.

## **Section 14      Electronic labelling of customer equipment**

This section provides for the electronic labelling of customer equipment.

Subsection (1) allows for the use of electronic labelling if an item has a built-in display which may be used to apply a compliance label. The compliance label may be electronically stored on the item and shown on the display when the item is activated. A manufacturer or importer of such an item may use electronic labelling if it meets the requirements of section 14.

Subsection (2) specifies that the manufacturer or importer must ensure that information setting out a method for displaying the label is either, or both, included in documentation that accompanies the item when supplied, or clearly and prominently published on the website of the manufacturer or importer at the time the item is supplied.

Subsection (3) provides that the compliance label must be applied to the item in a way that would make it difficult to prevent the display of the label when the item is being used by a person.

Subsection (4) clarifies that the durability and permanency requirements in paragraph 12(2)(a) and subsection 13(1) do not apply to a compliance label where electronic labelling has been used.

## **Division 4 – Applying a non-compliance label and preparing a written statement**

### **Section 15      Requirement to apply a non-compliance label and prepare a written statement**

This section provides the requirements relating to the application of a non-compliance label and preparation of a written statement.

Subsection (1) provides that section 15 applies to an item if there is at least one applicable technical standard in relation to an item and the item does not comply with one or more of those standards.

Subsection (2) provides that if section 15 applies, the manufacturer or importer must, before supplying the item, apply a non-compliance label to the item and prepare a written statement in relation to the item, in accordance with Division 5.

Subsection (3) provides that the importer of the item is taken to have complied with the requirement to prepare a written statement if, before the item was imported, a person other than the importer prepared a written statement in accordance with section 18, and before supplying the item the importer obtained a copy of the statement.

## **Division 5 – Form and application of a non-compliance label and preparation of a written statement**

### **Section 16 Form of a non-compliance label**

This section sets out the form of a non-compliance label.

Subsection (1) provides that a non-compliance label applied to an item must contain a statement to the effect that the item does not comply with one or more of the applicable technical standards in relation to the item.

Subsection (2) provides that such a statement must be in English, printed in a font of at least 12 points, and list each applicable technical standard that the item does not comply with.

Subsection (3) provides that a non-compliance label must be durable.

### **Section 17 Application of a non-compliance label**

This section specifies the requirements for the application of a non-compliance label.

Subsection (1) provides that a non-compliance label must be applied in accordance with subsection (2), and permanently, or in a way that makes removal or obliteration difficult.

Subsection (2) provides that a non-compliance label must be affixed to the external surface of the packaging used for an item, clearly visible on that external surface, and incorporated in the documentation, including any warranty or guarantee certificate, that accompanies the item when supplied.

### **Section 18 Preparation of a written statement and obligation to keep the statement**

This section provides the matters to be included in a written statement prepared under section 15 in relation to a non-compliance label, and outlines the obligation to keep such a statement.

Subsection (1) provides that a written statement prepared or obtained under section 15 must identify the item and specify where each non-compliance label has been applied on the external surface of the packaging used for the item and in the documentation that accompanies the item when supplied, and include the wording of the statement of non-compliance on the label.

Subsection (2) requires the written statement to be kept by the manufacturer or importer:

- if the item is not included in a class of items – for the period commencing from the time the item is supplied in Australia and ending two years after the item ceases to be supplied in Australia; or

- if the item is included in a class of items – for the period commencing from the time the original item, or (in the case of a modified item) original modified item, of the class is supplied in Australia and ending two years after all items of the class cease to be supplied in Australia.

## **Part 4—Requirements to be met before supplying an item**

### **Division 1 – Application**

#### **Section 19      Application**

This section provides that Part 4 applies to an item to which section 11, or clause 3 of Schedule 4, applies. These are items to which compliance labels must be applied before a manufacturer or importer supply them.

The requirements in this section must be met before the item is supplied, and therefore may be met after a label is applied to an item.

### **Division 2 – Requirements relating to registration on national database**

#### **Section 20      Requirement – registration on national database before item is supplied**

This section requires a manufacturer or importer of an item to be registered on the national database before supplying an item.

#### **Section 21      Registration on national database**

This section sets out the requirements for registration on the national database.

Subsection (1) provides that the identifying information of the manufacturer or importer must consist of:

- the person’s ABN;
- if the person is a body corporate or individual, the name and ACN of the body corporate, or the name of the individual; and
- in any case, if the person uses a business name in connection with its business in relation to the supply of items, and the business name is registered under the *Business Names Registration Act 2011*, that business name.

Subsection (1) also requires provision of the person’s address in Australia, and if the person is not an individual, the name and contact details of a representative of the manufacturer or importer.

Subsection (2) provides that if any information included on the national database about the person changes, the person must update the database within 30 days after the change occurs.

Subsection (3) provides that the information required under subsections (1) and (2) must be provided using a method indicated by the database. The national database is an online database. The national database contains prompts and fields to insert the required information.

A manufacturer or importer who does not meet the requirements may be guilty of an offence under section 415 of the Act.

Information provided by a manufacturer or importer for inclusion on the national database may be made publicly available. The national database is the Electrical Equipment Safety Systems (**EESS**) Registration Database (**EESS Registration Database**). The EESS Registration Database is maintained at the direction of the Electrical Regulatory Authorities Council (**ERAC**), which is the

peak body of electrical safety regulators in Australia and New Zealand. Information about the EESS Registration Database is available from the EESS website at [www.eess.gov.au](http://www.eess.gov.au).

The EESS Registration Database may include personal information within the meaning of the *Privacy Act 1988*. Where the ACMA collects such personal information, the ACMA is obliged to comply with the Australian Privacy Principles set out in Schedule 1 to that Act. The ACMA has published a privacy notice for information stored on the EESS Registration Database; a copy of that notice can be found on the ACMA's website at [www.acma.gov.au/privacy-information-national-database](http://www.acma.gov.au/privacy-information-national-database).

Where members of ERAC collect such person information, each will be governed by privacy legislation applicable in its jurisdiction. ERAC has also published a privacy policy on its website at [www.erac.gov.au/privacy-policy](http://www.erac.gov.au/privacy-policy). A separate privacy statement has also been published in relation to the EESS on its website, at [www.eess.gov.au/about/privacy-statement](http://www.eess.gov.au/about/privacy-statement).

### **Division 3 – Requirements relating to declarations of conformity**

#### **Section 22 Requirement – making a declaration of conformity**

This section provides the requirements for making a DoC.

Subsection (1) provides that a manufacturer or importer must, before supplying the item, ensure that a DoC for the item has been completed in accordance with subsection (2).

Subsection (2) specifies who may make a DoC and what information and documents a DoC must contain to be a DoC for the purposes of the instrument.

Paragraph (2)(a) specifies that a DoC must be made by:

- if the manufacturer or importer is a corporation – a director, secretary, or individual authorised by the corporation to make the DoC;
- if the manufacturer or importer of the item is an individual – the individual, or
- if the manufacturer or importer of the item is neither a corporation nor an individual – an officer of the entity within the meaning of the *Corporations Act 2001* or an individual authorised by the entity to make the DoC.

Paragraph (2)(b) specifies that a DoC must contain information necessary to identify the item, each technical standard that applies to the item, and the date the item or modified item (or, if the item is in a class of items, the original item, or original modified item, of the class) was manufactured in Australia or imported. The DoC also needs to include a statement to the effect that the declarant is reasonably satisfied that the item complies with each applicable technical standard and contain details of the documents the declarant has had regard to in order to be so satisfied, and an acknowledgement that giving false or misleading information is a serious offence.

Paragraph (2)(c) provides that the DoC must be signed and dated.

The ACMA may make a sample DoC, or a template form of a DoC available on its website.

Subsection (3) clarifies that, for the purposes of paragraph (2)(c), a DoC may be signed electronically.

Subsection (4) specifies the circumstances in which a person can be reasonably satisfied that an item complies with a high risk applicable technical standard, or with an applicable technical standard other than a high risk applicable technical standard. Schedule 1 and Schedule 4 to the instrument specify the applicable technical standards for particular kinds of customer equipment and customer cabling. These Schedules also specify which of these technical standards are, for those kinds of customer equipment and customer cabling, high risk applicable technical standards.

Paragraph (4)(a) provides that a person can only be reasonably satisfied that an item complies with a high risk applicable technical standard if the person has had regard to a document or documents of a kind mentioned in subparagraph (4)(a)(i) containing information that indicates that the item, or (if the item is included in a class of items) an item of the class, complies with the standard. The kinds of documents mentioned for this purpose include an endorsed test report, a statement prepared by a certification body, an IECEE CB Test Report that is accompanied by other required documentation, and a certificate issued under a law of a State or Territory that deals with the safety of electrical equipment.

Paragraph (4)(b) does not limit the kinds of documents to which a person may have regard in order to be reasonably satisfied that an item complies with an applicable technical standard that is not a high risk applicable technical standard. However, paragraph (4)(b) makes it clear that a person can be reasonably satisfied of the matter if the person has had regard to a statement prepared by a certification body or a test report containing information that indicates that the item (or if the item is included in a class of items, an item of the class) complies with the standard.

IECEE CB Test Reports accompanied by an IECEE CB Test Certificates, and certificates issued under a law of a State or Territory that deal with the safety of electrical equipment, are only prepared or issued for items in relation to which the *Telecommunications (Customer Equipment Safety) Technical Standard 2018* is an applicable technical standard.

A certificate issued under a law of a State or Territory that deals with the safety of electrical equipment may be called a “Certificate of Approval”, a “Certificate of Conformity” or a “Certificate of Suitability”.

Paragraph (4)(b) does not limit the kinds of documents to which a person may have regard in order to be reasonably satisfied that an item complies with an applicable technical standard.

## **Division 4 – Additional requirements for modified items**

### **Section 23 Modified items**

This section provides the additional requirements for modified items. Section 23 imposes additional requirements on an item that has been modified, by or on behalf of the manufacturer or importer of the item, after the item was manufactured or imported. The modified item must comply with each applicable technical standard before a compliance label can be applied to that item.

Subsection (1) provides that the section applies to a modified item. A ‘modified item’ is defined in section 6 as an item that has been modified, by or on behalf of the manufacturer or importer of the item, after the item was manufactured in Australia or imported and, for the avoidance of doubt, is the item as modified.

Subsection (2) provides that a manufacturer of a modified item, or importer of the *unmodified item*, must, before supplying that item, prepare a written statement that:

- identifies the modified item and the modification which resulted in that item;
- indicates whether (and the reason why) the modification is or is not material; and
- if the modification is not material contains the current model number of the modified item and the current model number of the unmodified item.

Subsection (2) also sets out who may sign the statement.

Subsection (3) provides that if the modification is not material, and the manufacturer of the modified item, or the importer of the unmodified item, has completed a DoC for the unmodified item in



accordance with subsection 22(1) and prepared a written statement for the modified item in accordance with subsection 23(2), the manufacturer or importer is taken to have completed a DoC for the modified item (consisting of the first-mentioned DoC and the written statement). In this instance, the manufacturer or importer does not have to complete another DoC for the modified item.

If the modification is material, then subsection (3) does not apply, and the manufacturer of the modified item, or the importer of the unmodified item, must complete a DoC for the modified item in accordance with subsection 22(1).

Subsection (4) defines when a modification is ‘material’. A modification is material if the modification could reasonably be expected to affect whether the modified item complies with any applicable technical standard in relation to the modified item.

Subsection (5) provides that a written statement prepared under paragraph (2)(e) may be signed electronically.

Subsection (6) defines the term ‘unmodified item’ to mean, in relation to a modified item, the item that was manufactured in Australia or imported, before it was modified to become the modified item.

The term ‘unmodified item’ is only used in section 23 and has a different meaning to the term ‘original item’, which is defined in section 8.

## **Division 5 – Documentation when item is supplied**

### **Section 24 Documentation about installation and operation**

Section 24 provides that a manufacturer or importer must ensure that the item, when supplied, is accompanied by documentation that specifies how to install and operate the item in a manner consistent with an applicable technical standard, if:

- a manufacturer or importer of an item is required under section 11 to apply a compliance label to the item; and
- there is a reasonable likelihood that the item could be installed or operated in a manner that is inconsistent with the standard in relation to the item; and
- the installation or operation of the item in such a manner could constitute a risk to public safety.

## **Part 5–Compliance records**

### **Section 25 Application**

This section provides that Part 5 sets out the requirements to be met after a manufacturer or importer applies a compliance label to an item if they are required to do so by section 11, or clause 3 of Schedule 4.

A manufacturer or importer who does not meet the requirements may be guilty of an offence under section 415 of the Act.

### **Section 26 Compliance records – general requirement**

This section provides the general requirements for compliance records.

Subsection (1) defines what are ‘compliance records’ in relation to an item. An item’s compliance records include:

- certain documents required by the instrument (such as a DoC, particular written statements, a description of the item and a copy of any documentation that must accompany the item when supplied); and
- any agency agreement that relates to the keeping of such records in relation to the item (where the agent acts on behalf of the manufacturer or importer).

Subsection (2) provides that, for the purposes of the instrument, a compliance record may form part of another compliance record. An example is provided under this subsection outlining that if a DoC for an item contains a written statement prepared under subsection 13(4), the manufacturer or importer would only need to keep the DoC to comply with the obligation to keep both of the compliance records.

## **Section 27 Compliance records – specific requirements**

This section provides the specific requirements for compliance records.

Subsection (1) provides that compliance records in relation to an item must be kept by the manufacturer or importer of the item in accordance with Part 5.

Subsection (2) provides that a compliance record must be in English and may be a certified copy of the original record.

Subsection (3) indicates that a compliance record, including a copy of an original record, may be kept in an electronic form.

Subsection (4) requires the manufacturer or importer to ensure that a description of the item is prepared that contains:

- the current model number of the item and (if relevant) any related model numbers;
- one or more photographs of the internal and external aspects of the item;
- details of the version of any software installed (if applicable);
- sufficient information for a person to determine whether the item is an item, or whether the item is identical to another item of a class of items, in relation to which there is a DoC and related documents; and
- sufficient information to distinguish the item from any other item (other than another item in the same class of items).

A note to subsection (4) clarifies that an example in relation to the information used to work out whether there is a DoC for the item, or whether the item is different to another item, may be a block diagram of the item.

Subsection (5) provides that if any of the information included in the description subsequently changes or becomes incorrect, the manufacturer or importer must update or correct the description within 30 days after the information changes or becomes incorrect.

## **Section 28 Compliance records – obligation to keep records**

This section provides that a compliance record in relation to an item must be kept by the manufacturer or importer:

- if the item or modified item is not included in a class of items – for the period commencing from the time the item or modified item is supplied in Australia and ending two years after the item ceases to be supplied in Australia; or

- if the item is included in a class of items – for the period commencing from the time the original item, or original modified item, of the class is supplied in Australia and ending two years after all items of the class cease to be supplied in Australia.

## **Part 6–Savings and transitional arrangements**

### **Division 1 – Interpretation**

#### **Section 29 Definitions**

This section defines terms used in Part 6. ‘Previous Notice’ is defined to mean the 2015 Labelling Notice, as in force immediately before the commencement of the instrument, and ‘transition period’ is defined to mean the two-year period starting at the commencement of the instrument for an item mentioned in subsection 30(1), and the one-year period starting at the commencement of the instrument for an item mentioned in subsection 31(1).

### **Division 2 – Transitional arrangements in relation to the Previous Notice**

#### **Section 30 Item labelled in accordance with Previous Notice during transition period**

This section provides the transitional arrangements that apply when an item is labelled in accordance with the 2015 Labelling Notice, during the transition period.

Subsection (1) provides that section 30 applies to an item that has been labelled (with either a compliance or non-compliance label, as those terms are defined in the 2015 Labelling Notice) in accordance with the 2015 Labelling Notice within two years after the commencement of the instrument.

Subsection (2) provides that the manufacturer or importer is taken to have met all the requirements of the instrument in relation to the application of the label.

Subsection (3) provides that the manufacturer or importer must comply with either any other requirements contained in the instrument that apply in relation to the item, or any other requirements contained in the 2015 Labelling Notice that would have applied in relation to the item had the 2015 Labelling Notice not been repealed.

Subsection (4) provides that if the manufacturer or importer complies with any other requirements contained in the 2015 Labelling Notice that would have applied in relation to the item had the 2015 Labelling Notice not been repealed, the instrument, apart from section 30, does not apply in relation to the item and the 2015 Labelling Notice continues to apply in relation to the item as if it had not been repealed.

#### **Section 31 Items exempt from labelling under clauses 7 or 8 of Schedule 4 to the Previous Notice immediately prior to commencement**

This section deals with items that were exempt from labelling requirements under clauses 7 or 8 of the 2015 Labelling Notice, immediately prior to the commencement of the instrument. The instrument does not contain similar exemptions and the purpose of this section is to provide for the ongoing supply of items that were exempt from labelling requirements under the 2015 Labelling Notice, without the need to apply a label, for items manufactured, imported or modified during the transitional period of one year.

Subsection (1) provides that section 31 applies to an item, including an item in a class of items, if:

- immediately before the commencement of the instrument, a manufacturer or importer was, in accordance with clauses 7 or 8 of Schedule 4 to the 2015 Labelling Notice, exempt from compliance with subclause 4(2) of Schedule 4 to the 2015 Labelling Notice to apply a compliance label to the item; and
- but for section 31, the manufacturer or importer would be required under subclause 3(2) of Schedule 4 to the instrument to apply a compliance label to the item.

Subsection (2) provides that if the item is manufactured, imported or modified during the transition period, and the manufacturer or importer complies with:

- if the manufacturer or importer is exempt from applying a compliance label under clause 7 of Schedule 4 to the 2015 Labelling Notice in relation to the item – the requirements in clause 7 of Schedule 4 to the 2015 Labelling Notice; or
- if the manufacturer or importer is exempt from applying a compliance label under clause 8 of Schedule 4 to the 2015 Labelling Notice in relation to the item – the requirements in clauses 9 and 10 of Schedule 4 to the 2015 Labelling Notice;

the manufacturer or importer is not required to apply a compliance label to the item.

Subsection (3) provides that if the manufacturer or importer complies with the requirements of clause 7, or clauses 9 and 10, of Schedule 4 to the 2015 Labelling Notice, the instrument (apart from section 31) does not apply in relation to the item and the 2015 Labelling Notice continues to apply to the item in relation to the item as if the 2015 Labelling Notice had not been repealed.

### **Division 3 – Transitional arrangements following changes in relation to applicable technical standards**

#### **Section 32 Changes in relation to applicable technical standards**

This section provides the transitional arrangements that apply if there are changes to applicable technical standards.

Subsection (1) provides that section 32 applies to an item if:

- a technical standard (the **old technical standard**) has been repealed and replaced by another technical standard (the **new technical standard**); and
- on a particular date (the **effective date**), the old technical standard ceased to be an applicable technical standard, and the new technical standard became an applicable technical standard in relation the item; and
- the item was not supplied before the effective date.

Subsection (2) provides that if, before the effective date, the manufacturer or importer of an item prepared a compliance record or any other documentation for the item, or applied a label to the item, in relation to the old technical standard and in accordance with the instrument as in force immediately before the effective date, then on and after the effective date:

- the thing done has effect as if it had been done in relation to the new technical standard; and
- for the avoidance of doubt, the manufacturer or importer is taken to have met any requirement of the instrument to do such a thing in relation to the new technical standard.

An example under subsection (2) indicates how the subsection operates. The example provides that if, before the effective date, the manufacturer or importer had properly completed a DoC for the item in relation to the old technical standard, then on and after the effective date, the manufacturer or importer does not need to complete a DoC for the item in relation to the new technical standard.

Subsection (3) provides that, for the avoidance of doubt, if:

- a DoC for the item was not completed before the effective date;
- the new technical standard contains a provision to the effect that the item is taken to comply with the standard if the item complies with the old technical standard as in force immediately before the commencement of the new standard; and
- the manufacturer or importer seeks to rely on that provision;

the manufacturer or importer must, before supplying the item, ensure that a person who makes a DoC for the item is reasonably satisfied that the item complies with that old technical standard.

Subsection (4) provides that, for the purposes of determining whether a person is reasonably satisfied that the item complies with the old technical standard, subsection 22(2) applies as if:

- references to an applicable technical standard were references to that old technical standard; and
- references to a high risk applicable standard were references to that old technical standard (or the part of it) that was, immediately before the commencement of the new technical standard, a high risk applicable technical standard to the item (if at all).

This ensures that a person who makes a DoC for the item has had regard to documents of a kind that provide sufficient evidence for the person to be reasonably satisfied that the item complies with the old technical standard.

An example under subsection (4) indicates how the subsection operates. The example provides that if, before the effective date, the old technical standard was a high risk applicable technical standard in relation to the item, a person can only be reasonably satisfied that the item complies with the old technical standard if there is a document of a kind mentioned in section 22 for this purpose, containing information that indicates that the item (or if the item is included in a class of items, an item of the class) complies with the old technical standard.

## **Schedule 1—Applicable technical standards for customer equipment (other than cabling-related customer equipment)**

### **1 Applicable technical standards and high risk applicable technical standards**

The table in Schedule 1 specifies which technical standards apply to particular kinds of customer equipment for the purposes of the instrument.

The table also specifies which of these standards are high risk standards.

Any reference to a part of an applicable technical standard mentioned in column 4 of the table that relates to an industry standard is taken to be a reference to the provisions of the applicable technical standard that have the effect of requiring an item to comply with:

- if only a part of the industry standard is mentioned in the provisions of the applicable technical standard – that part of the industry standard (or any corresponding part of a standard that replaces the industry standard) as in force at any time specified, for the item, in the applicable technical standard; or
- otherwise – the industry standard (or any standard that replaces the industry standard) as in force at any time specified, for the item, in the applicable technical standard.

The table specifies the applicable technical standards for 5 different kinds of customer equipment, as follows:

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*Explanatory Statement to the Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2025 and the Telecommunications (Labelling Notice – Consequential Amendments) Instrument 2025*

- Customer equipment that is used, or is to be used, for connection to a telecommunications network, other than customer equipment that is used, or to be used, solely for connection with a public mobile telecommunications service, or a satellite-based facility, or both.
- Customer equipment that is used, or is to be used, for connection with a public mobile telecommunications service, and is used to supply a standard telephone service, and is an addressable device.
- Customer equipment that is used, or is to be used, for connection with a public mobile telecommunications service, and is not used to supply a standard telephone service, and is an addressable device.
- Customer equipment that is used, or is to be used, for connection to a satellite-based facility, and is an addressable device.
- Customer equipment that is covered by another item in the table.

The terminology describing the different kinds of customer equipment has been adjusted to customer equipment that ‘is used, or is to be used’, for connection to telecommunications network or with a specified telecommunications service to improve clarity. If customer equipment can be used in the manner described in column 1 of items 1 to 4 of the table, then the specified technical standards in column 2 for the corresponding item will apply.

The table includes a new item that does not appear in the 2015 Labelling Notice, namely, customer equipment that is also covered by another item in the table. The new item provides that the *Telecommunications (Customer Equipment Safety) Technical Standard 2018* only applies to customer equipment that is also covered by another item in the table.

Customer equipment may be covered by multiple table items. This reflects the growth in multi-technology customer equipment, such as modem routers capable of operating on both fixed and mobile networks, or handsets that include both cellular and satellite connectivity. For example, a Low Earth Orbit (LEO) satellite direct-to-device handset may be covered by table items 2, 4 and 5.

For table items 1 and 5, the whole of the applicable technical standard is listed as a high risk standard.

For table item 2, each of the parts of the Mobile Equipment Standard 2022 that relate to AS/CA S042.1 are a high risk standard, but only for an item to which the part applies. A note has been added to clarify that the Mobile Equipment Standard 2022 specifies the version of AS/CA S042.1 that an item must comply with, depending on the relevant date (within the meaning of the Mobile Equipment Standard 2022) for the item.

Table item 1 may cover multi-technology customer equipment that includes cellular and/or satellite connectivity. For example, customer equipment that is used, or is to be used, for connection to the switched telephone network and a public mobile telecommunications service, such as a modem router with cellular mobile backup would be covered under table item 1 (it may also be covered by table items 2 and 5). Customer equipment that is covered by table item 1 includes PBX, analogue telephones, ADSL or DSL modems, dial-up modems, cordless telephone handsets and base units, headsets used with customer equipment connected by an analogue interface to a telecommunications network that operates at ES2 or ES3, answering machines and fax machines.

An example of headsets operating at ES2 is a headset that uses a RJ11 jack or a RJ45 jack. A RJ11 jack is a modular 6-position jack and a RJ45 jack is a modular 8-position jack, as specified in the Telecommunications Industry Association standard ANSI/TIA 968-A *Telephone Terminal Equipment Technical Requirements for Connection of a Terminal Equipment to the Telephone Network*, that are used to connect headsets, phones, modems and other telecommunications equipment with a 2-wire analogue network interface to a telecommunications wall socket or service. A headset with a cable or

wire that plugs into a phone or other telecommunications equipment using a RJ11 jack or a RJ45 jack and operating at ES2 is covered by table item 1.

Telephones would be covered by table item 1 regardless of the packetised telephony protocols used.

Customer equipment that is covered by table item 2 includes mobile telephones and cellular modems.

Customer equipment that is covered by table item 3 includes machine-to-machine communication devices, automatic teller machines and vending machines.

Customer equipment that is covered by table item 4 includes satellite telephones and mobile telephones with satellite connectivity.

A reference in the table to a telecommunications network is a reference to a telecommunications network in Australia that is operated by a carrier or carriage service provider, in accordance with section 7 and subsection 374(1) of the Act.

## **Schedule 2—Items to which this instrument does not apply**

Schedule 2 provides a list of items to which the instrument does not apply.

Clause (1) provides an exemption for an item that is manufactured or imported solely for use by:

- a criminal law-enforcement agency;
- the Department of Defence or the Defence Force as a temporary facility;
- the Australian Secret Intelligence Service or the Australian Security Intelligence Organisation; or
- a body that is not a criminal-law enforcement agency, and is responsible for criminal law enforcement, and is established by or under a law of the Commonwealth or a law of a State or Territory.

Clause (2) provides an exemption for test equipment for a telecommunications network.

Clause (3) provides an exemption for headsets, except for a headset used with customer equipment connected by an analogue interface to a telecommunications network and that operates at ES2 or ES3. ES2 is short for electrical energy source class 2 and ES3 is short for electrical energy source class 3. ES2 and ES3 have the same meanings as in the AS/NZS 62368.1:2022 Standard. A headset that uses an audio jack has been provided as an example of a headset exempt under clause (3). The differences between clause (3) and the equivalent provision in Schedule 2 to the 2015 Labelling Notice is intended to improve clarity and reflect the technological shift from predominantly analogue to predominantly digital modes of operation. They also reflect the greater risk to electrical safety and acoustic shocks for headsets operating at ES2.

The reference to ‘handsets’ was removed from clause (3) to clarify that handsets are regulated under the instrument, consistent with the examples provided in Schedule 1 to the 2015 Labelling Notice which listed analogue telephones, VoIP telephones, cordless telephone handsets and base units as items of customer equipment that are intended to be regulated.

Clause (4) provides an exemption for items manufactured or imported solely to be exported.

Clause (5) provides an exemption for items that are imported for connection to a telecommunications network or to a facility of such a network in relation to a significant event, in circumstances where the manager of the network or facility has given written consent to the connection for the duration of the

event. A ‘significant event’ is defined to mean an event declared by the ACMA under subsection 54A(2) of the *Radiocommunications Equipment (General) Rules 2021*.

Clause (6) provides an exemption for items that are manufactured or imported solely for incorporation into other items and that, before such incorporation, cannot be used to connect to a telecommunications network or to a facility of such a network.

## **Schedule 3–RCM**

Schedule 3 sets out the design of the RCM. The RCM is a protected symbol for the purposes of section 417 of the Act.

## **Schedule 4–Customer cabling and cabling-related customer equipment**

### **Part 1–Interpretation**

#### **1 Applicable technical standard**

Clause 1 provides that a technical standard is an ‘applicable technical standard’ for an item of customer cabling, or an item of customer cabling-related customer equipment, if AS/CA S008-2025 includes a requirement that applies to the item.

The long title of AS/CA S008-2025 is the *Telecommunications (Requirements for Customer Cabling Products – AS/CA S008) Technical Standard 2025*. AS/CA S008-2025 is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

An example of how clause 1 applies indicates that cabling-related customer equipment includes cable enclosures, patch panels, insulation displacement connectors and other similar termination modules (such as those used at a main distribution frame), conduit for the protection of customer cabling, and telecommunications wall sockets.

#### **2 Who may apply a label – importer**

This clause specifies who may apply a compliance or non-compliance label to an item if the item is imported.

Subclause (1) provides that this clause applies if an importer is required to apply a compliance label to an item under clause 3 or apply a non-compliance label to an item under clause 6.

Subclause (2) provides that an importer is taken to have complied with the requirements in clause 3 or clause 6 if, before the item was imported, a person other than the importer applied the label to the item, and each of the label, and the application of the label, otherwise complies with the requirements in the instrument.

Section 406A of the Act provides that a reference to a manufacturer or importer includes a person authorised in writing by such a manufacturer or importer to act in Australia as an agent for the purposes of Division 7 of Part 21 of the Act.

### **Part 2–Applying a compliance label**

#### **3 Requirement to apply a compliance label**

This clause provides the requirements that relate to applying a compliance label.



Subclause (1) provides that clause 3 applies to an item if there is an applicable technical standard in relation to an item and the item complies with the standard.

Subclause (2) provides that the manufacturer or importer of the item must apply a compliance label to the item in accordance with Part 3 of Schedule 4 before supplying the item.

### **Part 3—Form and application of a compliance label**

#### **4 Form of a compliance label**

This clause sets out the form of a compliance label.

Subclause (1) provides that a compliance label must be:

- in the form of the RCM; or
- a QR code or similar thing, if the relevant link is to information on a website that displays the RCM prominently; or
- a statement containing both:
  - the company name, business name, or trademark of the manufacturer or importer, or a person who is supplied the item by the manufacturer or importer and subsequently supplies the item in Australia; and
  - a part name or number, identification number, or product name of the item.

Subclause (2) provides that the compliance label must be durable and at least 3mm high.

Unlike the equivalent provision of the 2015 Labelling Notice, clause 4 allows a statement containing specified information to be a form of compliance label.

#### **5 Application of a compliance label**

This clause provides the requirements for the application of a compliance label.

Subclause (1) provides that a compliance label must be applied in accordance with subclause (2) and permanently or in a way that makes removal or obliteration difficult.

Subclause (2) provides that the compliance label must be:

- in the case of a label in the form of the RCM or a QR code or similar thing, either:
  - affixed to the surface of an item in a place that is readily accessible to a person, or
  - both affixed to the external surface of the packaging used for the item in a place that is clearly visible and incorporated into the documentation, including any warranty or guarantee certificate, which accompanies the item when supplied; or
- in the case of a label in the form of a statement – affixed to the sheath of the item at regular intervals of not more than 2 metres.

The requirement to incorporate the label into the documentation that accompanies the item when supplied may be met after the label was applied, and so is a requirement of a kind mentioned in section 415 of the Act.

Subclause (3) provides that if the compliance label has been affixed to the external surface of the packaging used for an item and incorporated into the documentation that accompanies the item when supplied, the manufacturer or importer of the item must, before supplying the item, prepare a written statement specifying where each compliance label has been applied on the external surface of the packaging and in the documentation.

The requirement in subclause (3) may be met after the label was applied, and so is a requirement of the kind mentioned in section 415 of the Act.

Subclause (4) provides that the importer of an item is taken to have complied with subclause (3) in relation to an item if, before the item was imported, a person other than the importer prepared a written statement specifying where, on the external surface of the packaging used for the item and in the documentation that accompanies the item when supplied, each compliance label has been applied, and before supplying the item, the importer obtained a copy of the statement.

## **Part 4—Applying a non-compliance label and preparing a written statement**

### **6 Requirement to apply a non-compliance label and prepare a written statement**

This clause provides the requirements that relate to applying a non-compliance label and preparing a written statement.

Subclause (1) provides that clause 6 applies to an item if there is at least one applicable technical standard in relation to an item, and the item does not comply with one or more of those standards. (There is currently only one applicable technical standard for customer cabling and cabling-related customer equipment, as set out in clause 1 of Schedule 4.)

Subclause (2) provides that before supplying the item, the manufacturer or importer of the item must apply a non-compliance label to the item and prepare a written statement in relation to the item in accordance with Part 5 of Schedule 4.

The requirement to apply a non-compliance label to an item involves affixing the label to the external surface of the packaging used for the item and incorporating the label in the documentation that accompanies the item when supplied.

Subclause (3) provides that the importer of the item is taken to have complied with these requirements if, before the item was imported, a person other than the importer prepared a written statement in accordance with clause 9 and, before supplying the item, the importer obtained a copy of the statement.

## **Part 5—Form and application of a non-compliance label and preparation of a written statement**

### **7 Form of a non-compliance label**

This clause sets out the form of a non-compliance label.

Subclause (1) provides that a non-compliance label applied to an item must contain a statement to the effect that the item does not comply with one or more applicable technical standards in relation to the item.

Subclause (2) provides that such the statement must be in English, be printed in a font size of at least 12 points, and list each applicable standard that the item does not comply with.

Subclause (3) provides that a non-compliance label must be durable.

### **8 Application of a non-compliance label**

This clause provides the requirements that relate to the application of a non-compliance label.

Subclause (1) provides that a non-compliance label must be applied in accordance with subclause (2), and permanently or in a way that makes removal or obliteration difficult.

Subclause (2) provides that a non-compliance label must be affixed to the external surface of the packaging used for the item, be clearly visible on that external surface, and be incorporated into the documentation (including any warranty or guarantee certificate) that accompanies the item when supplied.

The requirement to incorporate a non-compliance label in the documentation that accompanies the item when supplied may be met after the label was applied, and so is a requirement of the kind mentioned in section 415 of the Act.

## **9 Preparation of a written statement and obligation to keep the statement**

This clause provides the requirements that relate to the preparation of a written statement and an obligation to keep the written statement.

Subclause (1) provides that a written statement prepared or obtained under clause 6 in relation to an item must identify the item, and specify:

- where on the external surface of the packaging used for the item, and in the documentation accompanying the item, each non-compliance label has been applied; and
- the wording of the statement contained in each non-compliance label.

Subclause (2) requires such a statement to be kept by the manufacturer or importer:

- if the item is not included in a class of items – for the period commencing from the time the item is supplied, and ending two years after the item is supplied; or
- if the item is included in a class of items – for the period commencing from the time the original item, or (if the item is a modified item) original modified item, of the class is supplied in Australia and ending two years after all items of the class cease to be supplied in Australia.

## Notes to the *Telecommunications (Labelling Notice – Consequential Amendments) Instrument 2025*

### Section 1 Name

This section provides for the amendment instrument to be cited as the *Telecommunications (Labelling Notice – Consequential Amendments) Instrument 2025*.

### Section 2 Commencement

This section provides for the amendment instrument to commence on the later of the start of the day after the day it is registered on the Federal Register of Legislation, and immediately after the commencement of the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2025* (the **instrument**).

The instrument commences on 31 March 2025.

The amendment instrument is registered on the Federal Register of Legislation, which may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

### Section 3 Authority

This section identifies the provisions of the Act that authorise the making of the amendment instrument, namely, subsections 376(1) and 419(1) of the *Telecommunications Act 1997*.

### Section 4 Amendments – *Telecommunications (Customer Equipment Safety) Technical Standard 2018*

This section provides that the *Telecommunications (Customer Equipment Safety) Technical Standard 2018* is amended as set out in Schedule 1.

### Section 5 Amendments – *Telecommunications (Types of Cabling Work) Declaration 2024*

This section provides that the *Telecommunications (Types of Cabling Work) Declaration 2024* is amended as set out in Schedule 2.

### Schedule 1 – Amendments – *Telecommunications (Customer Equipment Safety) Technical Standard 2018*

#### 1 Section 6, definition of *applicable technical standard* (including the note)

Item 1 repeals the definition of *applicable technical standard* and replaces it with a definition that defines the term by reference to the meaning of the term given by section 9 of the instrument.

#### 2 Note to paragraph 12(b)

Item 2 repeals the note to paragraph 12(b) and substitutes it with a note that includes references to particular provisions of the instrument – namely section 9 of, and the table in Schedule 1 to, the instrument.

## **Schedule 2 – Amendments – *Telecommunications (Types of Cabling Work) Declaration 2024***

### **1 Section 6 (note to definition of *section 407 instrument*)**

Item 1 omits ‘*Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015*’ from the note to the definition of ***section 407 instrument*** in section 6 of the *Telecommunications (Types of Cabling Work) Declaration 2024* and substitutes it with a reference to the instrument.