Radiocommunications (Bench Testing by Corrective Services NSW of Mobile Telephone Jamming Device) Exemption Determination 2010

Radiocommunications Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Determination under subparagraph 27(1)(be)(ii) and subsection 27 (2) of the Radiocommunications Act 1992.

Dated 10th September 2010

Chris Chapman
[signed]
Member

Chris Cheah
[signed]
General Manager/Member

Australian Communications and Media Authority
1 Name of Determination
This Determination is the Radiocommunications (Bench Testing by Corrective Services NSW of Mobile Telephone Jamming Device) Exemption Determination 2010.

2 Commencement
This Determination commences on the day after it is registered.

3 Definitions
In this Determination:

*ACMA* means the Australian Communications and Media Authority.


*bench testing* means the initial testing of the mobile telephone jamming device undertaken in a shielded environment by a bench testing participant to ascertain the appropriate technical parameters for the field trial.

*bench testing participant* has the meaning given to that expression in subsection 6(2) of this Determination.

*bench testing period* means the period of three months from the date on which this Determination commences.

*carrier* has the same meaning as in the Telecommunications Act 1997.

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

*Corrective Services NSW staff* means the staff who are employed within Corrective Services NSW and who are principally involved in the administration of the Crimes (Administration of Sentences) Act 1999 (NSW).

*designated frequencies* means any of the following frequencies:

- 870-890 MHz
- 935-960 MHz
- 1805-1880 MHz
- 2110-2170 MHz.
field trial means the proposed mobile telephone jamming device field trial to be conducted by Corrective Services NSW at the Lithgow Correctional Centre.

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

mobile telephone jamming device means a device designed to interfere with, disrupt or disturb radiocommunications frequencies that are used to support the public mobile telecommunications service.

PMTS carrier means a carrier that supplies a public mobile telecommunications service.

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

shielded environment means an operating environment where radiofrequency transmissions from a mobile telephone jamming device are confined by means of a screened room that provides attenuation that reduces the level of transmissions to the mean level of noise in the surrounding area.

Note: This definition is drawn from the Radiocommunications Licence Conditions (Scientific Licence) Determination 1997, paragraph 8(2)(b)

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

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

5 Determination ceases to have effect

This Determination will cease to have effect at the conclusion of the bench testing period.

6 Exemption in relation to certain activities by Corrective Services NSW staff

(1) Any act or omission by a bench testing participant in relation to the use, operation, possession or supply of a mobile telephone jamming device is exempt from Parts 3.1, 4.1 and 4.2 of the Act, in the circumstances specified in subsection (3).

(2) For the purposes of subsection 6(1), bench testing participant, means a person who is performing a function or duty in relation to Corrective Services NSW and who is:

(a) a member of Corrective Services NSW staff; or
(b) a person acting on behalf of Corrective Services NSW who is:
(i) performing a function or duty, under a contract with Corrective Services NSW in relation to the bench testing; and

(ii) under the direct supervision of a member of Corrective Services NSW staff when the act is done, or the omission occurs.

(3) For the purposes of subsection 6(1), all of the following circumstances must exist:

(a) in the case of the use or operation of a mobile telephone jamming device the act is done, or the omission occurs:

   (i) for the purposes of the bench testing;

   (ii) within a shielded environment; and

   (iii) within the designated frequencies;

(b) in the case of the possession of a mobile telephone jamming device:

   (i) when not being used or operated, the mobile telephone jamming device is stored in a secure location; and

   (ii) when being transported, the mobile telephone jamming device is transported by secure means;

(c) the number of mobile telephone jamming devices imported by or on behalf of Corrective Services NSW for the purposes of the bench testing does not exceed 3; and

(d) the act is done, or the omission occurs, in accordance with the ARPANSA Standard.

7 Corrective Services NSW to provide the ACMA with a report on the bench testing

No later than six weeks after the commencement of the bench testing period, Corrective Services NSW must provide the ACMA with a report that includes all of the following:

(a) details of the mobile telephone jamming device(s) selected for use in the field trial;

(b) data confirming that, in the course of the bench testing, the mobile telephone jamming device(s) selected for use in the field trial rendered mobile phones at the designated frequencies inoperable, including:

   (i) the frequencies being jammed; and

   (ii) the emission levels at those frequencies;

(c) data confirming that it is expected that the mobile telephone jamming device(s) selected for use in the field trial can be operated in accordance
with the technical parameters established for the field trial. The technical parameters established for the field trial are:

(i) the mobile telephone jamming device operates within the designated frequencies;

(ii) the mobile telephone jamming device will not emit out of band emissions beyond -128.5 dBm/kHz at the edge of the public exclusion zone around Lithgow Correctional Centre;

(iii) that the mobile telephone jamming device will operate in accordance with the ARPANSA Standard;

(d) information about the disposal means for mobile telephone jamming devices that are deemed to be inappropriate for use in the field trial; and

(e) information indicating that Corrective Services NSW has consulted PMTS carriers regarding the outcomes of the bench testing.

8 Corrective Services NSW to dispose of devices used in bench test trial

(1) In the event that the mobile telephone jamming devices used for the purposes of the bench testing:

(a) will not be used for the purposes of the field trial; or

(b) are deemed inappropriate for use in the field trial,

Corrective Services NSW must dispose of the mobile telephone jamming devices prior to the conclusion of the bench testing period.

(2) For the purposes of subsection 8(1), Corrective Services NSW must dispose of the mobile telephone jamming devices by:

(a) destroying the device;

(b) surrendering the device to the ACMA; or

(c) causing the device to be returned to a person located outside Australia.

9 Notification to the ACMA and PMTS carriers

(1) Corrective Services NSW must notify the ACMA and PMTS carriers at least 7 days prior to the commencement of the bench testing.

(2) For the purposes of subsection 9(1), the notice must contain all of the following:

(a) contact details of the members of Corrective Services NSW staff operating the mobile telephone jamming device;

(b) the intended time(s), duration(s) and location of the bench testing; and
(c) the affected radio frequency band(s).

(3) If Corrective Services NSW receives any complaints regarding interference in relation to radiocommunications outside the shielded environment, caused by the bench testing, Corrective Services NSW must, within 72 hours, provide the ACMA with a written report.

(4) For the purposes of subsection 9(3), the report must contain all of the following:
   (a) the name of the complainant;
   (b) the time and date of receipt of the complaint;
   (c) the nature of the complaint; and
   (d) whether or not the complaint has been resolved.

(5) If the use of a mobile telephone jamming device is causing interference in relation to radiocommunications on the designated frequencies, outside the shielded environment, Corrective Services NSW must:
   (a) notify:
      (i) each PMTS carrier that may be affected by the interference; and
      (ii) the ACMA; and
   (b) ensure that all reasonable steps are taken to cease any interference as soon as possible.

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1 All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the Legislative Instruments Act 2003. See http://www.frli.gov.au.