EXPLANATORY STATEMENT

Issued by Authority of the Australian Communications and Media Authority

RADIOCOMMUNICATIONS LABELLING (ELECTROMAGNETIC COMPATIBILITY) NOTICE 2008

This instrument is the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*. It is made under section 182 of the *Radiocommunications Act 1992* ("the Act").

Purpose and Operation

Subsection 182(1) of the Act provides that the Australian Communications and Media Authority ("ACMA") may by notice require any person who manufactures or imports a device included in a specified class of devices to apply a label to the device indicating whether the device complies with standards mandated by ACMA under section 162 of the Act.

On 24 January 2008 ACMA made the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008* ("the Notice").

The Notice and the *Radiocommunications (Electromagnetic Compatibility) Standard 2008* ("the EMC Standard") operate together to specify the Australian regulatory arrangements for electromagnetic compatibility.

A notice made under section 182 of the Act is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Legislative Background

ACMA has responsibility for the regulation of customer equipment, customer cabling and specified devices in Australia under the *Telecommunications Act 1997* and the *Radiocommunications Act 1992*. These regimes cover aspects of devices related to the telecommunications, radiocommunications and electromagnetic compatibility functions of the device. In a number of cases suppliers will be providing equipment that is subject to more than one of the current regulatory regimes.

The EMC arrangement through its mandatory standards introduces protection levels from unintended emissions of electromagnetic energy for the protection of radiocommunications services and contributes to Australia's international trade arrangements through the adoption of internationally recognised standards

The Notice replaces the *Radiocommunications (Compliance Labelling – Incidental Emissions) Notice 2001* which commenced on 2 November 2001. As part of the redrafting of the Notice, the name of the Notice has been changed to more clearly represent its purpose. The format of the Notice has also been changed to more closely match the Notices of the other compliance regimes administered by ACMA and therefore make the legislation easier to understand for industry.

The Notice reiterates current policies and interpretations, including voluntary labelling of low risk devices and while it does not introduce any significant regulatory changes over the previous notice it does incorporate clarification of:

- the requirements for suppliers to maintain compliance records for equipment that does not bear a compliance label (certain low risk items have a voluntary labelling requirement); and
- those devices that are exempt from the requirements within the Notice (exemptions from the Notice were previously specified in the section 162 Standard and were not referenced within this Notice).

NOTES ON CLAUSES

Part 1 Preliminary

Section 1.1 Name of Notice

Section 1.1 provides the name and citation for the Notice - *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*.

Section 1.2 Commencement

Section 1.2 provides that the Notice commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 1.3 Revocation

Section 1.3 revokes the *Radiocommunications (Compliance Labelling – Incidental Emissions) Notice 2001*.

Section 1.4 Definition

Section 1.4 defines the meaning of terms used throughout the Notice.

In particular:

- The term “accredited”, in relation to a test report, specifies a higher quality report in that the test report, which demonstrates compliance with an applicable standard, must have been produced by an accredited testing body within the terms of its accreditation for the particular standard.
- The term “accredited testing body” means a testing body that has been accredited by
    - NATA;
    - a NATA MRA partner; or
    - an accreditation body recognised under an agreement such as a Mutual Recognition Agreement or Free Trade Agreement between Australia and another Economy;

    as well as having the equipment, resources and technical capability to conduct testing to an applicable standard.
- The term “fixed installation” refers to installations of particular devices at a predetermined location. This is intended to refer to customised equipment that is intended to be installed at a unique location by the supplier. This term refers to a predetermined location rather than a fixed location for consistency with European regulatory arrangements.

- The term “supplier” has been adopted as a shorthand reference to mean the manufacturer or importer of a device, or an agent of the manufacturer or importer of a device. Thus, whenever the term ‘supplier’ is used, it can be taken to be a reference to either a manufacturer, an importer or an agent of that manufacturer or importer. However, the term only refers to a person who is in Australia. This means that obligations placed on suppliers under this Notice, such as the retention of compliance records, must be carried out by persons in Australia.
- The term “applicable standard” is a fundamental concept in this Notice. It refers to a standard (e.g. AS/NZS, CISPR, IEC, EN standard) that is referenced in the EMC Standard in relation to the device. The EMC Standard incorporates by reference the list of standards at http://www.acma.gov.au/standards/emc and sets out rules for determining which standard is an applicable standard that applies to a device. The EMC standard is made under s 162 of the Act and requires that devices comply with an applicable standard.

This Notice applies three different levels of risk for devices - low risk, medium risk and high risk. Low risk devices have a low interference impact on other devices using the radiofrequency spectrum and are assembled from a limited set of components. High risk devices are those which would be described as “Group 2 ISM equipment” in AS/NZS CISPR 11:2004 (2nd Edition) these devices have significant potential to cause interference if not designed to minimise emissions. Medium risk devices are those which are neither high risk devices nor low risk devices, most devices are medium risk devices.

Section 1.5 Meaning of *compliance records*

Section 1.5 specifies the content of the ‘compliance records’ which are the documentary evidence a supplier must hold to prove compliance of a particular device to the requirements of the Notice.

This includes a description of the device, the supplier’s declaration of conformity, test reports or technical construction files demonstrating compliance, and any explanatory documentation required to use the device correctly.

The section also includes requirements for compliance records of variants of a device. A variant is a model that may have differences to the model for which the original compliance records were obtained. Variants can have changes in features which do not significantly effect the electromagnetic performance of the device. If the device is a variant, then the original device’s test report or technical construction file must be included together with a description of why the variant complies with the relevant applicable standard.

Section 1.6 Meaning of *description of the device*

Section 1.6 specifies the minimum information required in the compliance records to accurately describe the device which is to be labelled. Such information may include model numbers, software or firmware versions and photographs or diagrams of the device. The description of the device is important because it enables ACMA to determine whether a particular device is the same as the device for which a declaration of conformity, test report or technical construction file in the compliance records relates.

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

Australia and New Zealand have established closer economic ties under the Trans Tasman Mutual Recognition Agreement (TTMRA). Australia and New Zealand have a common suite of applicable standards and the same regulatory compliance mark for EMC arrangements. To a large extent the Australian and New Zealand arrangements have been harmonised. Under the TTMRA, Australia recognises that devices labelled in accordance with the New Zealand arrangements are deemed to comply with the Australian arrangements. Sections 1.7 and 2.3 work together to implement exemptions for devices labelled under the New Zealand arrangements.

Section 1.7 specifies that devices that are not labelled in accordance with the New Zealand legislation fall outside the definition of "a device that complies with New Zealand labelling legislation" for the purposes of this Notice. This is intended to address some minor exceptions from total harmonisation including:

- A device that is manufactured in New Zealand solely for export to Australia and does not bear a label in accordance with the New Zealand requirements must be labelled in accordance with the Australian requirements.
- A device that is a battery operated device that is exempt from labelling under the New Zealand labelling legislation is not exempt in Australia.
- A device that is exempted from the New Zealand labelling legislation because it is supplied in quantities of less than 10 per annum is not exempt in Australia.

Section 1.8 Other interpretation

Section 1.8 provides definitions of several acronyms used in the titles of standards that are referenced in this Notice. In particular, it defines the acronyms referring to joint Australian and New Zealand Standards, International Electrotechnical Commission Standards, International Special Committee on Radio Interference Standards, and European Committee for Electrotechnical Standardization European Standards.

Section 1.8 also states that this Notice may refer to a standard without including the year of the referenced standard. Where such a reference occurs, the reference is to the standard as in force from time to time, this facilitates keeping the arrangements contemporary with current industry practices.

Examples:

- The prefix acronym CISPR indicates standards developed by the Special International Committee on Radio Interference (abbreviated CISPR).
- The technical standard CISPR 22:2005 may be referred as CISPR 22.

Part 2 Application of Notice

Section 2.1 Devices to which this Notice applies

Section 2.1 limits the application of this Notice to devices imported into or manufactured in Australia that will be supplied in Australia and for which there is an applicable standard.

Applicable standards are those standards specified in the associated EMC Standard. This Notice and the EMC Standard operate together to specify the Australian regulatory arrangements for electromagnetic compatibility.

Section 2.2 Devices to which this Notice does not apply – general

Section 2.2 specifies those devices which are exempted from the requirements set out in the Notice.

Examples of exclusions in Schedule 2 are:

- Devices that are subject to other radiocommunications standards that have the same effect of specifying emission levels, such as:
  - medical and therapeutic devices for which emission standards are mandated under the *Therapeutic Goods Act 1989*; and
  - Vehicles that are imported and supplied by members of the Federal Chamber of Automotive Industries (FCAI) or the Trucking Industry Council (TIC) where those vehicles comply with the emission requirements contained in codes imposed by the FCAI or TIC.
- Devices that by their nature emit at extremely low levels and are unlikely to present a risk of interference.
- Devices used for exhibition or demonstration if it is the sole example of the device used for that purpose.
- A personal computer assembled in Australia using only individually compliant and labelled components. Personal computers are exempted because the risk of the personal computer causing an interference problem is mitigated by its assembly from compliant subassemblies.

  Note: A personal computer assembled outside Australia does not meet this exemption, nor does a personal computer assembled in Australia that has components required to be marked that are not marked with a compliance mark.

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

This section works in conjunction with section 1.7 of the Notice. Section 2.3 specifies that devices imported into Australia from New Zealand for supply in Australia, and that bear a label in accordance with the New Zealand labelling legislation, are not subject to the labelling requirements set out in Part 3, 4 and 5 of the Notice.

Devices supplied in Australia that are exempt under Australian arrangements may not have the same exemption when supplied from Australia into New Zealand. Devices supplied in New Zealand that have an exemption under New Zealand legislation do not necessarily have the same exemption when supplied into Australia.

For example, New Zealand exempts from labelling requirements devices supplied in quantities of less than 10. However, if the supplier proposes to supply those devices into Australia they must be labelled as there is no similar exemption under the Australian arrangements.

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

Section 2.4 recognises that the A-Tick regulatory compliance mark mandated for telecommunications customer equipment also serves to indicate that a device complies with the requirements of this Notice. While this does not prevent the supplier from applying both the A-Tick and C-Tick regulatory compliance marks it avoids unnecessary duplication by allowing the supplier to use one rather than two compliance marks.

This section also specifies that if both the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice* 2001 (the TLN) and the EMC Notice apply to a device, the supplier must comply with the requirements in both the TLN and this Notice.

Part 3 Form and placement of labels, marks and information

Part 3 of the Notice specifies requirements regarding the form, application and positioning of compliance labels and the use of compliance marks. The Part also recognises that for certain "low risk" devices, the supplier may choose not to apply a label, but must nevertheless comply with the requirements of the standard and maintain compliance records.

Section 3.1 Compliance labels, compliance information and compliance marks

Section 3.1 specifies the form of a compliance label and the type of information that must appear on a device to indicate the identity of the supplier of the device.

A compliance label comprises two components – compliance information which is sufficient to identify the supplier of the device (specified in section 3.1(2)) and a compliance mark (specified in Schedule 3).

However, this section permits the two components of the compliance label not to be adjacent to each other on the device. This provision recognises that for some suppliers the information identifying the supplier, such as a registered trademark under subsection (g), may already appear on the device and, provided that the identification and mark do not obscure one another, the compliance labelling requirement can be met by applying a compliance mark elsewhere on the device.

It must not be necessary for a person to use a tool to gain access to either part of the compliance label.

Section 3.2 Compliance labels for low risk devices

Section 3.2 applies only to low risk devices. Under this section, suppliers of a low risk device may choose whether or not to apply a compliance label to the low risk device.

However, the decision to apply a compliance label, or not, does not change the supplier's obligations under the Notice including the requirements to maintain compliance records and ensure that the device meets the relevant compliance level. The device must comply with an applicable standard under the EMC Standard whether or not a compliance label is applied.

Section 3.3 Who must apply a compliance label to a device?

Section 3.3 specifies the person who is responsible for ensuring a device is labelled.

Subsection 3.3(1) specifies who may apply or authorise application of labels for devices manufactured within Australia. Subsection 3.3(2) specifies who may apply or authorise application of compliance labels where the device is manufactured outside of Australia. Both subsections permit suppliers to authorise other persons to apply a label or mark to a device on behalf of the supplier.

Authorising agents or persons outside Australia who apply labels or marks do not change the liability of a manufacturer (if the device is manufactured in Australia) or importer (if the device is manufactured overseas) for any breach of the labelling requirements. In addition, the provisions relating to agents have been included to take account of the many commercial arrangements that provide for devices to be labelled by an agent of a manufacturer or importer.

Section 3.4 Durability of compliance information and compliance mark

Section 3.4 specifies that compliance information and compliance marks must be ‘durable’. That is, the compliance information or compliance mark must be attached permanently to the device or attached in such a way that it cannot be easily removed or defaced during normal use of the device. It is important that the compliance information or compliance mark be applied in such a way that the information or mark remains on the device for the life of the device.

Section 3.5 Symbols and characters on compliance label

Section 3.5(1) specifies that compliance information must be legible, and the minimum size for the alphanumeric characters used as part of the labelling.

Subsection 3.5(2) specifies the minimum size of the compliance mark

This information is specified so that persons applying labels cannot make the mark or alphanumeric characters so small as to be illegible. The notice does not address accessibility requirements for the mark as the mark is currently a regulatory mark rather than a consumer mark.

Section 3.6 Placement of compliance label

Section 3.6 provides an exception to subsection 3.1(4) where it is not possible to apply a compliance label to the device that is accessible to a user because of the size or physical nature of the device.

In such a case, subsection 3.6(1) allows that the supplier may place the compliance label on an external surface of the packaging used for the device and the documentation that accompanies the device when it is supplied to the user. This provision recognises the difficulties associated with labelling a device that is imported in packaging that would be destroyed by unpacking in order to apply the compliance label.

Subsection 3.6(2) requires a compliance label applied to external packaging to be of a certain size and readily visible.

Section 3.7 Explanatory documentation to be supplied with a device

Section 3.7 requires suppliers to provide information with a device to prevent end users from operating the device in such a way that the device would not comply with the requirements in the applicable standard to which the device was tested.

This is necessary because it may be possible for a device to be compliant with an applicable standard when used or installed as designed, but then operated or installed in a manner that would make it no longer compliant. In this case documentation should be supplied with a device to detail how to use or install the device and keep it compliant. This is an important issue for devices where compliance is highly dependent upon installation practices.

> Example:
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> A split system air-conditioner featuring a variable speed drive and tested with a cable of 1.2 m from the control unit to the drive, may be non-compliant if installed with a longer installation cable. The purpose of this section is to require the supplier to provide documentation stating that the device will only be compliant if installed with a 1.2 m cable from control unit to the drive. However, if the drive was tested with a sufficiently wide range of cables that it would be very unlikely for the device to be used in a way that would not comply with the standard, documentation under this section would not be necessary.

Part 4 Compliance levels

This Part specifies:

- The documentary evidence that a supplier must maintain in relation to a device to which a compliance label has been applied.
- The compliance levels that a device must meet if an applicable standard applies to the device.
- The requirements that a supplier must meet in order to gain permission to use a regulatory compliance mark specified in Schedule 3.
- A record keeping exemption for a device that is a variant of a device for which a compliance record already exists.

Section 4.1 Application of Part 4

Section 4.1 states that the record keeping requirements apply to devices to which an applicable standard applies. However, it provides an exemption for a device that is a variant of a device for which a compliance record already exists, if the radiofrequency emission characteristics of the variant do not exceed those of the original device. The supplier of a variant must still comply with section 4.7.

This provision recognises that changes to a device (colour, some design features) that have no effect on the electromagnetic performance of the device do not necessitate a retest of the device to an applicable standard.

Section 4.2 Permission to use compliance marks and issue of supplier code number

Compliance marks are protected symbols under the Act. Protected symbols cannot be used for any purpose except in accordance with a labelling notice under section 182 of

the Act or section 407 of the *Telecommunications Act 1997*. This provision notifies suppliers that application of the mark is controlled.

Section 4.2 states that a supplier must not apply a C-Tick mark to a device unless the supplier has permission to use the C-Tick mark and a supplier code number. Under section 188A of the Act, the C-Tick mark is a protected symbol and a supplier must apply for permission to use the mark. In addition, a supplier code number must have been issued by ACMA to the supplier before the first time that the supplier applies the C-Tick mark to a device.

Use of the RCM is covered by Australian Standard AS/NZS 4417.1 and therefore suppliers who wish to use this mark need to comply with the requirements of that standard.

Suppliers who have:

(a) already received permission from ACMA to use a compliance mark (either the A-Tick or C-Tick); and

(b) obtained a supplier code number;

under the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* or the *Radiocommunications Devices (Compliance Labelling) Notice 2003* do not need to apply again and may apply the C-Tick mark to a device.

Section 4.3 Meeting compliance levels

The EMC arrangement recognises that the risk of non-compliance is greater with certain devices than others. This has been incorporated into the Notice by specifying different evidence requirements for proof of compliance, known as compliance levels. There are three compliance levels and they specify requirements for:

- compliance level 1 – a “low risk” device (section 4.4);
- compliance level 2 – a “medium risk” device (section 4.5); and
- compliance level 3 – a “high risk” device (section 4.6).

This ensures that all devices have an appropriate requirement for maintenance of documentary evidence of compliance. The specified documentary requirements are commensurate with the identified level of risk for a device.

Section 4.3 specifies the requirements that a supplier must meet before applying a label to a device. The supplier must prepare a description of the device, meet the relevant compliance level for the device, and complete and sign a declaration of conformity for the device.

Section 4.4 Compliance level 1 – low-risk device

Section 4.4 specifies that there are no additional requirements to those in section 4.3 for a low risk device that complies with the EMC Standard.

Section 4.5 Compliance level 2 – medium risk device

Section 4.5 specifies additional requirements over those specified in section 4.3 for a medium risk device.

The additional requirements for a medium risk device are that the supplier must ensure that the device complies with the EMC Standard. (The EMC Standard requires

that a device complies with an applicable standard.) Compliance is established by the supplier having the device tested against an applicable standard and including in the compliance records for the device:

- a test report from a testing body; or
- a technical construction file.

It is important to note that the definitions of test report and technical construction file require the testing body or accredited testing body to assess the device as complying with the applicable standard.

Section 4.6 Compliance level 3 – high risk device

Section 4.6 sets out the additional requirements for a high risk device. This is the highest compliance level in the Notice.

The potential interference risk is the highest for a high risk device. Therefore the supplier of a high risk device must have the highest level of evidence of compliance with an applicable standard.

The additional requirements for a high risk device are that the supplier must ensure that the device complies with the EMC standard. (The EMC standard requires that a device complies with an applicable standard.) Compliance is established by the supplier having the device tested against an applicable standard and including in the compliance records:

- an accredited test report from a testing body; or
- a technical construction file.

It is important to note that the definitions of test report and technical construction file require accredited testing body or a competent body to make statements that identify that the device complies with the applicable standard.

Section 4.7 Additional requirements for variants

Section 4.7 specifies alternative evidentiary requirements for a device that is a variant of another device (the original device).

If the supplier of the variant has met the requirements of sections 4.3-4.6 for the original device, the supplier need not meet those requirements in relation to the variant. However, the supplier must prepare technical documentation to show that the differences between the original and the variant will not effect the compliance of the variant.

> For example:
>
> If the original device met the requirements for compliance level 2 and the supplier had technical documentation to show that the variant has no more emissions than the original device and the variant is the same compliance level, the supplier does not need to keep complete compliance documentation for the variant.
>
> In this case the compliance documentation for the variant would be a copy of the compliance documentation for the original device, plus a written statement that:
>
> - identifies the original device and the variant;
> - describes the differences between the original device and the variant; and
> - provides a technical rationale for the conformity of the variant.
>
> If the variant is a higher compliance level than the original device, it will need to be assessed at the higher compliance level.

Part 5 Compliance records

Compliance records should contain all the information needed to identify a device for which a declaration of conformity has been signed and to demonstrate that a supplier has a level of confidence that a device complies with the mandatory requirements in a standard.

Section 5.1 Compliance records – general requirements

Section 5.1 sets out general requirements for the compliance records (as defined under section 1.5).

Subsection 5.1(1) requires that compliance records be in English and allows the supplier to use reproductions of an original record and to keep the compliance records in electronic form.

Subsection 5.1(2) requires the supplier to update the 'description of the device' (as defined under section 1.6) in the compliance records. The description of the device is important to enable a person to determine whether the labelled device is the same device for which the declaration of conformity was made and is relevant when the supplied device is a variant of the original device.

Subsection 5.1(3) requires record keeping where an agent acts on behalf of a supplier in regard to its record keeping obligations under this Notice. For example: Where two suppliers supply the same device it is possible for the record keeping obligations of one supplier to be met by entering into an agreement with the other supplier in regard to labelling and compliance record keeping requirements. This is an "agency agreement" between the two suppliers. Subsection 5.1(3) requires that the both parties to any agreement keep a copy of the agency agreement for the same period as the compliance records are kept.

Section 5.2 Keeping records

Subsection 5.2(1) requires that the supplier of the device, to which a compliance label is applied, must keep compliance records (as defined under section 1.5) for the device for 5 years after the supplier ceases to supply the device in Australia. This recognises that following supply the product may exist in the retail chain and create an interference risk for a period after supply has ceased.

Subsection 5.2(2) requires that the supplier of a low-risk device who decides not to apply a compliance label to the device, must keep the compliance records for the device for 5 years after ceasing to supply the device in Australia.

Section 5.3 Availability of compliance records for inspection

An audit program of compliance documentation comprises an integral part of the assessment of the effectiveness of the regulatory regime. Therefore, compliance records must be made available for inspection. The form used by suppliers to apply for permission to use a compliance mark requires the supplier to indicate where the compliance records will be held.

Section 5.3 requires a supplier to make the compliance records available for inspection. The supplier must ensure that the compliance records for the device are available for inspection in Australia within 10 working days of receiving a notice of intention to inspect the record from an authorised officer of ACMA.

Section 5.4 Provision of information to authorised officer

Under subsections 5.4(1) and (2), an authorised officer may require a supplier of a device to give specified compliance records to the officer. The supplier must do so within 10 working days of the date of the request. This allows an officer to request compliance records to verify that a device complies with an applicable standard during an investigation or audit.

Subsection 5.4(3) allows a supplier up to 30 working days where the specified document is a circuit diagram or manual in recognition that these documents may not necessarily constitute a readily available part of the compliance record.

Subsection 5.4(4) requires the authorised officer to provide a receipt to the supplier for any information acquired by that officer under subsection 5.4(1).

Subsection 5.4(5) requires the authorised officer to return any original documents acquired under subsection 5.4(1) to the supplier as soon as practicable and in any event not more than 60 days after receiving the documents.

Section 5.5 Request for Test Report from accredited testing body

If an authorised officer has concerns about whether the proof of compliance provided in the compliance records demonstrates that the device complies with an applicable standard, the officer may, by written notice, require the supplier to have 3 or more samples of the device tested in Australia, by an accredited testing body to the applicable standard or a specified part of the applicable standard.

The supplier must provide to ACMA, within a period specified in the Notice, certified true copies of the 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.

The testing conducted in accordance with the Notice under section 5.5 is at the supplier's expense.

Section 5.6 Evidence of compliance with applicable standard under section 5.5

When an authorised officer requires testing in accordance with section 5.5 the supplier must have a minimum of 3 samples tested. This section sets out the number of samples that must comply with the applicable standard.

If 3 samples are tested, then all 3 samples must pass.

If 1 of the samples fails the test, the supplier has the option of testing additional samples until 80% of the samples tested pass.

Therefore;

- if 3 samples pass – no further testing is required.
- if 2 samples pass and 1 sample fails – the supplier would need to test 2 more samples and both must pass in order to achieve the 80% pass rate.

If more than 1 sample fails, the supplier has the option to keep testing until they have achieved a pass rate of 80% over all the samples. The level of 80% of the samples passing is based on the criteria for International EMC standards where the significance of limits for devices shall be that at least 80% of mass produced equipment is complaint with at least 80% confidence. The provisions in this clause are consistent with International norms for EMC testing.

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

Section 6.1 Devices labelled with a compliance label before this Notice

Section 6.1 specifies that if a device complied with the previous version of this Notice (and the device has not since been modified) the device does not need to comply with this version. Devices that were labelled by a supplier in accordance with an earlier version of this Notice can continue to be supplied and labelled in perpetuity provided that the devices continue to be labelled in accordance with that earlier Notice.

Section 6.2 Changes to an applicable standard

Section 6.2 specifies that if a device complies with an applicable standard as applicable on the day it is first supplied, as long as the device is not changed, it does not need to comply with any updated versions of the applicable standard.

Devices that were labelled by a supplier as compliant with an applicable standard can continue to be supplied and labelled in perpetuity provided that the devices continue to be compliant with the version of that applicable standard as in force at the time that the device was first supplied.

Note: The ACMA's website lists all current and amended applicable standards. See www.acma.gov.au/standards/emc

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

Sections 6.3 and 6.4 describe the transitional periods for changes to applicable standards. When a new or amended standard is made, there is a transition period where both the old or replaced standard and the new standard are in effect. This addresses the situation where manufacturers may have spent considerable resources developing equipment to comply with an applicable standard only to see the standard replaced shortly before the device is presented to market.

During the transition period the supplier may choose to test to either the old or the new standard, mitigating the effect of any change in standards. Once the transition period is over, any new devices must comply with the new applicable standard.

Section 6.3(1) applies to a device if any of the IEC, CISPR or AS/NZS standards (old standard) apply to the device, and the applicable old standard is amended or replaced by a new standard before the day on which a device was first manufactured or imported.

Section 6.3(2) specifies that when an IEC, CISPR or AS/NZS standard is amended or changed there is a transition period where the supplier of a new device may choose which version of the applicable standard they wish to comply with. The transition period lasts 2 years from the date of publication of the new standard or amendment for IEC, CISPR or AS/NZS standards.

Note: The ACMA's website lists all current and amended applicable standards and the associated transition periods. See www.acma.gov.au/standards/emc

Section 6.4 Transitional – devices to which EN standard applies

Section 6.4(1) applies to a device if the EN standard (old EN standard) applies to the device, and the old EN standard is amended or replaced by a new standard before the day on which a device was first manufactured or imported.

Section 6.4(2) specifies that when an EN standard is amended or changed there is an overlap period where the supplier of a new device may choose which version of the EN standard they wish to comply with.

For devices to which the old EN standard applied, the overlap period is the same period as specified in the Official Journal of the European Union. See http://ec.europa.eu/enterprise/newapproach/standardization/harmstds/reflist/emc.html for details.

Note: The ACMA's website lists all current and amended applicable standards. See www.acma.gov.au/standards/emc

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

Section 7.1 Purpose of Part 7

Australia and New Zealand have harmonised their EMC regimes as part of the TTMRA. Part 7 explains how ACMA can investigate devices that have been labelled under the New Zealand labelling legislation.

Section 7.2 Provision of information to authorised officer

As ACMA is the regulator responsible for the EMC regulatory framework within Australia, an authorised officer may wish to inspect the compliance records of a device imported from New Zealand.

Section 7.2(1) explains that an authorised officer may, in writing, require the importer of a device imported from New Zealand to provide the compliance records for the device showing it complies with the New Zealand labelling legislation. The supplier must provide this information within 10 working days.

Section 7.2(2) explains that if an authorised officer has concerns about the compliance of a device that is imported from New Zealand, the officer may ask for assistance from the New Zealand regulator to investigate whether the device complies with the New Zealand labelling legislation.

Section 7.2(3) specifies that if the New Zealand regulator states that the device does not comply with the New Zealand labelling legislation, or the New Zealand regulator does not respond within 60 days, then the exemption from the Notice that usually applies for devices imported from New Zealand is withdrawn for the particular device.

This means the device imported from New Zealand will then need to comply with all the requirements within the Notice.

Schedule 1 Technical standards

Schedule 1 details the EMC Standard made under section 162 of the Act.

Schedule 2 Devices to which this Notice does not apply

Schedule 2 sets out the types of devices that are exempt from the scope of the Notice (referred to in section 2.2).

Some of the exemptions in Schedule 2 are:

1. Devices that are radiocommunications transmitters as defined in the *Radiocommunications Act 1992*. The exemption is only for devices that meet the definition in the Act.

2. Devices that are subject to other radiocommunications standards that have the same effect of specifying emission levels, such as medical and therapeutic devices for which emission standards are mandated under the *Therapeutic Goods Act 1989*.

4. Devices used in military equipment or weapons systems of the Defence Force. This exemption would not cover general devices such as computers or office equipment imported or manufactured for the use of the Defence Force where the device is not part of military equipment or weapons systems.

6. Devices that are designed or adapted for conducting a test, measurement or study of electromagnetic phenomena in an educational, training or research establishment are exempt. This exemption would not cover devices that are supplied to the general public.

11. A fixed installation. *Fixed installation* is defined in section 1.4. This exemption is intended to apply to complex devices that need to be installed at a fixed location prior to operation. Testing of such installations is often impractical prior to installation due to size and complexity of the installed device. Though these installations are not subject to the requirements of the notice operation of such installations is still subject to the prohibitions against knowingly or recklessly causing interference.

13. Vehicles that are imported and supplied by members of the Federal Chamber of Automotive Industries (FCAI) or the Trucking Industry Council (TIC) where those vehicles comply with the emission requirements contained in industry codes endorsed by the FCAI or TIC.

15. Personal computers assembled in Australia, using only individually compliant and labelled components, are exempt because the risk of the computer causing an interference problem is mitigated by its assembly from compliant subassemblies.

    Note: A personal computer assembled outside Australia does not meet this exemption, nor does a personal computer assembled in Australia that has components required to be marked that are not marked with a compliance mark.

Schedule 3 Compliance marks

Schedule 3 sets out the form of the compliance mark symbols (Part 1: The C-Tick mark; and Part 2: The RCM) (referred to in subsection 3.1(4)(a)).

Schedule 4 Application for permission to use the compliance mark and issue of a supplier code number

Schedule 4 sets out the form of the notification required under subsection 4.2(2) of an intention to apply compliance labels, and makes provision for applying to ACMA to use the C-Tick Mark and be issued with a supplier code number.

Contact details (address and facsimile numbers) are included in this Schedule to assist applicants in returning the form to ACMA.

Schedule 5 Declaration of conformity

Schedule 5 sets out the form of the supplier's declaration of conformity.

The declaration of conformity form is to be kept by the supplier as part of their compliance records.