Explanatory Statement

Issued by the Australian Communications and Media Authority

Arrangements for Operation of the Registration System (No. 3) Amendment 2012 (No. 1)

Telecommunications Act 1997

Purpose

The Arrangements for Operation of the Registration System (No. 3) Amendment 2012 (No. 1) (the Arrangements Amendment) have been made by the Australian Communications and Media Authority (the ACMA) to amend the Arrangements for Operation of the Registration System (No. 3) (the Arrangements Instrument). The Arrangements Amendment makes changes to the Arrangements Instrument by:

- Removing the industry developed document, ‘Pathways to the ACMA Cabling Provider Rules Cabler Registration’ (the Pathways document) in Schedule 1 and replacing it with new competency requirements that were previously reflected in the instrument ‘Competency Requirements for Telecommunications Cabling Provider Rules 2000’ (the Competencies Document). The Pathways document will now be accessible via a link on the ACMA webpage.

  The new competency requirements introduced by the Arrangements Amendment apply to customer cabling work and include additional competencies for coaxial, structured, optical-fibre and broadband cabling work. The competency requirements are used by industry to specify training competency requirements in their industry pathways document (and approved by their industry skills councils) that a cabling provider must attain, in order to apply for or renew their cabling registration.

  The Arrangements Amendment also specifies the transitional arrangements for the introduction of the new competency requirements, and amends Schedule 3 of the Arrangements Instrument to make it consistent with current industry practice.

Legislative Provisions

Under subsection 3.1(1) of the Telecommunications Cabling Provider Rules 2000 (the Rules), the ACMA must make arrangements for the operation of a system for the registration of cabling providers. The requirements to be included in a registration system are outlined in Part 3 of the Rules. The ACMA is not required to operate the registration system and may (under the Rules) engage persons to operate the system and act as registrars on behalf of the ACMA. The Arrangements Instrument was made by the ACMA on 29 September 2009 and sets out the matters to be included in the registration system and provides for the accreditation of Registrars who will operate the registration system. The Arrangements Amendment is made under section 421 of the Telecommunications Act 1997 (the Act) and subsection 3.1(1) of the Rules. An instrument made under those provisions is a legislative instrument for the purposes of the Legislative Instruments Act 2003.
Background

The Arrangements Instrument has been made under section 3.1 of the Rules and is one of a set of regulatory tools which govern customer cabling in order to protect the safety of persons and the integrity of the telecommunications networks.

Public consultation

Section 422 of the Act provides 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 amendments to instruments made under section 421 of the Act, and due consideration be given to any representation so made. As such, the ACMA released a consultation package comprising the draft Arrangements Amendment and consultation paper for public consultation on 28 September 2011 for a period of 64 days.

The ACMA received 17 submissions. In response to the consultation process, the ACMA modified its approach to amending the Arrangements Instrument. Relevantly, a cabling provider will now only be required to have competencies in the types of cabling work that they perform or supervise.

Regulation Impact

The ACMA consulted with the Office of Best Practice Regulation (OBPR) regarding the changes in the Arrangements Amendment. OBPR have confirmed that the changes would have a low impact on cabling providers and that a formal regulatory impact statement would not be required. The OBPR assessment number is: 13602.

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 is at Attachment A.

Notes on the instrument

Section 1 – Name of the Instrument

Section 1 provides that the name of the Arrangements Amendment is Arrangements for Operation of the Registration System (No. 3) Amendment 2012 (No. 1).

Section 2- Commencement

Section 2 provides that the Arrangements Amendment commences on 1 July 2012.

Section 3- Amendment

Section 3 amends the Arrangements Instrument known as the Arrangements for Operation of the Registration System (No. 3).

Schedule 1 Amendments

Item [1] inserts a new section 4A that provides a number of definitions and indicates that these definitions have the same meaning as that provided in the Rules.
Item [2] substitutes section 7 with a new section which provides that for the purposes of paragraph 3.1(2)(a) of the Rules, the new ACMA competency requirements that a cabling provider must have in order to be eligible for registration or renewal of registration are specified in Schedule 1 of the instrument. The Pathways document that was previously in Schedule 1 has been removed and is now accessible on the ACMA website – www.acma.gov.au. The new competency requirements in Schedule 1 include additional competencies for coaxial, structured, optical-fibre and broadband cabling work.

Item [3] inserts a new Part 9 which provides transitional arrangements for the introduction of the new competency requirements in Schedule 1. On 1 July 2012 (the day the Arrangements Amendment commences) the new competency requirements mentioned in section 7 commences. Any person who registers as a new cabling provider on or after 1 July 2012 is required to meet the new competency requirements. Any person who is a registered cabling provider will be given a two year transition period to meet the new competency requirements. The two year transition period commences on 1 July 2012 and ends on 30 June 2014. The purpose of the transitional provisions is to give existing cabling providers time to obtain the necessary additional competencies that are contained in the new competency requirements.

New section 20 contains definitions relevant to Part 9.

New section 21 provides that for the purposes of section 16 of the Arrangements Instrument, a cabling provider who applies to renew their registration during the transitional period may demonstrate compliance with either the new competency requirements (as defined in section 20) or the former competency requirements (also defined in section 20).

During the two year transition period, a cabling provider is permitted to use their current or expired registration for purposes of renewal of registration. However, after the two year transition period, all cabling providers (new and existing) must comply with the new competency requirements. Under new section 22, evidence of a current or expired registration will not be accepted for renewal of a registration (that is, paragraphs 16(a) and 16(b) will not apply) after the two year transition period if the cabling provider’s current or expired registration was granted on the basis that the provider complied with the former competency requirements.

Section 23 provides that the discretion available to the ACMA under section 11 of the Arrangements Instrument may not be exercised after the end of the transitional period if the expired registration that the cabling provider wishes to rely upon was granted on the basis that the cabling provider complied with the former competency requirements. Under section 11, the ACMA may allow a person to use a cabling registration that has been expired for more than 12 months as evidence of competency as if it were a current registration, when applying to renew their registration under section 16.

Item [4] inserts a new Schedule 1 containing the new competency requirements. The Pathways document (which also incorporated the industry competency training requirements) was previously listed in Schedule 1. The Pathways document and the ACMA competency requirements have now been separated into two separate documents with the Pathways Document accessible via the ACMA website. The new competency requirements have been expanded to include specific competencies for structured, optical fibre, broadband and co-axial cabling work not included or recognised in the current competencies or pathways document.

Item [5] substitutes Schedule 3 of the Arrangements Instrument with new Schedule 3 which contains an updated Cabling Registration Declaration. The declaration is used by cabling providers to declare that:

1. They will comply with the Rules;
(2) they have attained the relevant competency requirements; and
(3) where applicable, they have obtained the required number of hours of relevant cabling experience which must be obtained over a period not exceeding 2 calendar years. For Open cabling work the experience required is 600 hours whereas for restricted cabling work the required experience is 400 hours.

The amendments to the declaration at Schedule 3 updates the declaration to reflect current industry practice where cabling providers are, in practice, given a period of two years to accumulate the necessary number of hours of cabling experience, rather than the 6 months provided in the current Schedule 3 declaration.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Arrangements for Operation of the Registration System (No. 3) Amendment 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument

This Legislative Instrument amends the Arrangements for Operation of the Registration System (No. 3) (the Arrangements) which are made under the Telecommunications Cabling Provider Rules 2000 (the Rules) and the Telecommunications Act 1997. The Arrangements is one of a set of regulatory tools used to govern customer cabling in order to protect the health and safety of persons and the integrity of the telecommunications network. The Arrangements set out the requirements of the cabling provider registration system and are based on the requirements in Part 3 of the Rules. The Arrangements also contain the competency requirements which all persons who perform or supervise a specific type of cabling work mentioned in Part 2 of the Rules must obtain before being eligible for registration or renewal of registration. The amendments mainly introduce new competency requirements to ensure that cabling providers have the skills required to perform or supervise cabling work related to the National Broadband Network.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Australian Communications and Media Authority