Commonwealth Coat of Arms

Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008

as amended

made under section 182 of the

*Radiocommunications Act 1992*

**Compilation start date:** 1 March 2013

**Includes amendments up to:** *Radiocommunications Labelling (Electromagnetic Compatibility) Amendment Notice 2013 (No. 1)*

**About this compilation**

**The compiled instrument**

This is a compilation of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008* as amended and in force on 1 March 2013. It includes any amendment affecting the compiled instrument to that date.

This compilation was prepared on 1 March 2013.

The notes at the end of this compilation (the ***endnotes***) include information about amending Acts and instruments and the amendment history of each amended provision.

**Uncommenced provisions and amendments**

If a provision of the compiled instrument is affected by an uncommenced amendment, the text of the uncommenced amendment is set out in the endnotes.

**Application, saving and transitional provisions for amendments**

If the operation of an amendment is affected by an application, saving or transitional provision, the provision is set out in the endnotes.

**Modifications**

If a provision of the compiled instrument is affected by a textual modification that is in force, the text of the modifying provision is set out in the endnotes.

**Provisions ceasing to have effect**

If a provision of the compiled instrument has expired or otherwise ceased to have effect in accordance with a provision of the instrument, details of the provision are set out in the endnotes.

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Part 1—Preliminary

1.1 Name of Notice

This Notice is the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*.

Note: The predecessor to this Notice was the *Radiocommunications (Compliance Labelling—Incidental Emissions) Notice 2001*, which is revoked by section 1.3 of this Notice.

1.2 Commencement

This Notice commences on the day after it is registered.

1.3 Revocation

The *Radiocommunications (Compliance Labelling—Incidental Emissions) Notice 2001*, made on 2 November 2001, is revoked.

1.4 Definitions

In this Notice:

***accredited***, in relation to a test report, means a report that was produced by the following process:

(a) the test was conducted by an accredited testing body;

(b) the test was conducted against an applicable standard;

(c) at the time the test was conducted, the applicable standard was within the terms of the accredited testing body’s accreditation, designation, notification or recognition.

***accredited testing body*** means a laboratory:

(a) that is a testing body; and

(b) that is:

(i) accredited by NATA to conduct testing against an applicable standard; or

(ii) accredited, by a body that has entered into a mutual recognition agreement with NATA, to conduct testing against an applicable standard; or

(iii) designated, notified or recognised, under an agreement about mutual recognition on conformity assessment to which Australia is a party, to conduct testing against an applicable standard.

***Act*** means the *Radiocommunications Act 1992*.

***agent***, of a manufacturer or importer, means a person who is authorised in writing by the manufacturer or importer to act in Australia as an agent of the manufacturer or importer for Division 7 of Part 4.1 of the Act.

***applicable standard***, in relation to a device, means any of the following standards insofar as those standards relate to interference to radiocommunications or to any uses or functions of devices:

(a) a standard referenced for the device in the *Radiocommunications (Electromagnetic Compatibility) Standard 2008*;

(b) a standard mentioned in the table in Schedule 1.

Note: The list of applicable standards may be found at the website address http://www.acma.gov.au/standards/emc.

***AS/NZS***, in relation to the prefix of a document, has the meaning given by subsection 1.8(1).

***AS/NZS 4417.1*** means the Australian/New Zealand Standard *Marking of electrical and electronic products to indicate compliance with regulations—Part 1: General rules for use of the mark*published by Standards Australia.

***authorised officer*** means:

(a) an inspector under subsection 267(1) of the Act; or

(b) a person authorised in writing by ACMA for this Notice.

***battery‑powered device*** means a device that is not capable of being connected, directly or indirectly, to an external power supply.

***built‑in display***, for a device, means an electronic display or screen integral to the device, and does not include a display or screen that can be used independently of the device.

***CISPR***, in relation to the prefix of a document, has the meaning given by subsection 1.8(3).

***competent body***means a body accredited by NATA under subsection 183(3) of the Act.

***compliance label*** means a label that complies with the requirements mentioned in Part 3.

Note: Section 2.4 extends some references to ‘compliance label’ in this Notice to include a compliance label under the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*.

***compliance mark*** means any of the marks mentioned in Schedule 3.

***compliance records*** has the meaning given by section 1.5.

***C‑Tick mark*** means the mark set out in Part 1 of Schedule 3.

***declaration of conformity*** means a declaration that:

(a) is in a form approved by the ACMA; or

(b) contains the information required in that approved form, whether or not the declaration is accompanied by other material.

Note: The ACMA makes approved forms available on its website at www.acma.gov.au/complianceforms.

***description of the device*** has the meaning given by section 1.6.

***device*** has the meaning given by subsection 9(1) of the Act.

***device that complies with New Zealand labelling legislation*** has the meaning given by section 1.7.

***EN***, in relation to the prefix of a document, has the meaning given by subsection 1.8(4).

***fixed installation*** means a particular combination of 1 or more devices that is assembled, installed and intended to be used permanently at a predetermined location.

***high risk device*** means a device described as ‘Group 2 ISM equipment’ in AS/NZS CISPR 11:2004 (2nd Edition).

***IEC***, in relation to the prefix of a document, has the meaning given by subsection 1.8(2).

***low risk device*** means a device that is neither:

(a) a medium risk device; nor

(b) a high risk device.

***medium risk device*** has the meaning given by section 1.6A.

***NATA*** means the National Association of Testing Authorities, Australia.

***national database*** means a database designated in writing by the ACMA for the purposes of Part 4.

Note: A database may be designated by the ACMA for the purposes of Part 4 even if it forms part of another database or also serves purposes other than purposes provided for in this Notice.

***New Zealand labelling legislation*** means:

(a) the *Radiocommunications (EMC Standards) Notice 2004 (No. 2)* of New Zealand; and

(b) the *Radiocommunications (Radio Standards) Notice 2007* of New Zealand;

as in force from time to time.

***RCM*** means the Regulatory Compliance Mark set out in Part 2 of Schedule 3.

***supplier***, in relation to a device, means a person in Australia who is:

(a) the manufacturer or the importer of the device; or

(b) an agent of the manufacturer or importer of the device.

***supplier code number*** means a code number issued to a person:

(a) in accordance with a notice made by ACMA under section 407 of the *Telecommunications Act 1997*; or

(b) in accordance with a notice made by ACMA under section 182 of the Act; or

(c) by Standards Australia International Limited, in accordance with AS/NZS 4417.1.

***technical construction file*** means documentary material in English that includes a report produced by a competent body assessing a device against the requirements of an applicable standard, in which the report:

(a) identifies the device assessed; and

(b) identifies the applicable standard against which the device was assessed; and

(c) includes a statement by the competent body stating that, in the opinion of the competent body, the device complies with the applicable standard.

***test report*** means a report in English produced by a testing body or an accredited testing body assessing a device against the requirements of an applicable standard, that:

(a) identifies the device tested; and

(b) identifies the applicable standard against which the assessment was made; and

(c) includes a statement by the testing body or accredited testing body stating that the device complies with each relevant requirement of the applicable standard.

***testing body*** means a laboratory that has the equipment, resources and technical capability to conduct testing to an applicable standard.

***variant*** means a version of a device that is not identical to the original device but is not sufficiently different from the original device to affect the application to that version of a standard that applies to the original device.

***working day***, in relation to a request, means a day other than:

(a) a Saturday or a Sunday; or

(b) a day that is a public holiday or an Australian Public Service holiday in the place where the request is made.

1.5 Meaning of compliance records

In this Notice, the ***compliance records*** for a kind of device are mentioned in the table.

| **Item** | **For this device ...** | **these are the compliance records ...** |
| --- | --- | --- |
| 1 | a device other than a low risk device or a variant | (a) a description of the device; and  (b) a declaration of conformity; and  (c) a test report or a technical construction file; and  (d) for a device to which a compliance label is not applied because of section 3.6—the records mentioned in subsection 3.6(3); and  (e) a copy of any explanatory documentation required by section 3.7 |
| 2 | a low risk device that has not been labelled or has been labelled otherwise than as required or provided for by this Notice | a description of the device |
| 3 | a low risk device that has been labelled as required or provided for by this Notice | (a) a description of the device; and  (b) a declaration of conformity |
| 4 | a variant of a device other than a low risk device | (a) a description of the variant; and  (b) a declaration of conformity that relates to the variant; and  (c) a test report or a technical construction file for the original device; and  (d) for a device to which a compliance label is not applied because of section 3.6—the records mentioned in subsection 3.6(3); and  (e) a statement by the supplier about the variant that is mentioned in subsection 4.7(2) |
| 5 | a variant of a low risk device that has not been labelled or has been labelled otherwise than as required or provided for by this Notice | a description of the variant |
| 6 | a variant of a low risk device that has been labelled as required or provided for by this Notice | (a) a description of the variant; and  (b) a declaration of conformity that relates to the variant |

Note: Items 3 and 6 of the above table do not apply to a device if that device is labelled solely to comply with State or Territory electrical safety legislation and is not required to bear a compliance label by this Notice.

1.6 Meaning of *description of the device*

In this Notice, a ***description of the device*** must contain sufficient information for a person to determine whether the device is the same as a device for which a declaration of conformity, test report or statement by a competent body was prepared, and:

(a) must include the model number for the device and, if relevant, any related model numbers for the device; and

(b) must include the version of any software or firmware incorporated into or supplied with the device where changes in that software or firmware may affect compliance with the applicable standard; and

(c) may include a photograph, or photographs, of the device showing the device’s internal and external aspects (including the printed circuit boards).

1.6A Meaning of *medium risk device*

(1) In this Notice, subject to subsection (2), a device is a ***medium risk device*** if it is not a high risk device and contains 1 or more of the following:

(a) a switch mode power supply;

(b) a transistor switching circuit;

(c) a microprocessor;

(d) a commutator;

(e) a slip‑ring motor;

(f) an electronic device operating in a switching mode or a non‑linear mode.

(2) A battery‑powered device is not a medium risk device unless the ACMA has declared the device to be a medium risk device under subsection (3).

(3) The ACMA may declare, in writing, that a particular battery‑powered device specified in the declaration is a medium risk device if:

(a) the common operation of the device causes radio emissions; and

(b) those radio emissions have caused, or are likely to cause, interference, disruption or disturbance to other devices or to radiocommunications services; and

(c) the device is not a high risk device.

(4) A declaration under subsection (3) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

1.7 Meaning of *device that complies with New Zealand labelling legislation*

In this Notice, a ***device that complies with New Zealand labelling legislation*** is a device that bears a New Zealand compliance mark in accordance with the New Zealand labelling legislation.

1.8 Other interpretation

(1) A reference in this Notice to a document with the prefix ‘AS/NZS’ is a reference to a document that is a joint Australian and New Zealand Standard approved for publication on behalf of the Standards organisations of those countries.

(2) A reference in this Notice to a document with the prefix ‘IEC’ is a reference to a document that is an International Electrotechnical Commission Standard approved for publication.

(3) A reference in this Notice to a document with the prefix ‘CISPR’ is a reference to a document that is an International Special Committee on Radio Interference Standard approved for publication.

(4) A reference in this Notice to a document with the prefix ‘EN’ is a reference to a document that is a European Committee for Electrotechnical Standardization Standard approved for publication.

(5) Reference may be made in this Notice to a standard mentioned in this section by number alone without inclusion of the edition or year of publication of the standard.

*Examples*

1 AS/NZS 4417.1:1996 may be referred to as AS/NZS 4417.1.

2 CISPR 22:2005 may be referred to as CISPR 22.

Part 2—Application of Notice

2.1 Devices to which this Notice applies

This Notice applies to a device:

(a) that is:

(i) manufactured in Australia; or

(ii) imported into Australia;

for supply in Australia; and

(b) to which an applicable standard applies.

Note: Section 5 of the Act contains the following definition:

***supply*** includes supply (including re‑supply) by way of sale, exchange, lease, hire or hire‑purchase.

2.2 Devices to which this Notice does not apply—general

This Notice does not apply to a device that is mentioned in Schedule 2.

2.3 Devices to which this Notice does not apply—New Zealand devices

Parts 3, 4 and 5 of this Notice do not apply to a device that:

(a) is imported into Australia from New Zealand for supply; and

(b) is a device that complies with New Zealand labelling legislation.

Note 1: The effect of this section is to exempt the devices from the labelling requirements of this Notice.

Note 2: Section 1.7 explains when a device is a device that complies with New Zealand labelling legislation.

2.4 Relationship between this Notice and the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*

If a device to which this Notice applies is also customer equipment or customer cabling to which the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*, as in force from time to time, applies:

(a) the requirements in this Notice are additional to the requirements under that Notice; and

(b) Part 3 of this Notice does not apply in relation to the device; and

(c) a reference in this Notice (except section 1.4) to a compliance label includes a reference to a compliance label under that Notice.

2.5 Relationship between this Notice and the *Radiocommunications* *Devices (Compliance Labelling) Notice 2003*

If a device to which this Notice applies contains a device, or incorporates a device to which the *Radiocommunications Devices (Compliance Labelling) Notice 2003*, as in force from time to time, applies, the requirements in this Notice are additional to the requirements in that Notice.

Note: An effect of section 2.5 is that a compliance mark can only be applied to a device if the device complies with the requirements of this Notice and the *Radiocommunications Devices (Compliance Labelling) Notice 2003*.

2.6 Devices incorporating a radiocommunications transmitter

(1) If a device (a ***parent device***) contains or incorporates a radiocommunications transmitter, the transmitter must be switched off, or placed in an idle state, before the parent device is assessed for compliance against this Notice.

Note: Subsection 7(2) of the Act contains the definition of ***radiocommunications transmitter***.

(2) For the avoidance of doubt, if a parent device contains or incorporates a radiocommunications transmitter, the transmitter need not comply with this Notice.

Part 3—Form and placement of compliance labels

3.1 Compliance labels

Requirement for devices (other than low risk devices) to bear compliance label

(1) If an applicable standard applies to a device that is not a low risk device, and the device complies with the standard, the device must bear a compliance label, consisting of either:

(a) the RCM; or

(b) if the label is applied before 1 March 2016—either of the compliance marks.

Note 1: The effect of section 4.2 is that a supplier must not apply a compliance label, consisting of the RCM to a device unless:

(a) the supplier is registered on the national database; or

(b) if the ACMA has not designated in writing a national database for the purposes of Part 4—the supplier has been issued a supplier code number.

Note 2: The effect of section 4.2B is that a supplier must not apply a compliance label, consisting of the C‑Tick mark to a device unless the supplier has been issued a supplier code number by the ACMA. In accordance with section 4.2C, the ACMA will cease issuing supplier code numbers at the time the ACMA designates in writing a national database.

Note 3: The effect of section 2.3 is to exempt a device that:

(a) is imported into Australia from New Zealand for supply; and

(b) bears a New Zealand compliance mark that complies with New Zealand labelling legislation,

from the requirement for the device to bear a compliance label.

Note 4: Section 3.2 deals with the relationship between low risk devices and the labelling obligations. Suppliers must meet the same compliance level and record‑keeping obligations in relation to low risk devices even if a compliance label has not been applied to the device.

Note 5: A device that does not comply with an applicable standard is defined by subsection 9(2) of the Act to be a non‑standard device, and is regulated under Division 2 of Part 4.1 of the Act.

Note 6: Paragraph 2.4(b) provides that Part 3 of this Notice does not apply in relation to a device to which the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* applies. Consequently, a device that is to be labelled with an A‑Tick mark under the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* before 1 March 2016 is not required to be labelled with a compliance mark under this Notice.

Location of compliance label

(2) Subject to sections 3.6 and 3.6A, the compliance label must be placed on the device on a place that is accessible by the user.

Note: Section 3.6 deals with situations where applying a label to the surface of a device is not possible or practicable. Section 3.6A gives a supplier the option of labelling some types of devices electronically.

(3) A label is not accessible if it is necessary to use a specialised tool to gain access to it.

3.2 Compliance labels for low risk devices

(1) The supplier of a low risk device may choose whether or not to apply a compliance label to the device.

Note: Section 4.2 applies to a supplier that chooses to apply a compliance label to a low risk device.

(2) A low risk device must comply with an applicable standard that is applicable to it, whether or not it has a compliance label applied to it.

(3) If a supplier chooses not to apply a compliance label to a low risk device then, for the application of the following provisions of this Notice, the low risk device is taken to have a compliance label applied to it:

(a) section 3.7;

(b) Part 4 (other than section 4.3A);

(c) Part 5.

Note: The effect of applying these provisions to a low risk device is to require the supplier to comply with record‑keeping obligations, whether or not the low risk device has a compliance label applied to it.

3.3 Who must apply a compliance label to a device?

(1) If a device that is required to have a compliance label attached is manufactured in Australia, the compliance label must be applied to the device by:

(a) the manufacturer; or

(b) an agent of the manufacturer; or

(c) a person who is authorised by the manufacturer or agent to apply the label or mark on behalf of the manufacturer or agent.

(2) If a device that is required to have a compliance label attached is manufactured outside Australia, the compliance label must be applied to the device by:

(a) the importer; or

(b) an agent of the importer; or

(c) a person who is authorised by the importer or agent to apply the label or mark on behalf of the importer or agent.

3.4 Durability of compliance label

(1) A compliance label must be durable.

(2) A compliance label must be applied to a device:

(a) permanently; or

(b) in a way that makes removal or obliteration difficult.

3.5 Format of compliance label

A compliance mark must be at least 3 mm high.

Note: This Notice does not prevent a supplier from applying its own additional supplier identification details onto a device.

3.6 Placement of compliance label

(1) If it is not possible to apply a compliance label to the surface of a device because of the size or physical nature of the device, or it is not practical to apply a compliance label to the surface of a device, the compliance label must be applied to:

(a) the external surface of the packaging used for the device; and

(b) the documentation (including any warranty or guarantee certificates) that accompanies the device when it is supplied to the user.

(2) The compliance label applied to the external surface of the packaging used for the device must:

(a) occupy an area that is greater than 1% of that external surface; and

(b) be clearly visible.

(3) The supplier must make and keep a record of:

(a) the reasons why subsection (1) applies to the device; and

(b) where each compliance label is applied.

3.6A Electronic labelling

(1) A supplier may apply a compliance label to a device using the built‑in display of the device.

(2) The supplier must ensure that the documentation that accompanies the device when it is supplied to the user sets out a method for displaying the compliance label.

(3) The compliance label must be applied to the device in a way that would make it difficult to prevent the display of the label when the method set out in the documentation is used.

(4) Subsection 3.1(2) and sections 3.4 and 3.6 do not apply to a label applied under this section.

3.7 Explanatory documentation to be supplied with a device

If it is possible for a device to be installed or operated incorrectly, to the extent that the device will be used in a way that the device does not comply with an applicable standard for the device, the supplier of the device must supply documentation with the device that sets out specifications for correct installation and operation to minimise that possibility.

*Example*

If a variable speed drive was fitted with a 1.2 m cable from the controller to the motor when it was tested and shown compliant, the instructions must specify that the same type and length of cable must be used when installed, unless testing was performed with different cables.

Part 4—Conditions for application of compliance label

4.1 Application of Part 4

(1) This Part applies in relation to a device (an ***original device***) to which an applicable standard applies.

(2) Sections 4.3, 4.4, 4.5 and 4.6 do not apply in relation to a variant of an original device if:

(a) the relevant requirements of this Part have been met in relation to the original device; and

(b) the radiofrequency emission characteristics of the variant are not likely to exceed those of the original device.

4.2 Use of RCM subject to registration on national database or issue of supplier code number

A supplier must, before a compliance label, consisting of the RCM is applied to a device, either:

(a) be registered on the national database; or

(b) if the ACMA has not designated in writing a national database for the purposes of this Part—have been issued a supplier code number.

Note: Under section 187 of the Act, a supplier that fails to comply with requirements that must be met before a label has been applied to a device may be subject to a pecuniary penalty.

4.2A Registration on national database

(1) To be registered on the national database a supplier must, using a method which the database indicates is a method for including information on the database, provide:

(a) information identifying the supplier;

(b) the supplier’s address in Australia; and

(c) the name and contact details of a representative of the supplier.

(2) For paragraph (1)(a), information identifying a supplier consists of the supplier’s ABN and 1 of the following pieces of information in relation to the supplier:

(a) if the supplier is a body corporate, the name of the body corporate;

(b) if the supplier is an individual, the name of the individual;

(c) a business name used by the supplier in connection with its business as a supplier and registered as a business name under the *Business Names Registration Act 2011*.

(3) If the information provided by a supplier for inclusion in the national database subsequently changes, the supplier must, within 30 days after the change occurs, update the national database with the changed information using a method which the database indicates is a method for updating information on the database.

(4) In this section:

***ABN*** has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

***representative of the supplier*** means:

(a) an employee of the supplier;

(b) an officer of the supplier; or

(c) a person authorised in writing for the purposes of this section by the supplier or an employee or officer of the supplier.

***officer of the supplier*** means:

(a) if the supplier is a corporation for the purposes of the *Corporations Act 2001*, an officer of a corporation as that term is defined in section 9 of the *Corporations Act 2001*; or

(b) if the supplier is an entity that is neither an individual nor a corporation for the purposes of the *Corporations Act 2001*, an officer of that entity as defined in section 9 of the *Corporations Act 2001*.

Note 1: The requirement for a supplier to update the information provided by it for inclusion in the national database imposed under subsection 4.2A(3) is an ongoing requirement. Under section 187A of the Act, a supplier that fails to comply with a specific requirement that must be met after a label has been applied to a device may be subject to a pecuniary penalty.

Note 2: Information provided by a supplier for inclusion on the national database for the purposes of this Notice will be made publicly available.

4.2B Use of C‑Tick mark

A supplier must not apply a compliance label, consisting of the C‑Tick mark to a device unless the supplier has been issued a supplier code number by the ACMA.

4.2C Issue of supplier code number

(1) This section applies unless the ACMA has designated in writing a national database for the purposes of Part 4.

(2) A supplier may apply in writing to the ACMA for a supplier code number.

(3) The application must be in a form approved by the ACMA.

Note: The ACMA makes approved forms available on its website.

(4) Upon such application being made, the ACMA may issue to the supplier a supplier code number.

4.3 Meeting compliance levels

If an applicable standard applies to a device, the supplier must, before a compliance label is applied (or is taken to be applied by section 3.2):

(a) prepare a description of the device; and

(b) meet the relevant compliance level for the device (being the requirements set out in section 4.4, 4.5 or 4.6).

4.3A Declaration of conformity

(1) Despite section 3.2, if a supplier applies a compliance label to a device, the supplier must complete and sign a declaration of conformity in relation to the device.

(2) If the device:

(a) is a low risk device or a medium risk device; and

(b) is manufactured outside Australia;

the supplier is taken to have complied with subsection (1) if the declaration of conformity is completed and signed by the manufacturer of the device.

(3) Subsection (2) does not affect:

(a) the other obligations of the supplier under this Notice; or

(b) the liability of the supplier under Part 4.1 of the Act.

4.4 Compliance level 1—low risk device

There are no additional requirements for a low risk device that complies with an applicable standard.

4.5 Compliance level 2—medium risk device

For a medium risk device, the supplier must establish that the device complies with an applicable standard by:

(a) obtaining a test report from a testing body; or

(b) obtaining a technical construction file.

4.6 Compliance level 3—high risk device

For a high risk device, the supplier must establish that the device complies with an applicable standard by:

(a) obtaining an accredited test report from an accredited testing body; or

(b) obtaining a technical construction file.

4.7 Additional requirements for variants

(1) This section applies to a variant of a device.

(2) The supplier must prepare a written statement for inclusion in the compliance record that:

(a) identifies the device and its variant; and

(b) describes the differences between the original device and its variant; and

(c) provides a technical rationale for the conformity of the variant; and

(d) includes a declaration of conformity for the variant.

(3) A variant is not required to be assessed at a compliance level if the original device already complies with section 4.3 at that compliance level.

Part 5—Compliance records

5.1 Compliance records—general requirements

(1) A compliance record:

(a) must be in English; and

(b) may be a copy of an original record; and

(c) may be kept in electronic form.

(2) The description of a device must be updated when necessary to ensure that the description complies with section 1.6.

(3) If an agent of a manufacturer or importer keeps compliance records for the manufacturer or importer under this Part, the agent must also keep a copy of its agency agreement with the manufacturer or importer for the same period as the compliance records are kept.

5.2 Keeping records

(1) The supplier of a device to which a compliance label is applied must keep all compliance records for the device for 5 years after the kind of device ceases to be supplied in Australia.

(2) The supplier of a low risk device who decides not to apply a compliance label to the device must keep all compliance records for the device for 5 years after the kind of device ceases to be supplied in Australia.

5.3 Availability of compliance records for inspection

The supplier of a device must ensure that the compliance records for the device are available for inspection within 10 working days of receiving a notice of intent to inspect the records from an authorised officer.

5.4 Provision of information to authorised officer

(1) An authorised officer may, in writing, request the supplier of a device who keeps compliance records in accordance with section 5.2 to give to the officer specified compliance records for the device.

(2) If the request is for a specified record, the supplier must produce the record within 10 working days after the date of the request.

(3) If the request is for a specified circuit diagram or manual for the device, the supplier must produce the document within 30 working days after the date of the request.

(4) After receiving the information from the supplier, the authorised officer must give the supplier a receipt for the information supplied.

(5) The authorised officer must return any original document given to the authorised officer under subsection (1) to the supplier as soon as practicable and, in any case, not more than 60 days after receiving the document.

5.5 Request for test reports from accredited testing body

If an authorised officer believes that the records kept by a supplier do not provide sufficient evidence that the device complies with an applicable standard, the officer may, by written notice, request the supplier to:

(a) obtain 3 or more samples of the device and have the samples tested, in Australia, by an accredited testing body to the applicable standard or a specified part of the applicable standard at the supplier’s expense; and

(b) provide to an authorised officer, within the period specified in the notice, certified true copies of the accredited test report for each sample from the accredited testing body showing that the device complies with the applicable standard or the specified part of the applicable standard.

5.6 Evidence of compliance with applicable standard under section 5.5

In order for an authorised officer to consider that the device as supplied complies with the applicable standard, the following criteria for demonstrating compliance must be met:

(a) if 3 or 4 samples were tested—all samples must be compliant according to the test reports supplied under section 5.5;

(b) if more than 4 samples were tested—at least 80% of the samples tested must be compliant according to the test reports supplied under section 5.5.

Part 6—Special requirements for supply of devices after changes to applicable standard or this Notice

6.1 Devices labelled with a compliance label before this Notice

(1) This section applies to a device if:

(a) a device complied with an applicable standard prior to the commencement of this Notice; and

(b) the label that was applied to the device shows that the device complied with the applicable standard when it was first manufactured or imported.

(2) For a device to which this section applies, the supplier:

(a) is not required to demonstrate whether the device complies with the applicable standard; and

(b) is taken to have complied with Part 3 in relation to the device, and may continue to label the device; and

(c) is taken to have complied with Part 4 in relation to the applicable standard.

6.2 Changes to an applicable standard

(1) This section applies to a device if:

(a) the device complied with an applicable standard immediately before the applicable standard was amended or replaced; and

(b) the label that was applied to the device shows that the device complied with the applicable standard when it was first manufactured or imported.

(2) If the applicable standard is amended on or after the day on which the device was first manufactured or imported, the supplier:

(a) is not required to demonstrate whether the device complies with the applicable standard as amended; and

(b) is taken to have complied with Part 3 in relation to the device, and may continue to label the device; and

(c) is taken to have complied with Part 4 in relation to the applicable standard as amended.

(3) If a standard (the new standard) becomes an applicable standard on or after the day on which the device was first manufactured or imported, the supplier:

(a) is not required to demonstrate whether the device complies with the new standard; and

(b) is taken to have complied with Part 3 in relation to the device, and may continue to label the device; and

(c) is taken to have complied with Part 4 in relation to the new standard.

6.3 Transitional—devices to which IEC, CISPR or AS/NZS standards apply

(1) This section applies to a device if:

(a) any of the IEC, CISPR or AS/NZS standards (the ***old standard***) is the applicable standard for the device; and

(b) the applicable old standard is amended or replaced by a new standard before the day on which a device was first manufactured or imported.

(2) For a device to which this section applies, the supplier of a device mentioned in subsection (1) may, for a device supplied within a period of 2 years after the old standard is amended or replaced, choose that the applicable standard for this Notice is:

(a) the old standard; or

(b) the new or amended standard.

6.4 Transitional—devices to which EN standard applies

(1) This section applies to a device if:

(a) an EN standard (the ***old EN standard***) is the applicable standard for the device; and

(b) the old EN standard is amended or replaced by a new EN standard before the day on which a device was first manufactured or imported.

(2) For a device to which this section applies, the supplier of a device mentioned in subsection (1) may, for a device supplied within the Official Journal period after the old EN standard is amended or replaced, choose that the applicable standard for this Notice is:

(a) the old EN standard; or

(b) the new or amended EN standard.

(3) In this section:

***Official Journal period*** means the period:

(a) commencing on the day the old EN standard is amended or replaced; and

(b) ending on the date of cessation of presumption of conformity mentioned from time to time in the Official Journal of the European Union for the old EN standard.

Part 7—Requirements to be met after labels applied—devices imported from New Zealand

7.1 Purpose of Part 7

This Part provides ways for ACMA to investigate devices labelled under New Zealand labelling legislation and imported into Australia.

Note: Section 1.7 explains when a device complies with New Zealand labelling legislation.

7.2 Provision of information to authorised officer

(1) An authorised officer may, by notice in writing, require the importer of a device imported from New Zealand, to give to the officer, within 10 working days after the notice is given, specified records that show that the device complies with New Zealand labelling legislation.

(2) If an authorised officer believes that the records provided by the importer do not provide sufficient evidence that the device complies with New Zealand labelling legislation, the officer may request in writing that the Radio Spectrum Management (RSM) of the Ministry of Economic Development, New Zealand investigate whether the device complies with New Zealand labelling legislation.

(3) Section 2.3 does not apply to the device if RSM:

(a) states that the device does not comply with New Zealand labelling legislation; or

(b) does not respond within 60 days of the request mentioned in subsection (2).

Schedule 1—Technical standards

(section 1.4, definition of ***applicable standard***)

EMC Standards

|  |  |
| --- | --- |
| Item | EMC Standard |
| 1 | *Radiocommunications (Electromagnetic Compatibility) Standard 2008* |

Schedule 2—Devices to which this Notice does not apply

(section 2.2)

Note: There is no item 1.

2 A device that complies with a radio emission standard that applies to the device under a law of the Commonwealth (except for this Notice) or of a State or Territory

Note: This includes a device that is compliant with the EMC requirements specified by the Therapeutic Goods Administration under the *Therapeutic Goods Act 1989*.

3 A device that is a prototype

4 A device used in military equipment or weapons systems of the Defence Force or by the defence force of another country operating in cooperation with the Defence Force

5 A device with a power consumption not exceeding 1 milliwatt

6 A device that is designed or adapted for conducting a test, measurement or study of electromagnetic phenomena in an educational, training or research establishment

7 A spare part that has:

(a) identical specifications to the device it is to replace; or

(b) the same radiofrequency emission characteristics as that device

8 A component, except a component that is an assembly of components that forms part of a finished device

9 A device that is for incorporation into another device and is not to be supplied to an end‑user

10 A device that is used for exhibition or demonstration, if it is the sole example of the device used for that purpose

11 A fixed installation

Note: Despite item 11, section 197 of the Act prohibits a person from knowingly or recklessly causing substantial interference to radiocommunications.

12 A device that is designed for and operates from an electrical supply of greater than 600 volts AC or 1000 volts DC

13 A vehicle or machine that:

(a) is supplied by an organisation that is a member of:

(i) the Construction and Mining Equipment Industry Group (CMEIG); or

(ii) the Federal Chamber of Automotive Industries (FCAI); or

(iii) the Tractor and Machinery Association (TMA); or

(iv) the Truck Industry Council (TIC); and

(b) is compliant with all broadband and narrowband emission standards and requirements as specified in:

(i) the CMEIG/TMA code, ‘Voluntary Code of Practice for Electromagnetic Compatibility (EMC) of Machinery’; or

(ii) the FCAI code, ‘Voluntary Code of Practice for Electromagnetic Compatibility (EMC) of Motor Vehicles’; or

(iii) the TIC code, ‘Voluntary Code of Practice for Electromagnetic Compatibility (EMC)’.

14 This Notice does not apply to a device that is used solely for law enforcement activities by any of the following agencies:

(a) the Australian Federal Police;

(b) a police force or service of a State or Territory;

(c) the National Crime Authority;

(d) the New South Wales Crime Commission;

(e) the Independent Commission Against Corruption of New South Wales;

(f) the Criminal Justice Commission of Queensland;

(g) a criminal law enforcement authority established by or under a law of the Commonwealth, a State or Territory;

(h) a body or organisation responsible to the Australasian Police Ministers’ Council for the facilitation of national law enforcement support

Note 1: Subsection 24(1) and section 25 of the Act provide for exemptions for specified Defence Force activities from the operation of the Act. Section 26 of the Act and regulation 6 of the *Radiocommunications Regulations 1993* provide for exemptions for specified Defence Force activities from the operation of Parts 3.1, 4.1 and 4.2 of the Act.

Note 2: Subsection 24(2) of the Act provides for exemptions for the Australian Secret Intelligence Service and the Australian Security Intelligence Organisation from the operation of the Act.

15 A personal computer that is assembled in Australia and is assembled from components that are individually compliant with the requirements specified in:

(a) this Notice; and

(b) if the component is intended for connection to a telecommunications network, the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* as in force from time to time.

Note: This exemption allows a person who assembles personal computers in Australia from compliant and labelled parts to supply such personal computers without the necessity to comply with this Notice.

Schedule 3—Compliance marks

(section 1.4, definition of ***compliance mark***)

Part 1—The C‑Tick mark



Note: The C‑Tick mark is a protected symbol for section 188A of the Act.

Part 2—The RCM



Note: The RCM is a protected symbol for section 188A of the Act. The RCM is a trademark owned by Australian and New Zealand Regulators.

Endnotes

Endnote 1—Legislation history

This endnote sets out details of the legislation history of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008.*

| **Title** | **Gazettal or FRLI registration date** | **Commencement date** | **Application, saving and transitional provisions** |
| --- | --- | --- | --- |
| Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008 | 1 Feb 2008 (*see* F2008L00262) | 2 Feb 2008 |  |
| Radiocommunications Labelling (Electromagnetic Compatibility) Amendment Notice 2009 (No. 1) | 16 Nov 2009 (*see* F2009L04211) | 17 Nov 2009 | — |
| Radiocommunications Labelling (Electromagnetic Compatibility) Amendment Notice 2010 (No. 1) | 29 Mar 2010 (*see* F2010L00763) | 31 Mar 2010 | — |
| Radiocommunications Labelling (Electromagnetic Compatibility) Amendment Notice 2013 (No. 1) | 23 Jan 2013 (*see* F2013L00084) | 1 Mar 2013 | — |

Endnote 2—Amendment history

This endnote sets out the amendment history of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008.*

| ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted exp. = expired or ceased to have effect | |
| --- | --- |
| **Provision affected** | **How affected** |
| **Part 1** |  |
| s. 1.4 | am. 2009 No. 1; 2010 No. 1; 2013 No. 1 |
| s. 1.5 | am. 2009 No. 1; 2010 No. 1; 2013 No. 1 |
| Note to s. 1.5 | ad. 2013 No. 1 |
| s. 1.6A | ad. 2009 No. 1 |
| Note to s. 1.7 | rep. 2009 No. 1 |
| **Part 2** |  |
| Note to s. 2.4 | rep. 2013 No. 1 |
| s. 2.5 | ad. 2009 No. 1 |
| Note to s. 2.5 | rs. 2013 No. 1 |
| s. 2.6 | ad. 2009 No. 1 |
| **Part 3** |  |
| Heading to Part 3 | rs. 2013 No. 1 |
| s. 3.1 | am. 2010 No. 1 |
|  | rs. 2013 No. 1 |
| s. 3.2 | am. 2009 No. 1 |
| Note to s. 3.2(1) | ad. 2009 No. 1 |
| s. 3.4 | rs. 2010 No. 1 |
| s. 3.5 | am. 2010 No. 1 |
|  | rs. 2013 No. 1 |
| s. 3.6 | rs. 2010 No. 1 |
| s. 3.6A | ad. 2010 No. 1 |
|  | am. 2013 No. 1 |
| **Part 4** |  |
| Heading to Part 4 | rs. 2013 No. 1 |
| s. 4.1 | am. 2013 No. 1 |
| s. 4.2 | am. 2010 No. 1 |
|  | rs. 2013 No. 1 |
| s. 4.2A | ad. 2013 No. 1 |
| s. 4.2B | ad. 2013 No. 1 |
| s. 4.2C | ad. 2013 No. 1 |
| s. 4.3A | ad. 2009 No. 1 |
| **Schedule 2** |  |
| Schedule 2 | am. 2009 No. 1 |
| **Schedule 3** |  |
| Schedule 3 | am. 2013 No. 1 |
| Schedule 4 | rep. 2010 No. 1 |
| Schedule 5 | rep. 2010 No. 1 |

Endnote 3—Application, saving and transitional provisions

This endnote sets out applications, saving and transitional provisions for amendments of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008.*

There are no application, saving or transitional provisions.

Endnote 4—Uncommenced amendments

This endnote sets out amendments of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008* that have not yet commenced.

There are no uncommenced amendments.

Endnote 5—Misdescribed amendments

This endnote sets out amendments of the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008* that have been misdescribed.

There are no misdescribed amendments.