



Notification that the Australian Communications and Media Authority prohibits the operation or supply, or possession for the purpose of operation or supply, of specified devices

as amended

made under section 190 of the

Radiocommunications Act 1992

This compilation was prepared on 28 January 2009
taking into account amendments up to *Notification that the Australian Communications Authority prohibits the operation or supply, or possession for the purpose of operation or supply, of specified devices Amendment Declaration 2009 (No. 1)*

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Commonwealth of Australia

AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

Declaration under section 190 of the *Radiocommunications Act 1992*

**Notification that the Australian
Communications and Media Authority
prohibits the operation or supply, or
possession for the purpose of operation or
supply, of specified devices**

Notice is given that the Australian Communications Authority (the Authority) declares that the operation or supply, or possession for the purpose of operation or supply, of a device designed to operate within the frequency bands 870-960 MHz or 825-845 MHz and to interfere with radiocommunications or disrupt or disturb radiocommunications, is prohibited.

Exemption — facilitating service on board an aircraft

This declaration does not prohibit the operation of a device if:

- (a) the device is designed to facilitate a cellular mobile telephone service on board an aircraft that operates on another frequency; and
- (b) the device is operated for that purpose.

This declaration does not prohibit the possession or supply of a device if the device is designed to facilitate a cellular mobile telephone service on board an aircraft that operates on another frequency.

In this declaration:

cellular mobile telephone service has the same meaning as in the *Radiocommunications (Interpretation) Determination 2000*.

The Authority makes this declaration under section 190 of the *Radiocommunications Act 1992* (the Act).

Dated 4 March 1999

A.J. SHAW

Chairman

R HORTON

Deputy Chairman

Reasons for declaration

This declaration applies to the operation or supply, or possession for the purpose of operation or supply, of the device, commonly known as a mobile telephone jammer, and declares such devices to be prohibited, unless the circumstances specified above in the prohibition exist.

The Authority has made this decision after seeking public comment about the matter as required under section 191 of the Act.

The Authority has decided to make this declaration because:

- jamming would be likely to substantially interfere with, or disrupt or disturb, public mobile telephone services and have serious adverse consequences for public mobile telephone users by:
 - jeopardising the quality and extent of legitimate carrier services;
 - preventing access to emergency services;
 - causing inconvenience to, or loss of business for, mobile telephone users; and
 - disadvantaging those responsible customers using silent messaging features on their mobile telephones;
- mobile telephone jamming devices can be used to deliberately disrupt licensed radiocommunications services, including those services not specifically targeted by the jammers. These could include Defence radar and fixed point to point services that could be affected because they operate in the same frequency band;
- given the Authority's knowledge about the interfering and disruptive nature of these devices, they could be licensed only in the limited circumstances specified above in the prohibition. This means that outside those limited circumstances would be an offence, because:
 - operators of the device may breach section 194 of the Act (interference likely to endanger safety or cause loss or damage) and section 197 of the Act (knowingly or recklessly interfere substantially with radiocommunications); and

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- operation, or possession for the purpose of operation, of a radiocommunications device without an appropriate licence is an offence under sections 46 and 47 of the Act, respectively;
 - devices prohibited by this declaration do not comply with the *Radiocommunications 900 MHz Band Plan 1992*. Operation of a device which is not in accordance with a band plan may only be authorised by the Authority in the circumstances set out in section 104 of the Act. The operation must be for specified purposes, such as an event of international significance, or else the operation must be in the public interest. An authorisation can only be for 30 days and may only be renewed once. Mobile telephone jamming devices do not meet any of the criteria in section 104.
 - it is unfair to allow the sale of mobile telephone jamming devices if their operation is not permitted. It is equitable, efficient and effective to focus regulatory attention on the sellers and suppliers of mobile telephone jamming devices, while continuing to target individual operators if the need arises;
 - the radiation levels of high powered jammers may result in exposure levels exceeding the maximum permitted under the interim and proposed Australian health exposure standards. This has implications for public safety, especially in confined areas, such as cafes or restaurants; and
 - the use of mobile phones in particular areas is able to be discouraged, if not entirely controlled, using alternative means, including:
 - promotion to encourage people to use silent messaging features of their mobile phones; or
 - advising people (using prominent signage) that the use of mobile phones in certain areas is not welcome, or could affect the operation of sensitive equipment; or
 - electronically detecting active mobile phones, followed by advice to users to restrict their use.

Table of Instruments

Notes to the *Notification that the Australian Communications and Media Authority prohibits the operation or supply, or possession for the purpose of operation or supply, of specified devices*

Note 1

The *Notification that the Australian Communications and Media Authority prohibits the operation or supply, or possession for the purpose of operation or supply, of specified devices* (in force under section 190 of the *Radiocommunications Act 1992*) as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

Title	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
<i>Notification that the Australian Communications Authority prohibits the operation or supply, or possession for the purpose of operation or supply, of specified devices</i>	10 Mar 1999 (see <i>Gazette</i> 1999, No. GN10)	10 Mar 1999	
<i>Amendment Declaration 2006 No. 1</i>	18 Oct 2006 (see F2006L03389)	19 Oct 2006	—
<i>Amendment Declaration 2009 No. 1</i>	27 Jan 2009 (see F2009L00169)	28 Jan 2009	—

Table of Amendments

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ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Title	am. 2006 No. 1
Notice	am. 2006 No. 1; 2009 No. 1
Reasons for declaration	am. 2006 No. 1; 2009 No. 1