

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Telecommunications (Types of Cabling Work) Amendment Declaration 2009 (No.1)
Telecommunications Act 1997

Purpose of Variation

The *Telecommunications (Types of Cabling Work) Amendment Declaration 2009 (No.1)* (**the Amendment Declaration**) was made by the Australian Communications and Media Authority (**the ACMA**) on 29/09/2009. The Amendment Declaration amends the *Telecommunications (Types of Cabling Work) Declaration 1997* (**the Declaration**) to reflect the replacement of the AUSTEL Technical Standard TS 035 – 1996 (Issue 2) by the new Australian Standard AS/ACIF S035:2008 – *Requirements for installation of temporary field telecommunications customer cabling for defence purposes*. The new Australian Standard can be accessed at the Communications Alliance Ltd website:
<http://www.commsalliance.com.au/Documents/Documents/Standards/s035>

Legislative Provisions

Under subsection 419(1) of the *Telecommunications Act 1997* (the Act), the ACMA may, by notice in the *Gazette*, declare that a specified kind of cabling work is a type of cabling work for the purpose of Division 9 of Part 21 of the Act. If the ACMA makes a declaration, then for the purposes of Division 9 of Part 21 of the Act, the type of cabling work is to be ascertained solely by reference to the declaration.

A declaration made under subsection 419(1) of the Act is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The existing Declaration was made by the Australian Communications Authority (the ACA) and commenced on 1 July 1997.

Background

The *Telecommunications (Types of Cabling Work) Declaration 1997* was made under section 419 of the Act.

The types of cabling work listed in Schedule 1 to the Existing Declaration are the types of cabling work that are not “cabling work” for the purposes of Division 9 of Part 21 of the Act. One of these is customer cabling for temporary field telecommunications facilities which are used, or will be used, by the Department of Defence or the Defence Force. This type of cabling work is not subject to the provisions in Division 9 of Part 21 of the Act if it meets the requirements of the technical standard which in the Existing Declaration is the AUSTEL TS 035-1996.

Communications Alliance, the body responsible for drafting industry standards, has, as part of its ongoing review process, reviewed the technical standard, *AUSTEL TS 035-1996*, and found it was out of date and that it did not provide current information essential for (or relevant to) persons subject to the requirements of the technical standard. Communications Alliance convened a working committee to develop the Australian Standard, *AS/ACIF S035:2008 – Requirements for installation of temporary field telecommunications customer cabling for defence purposes (the Standard)* to replace the technical standard.

Public Consultation

Communications Alliance issued a draft of the Standard on 13 May 2008 and called for public comment on the Standard. The consultation period involved a public promotion through the media (the *Australian* newspaper), industry advocates and consulting directly with key industry stakeholders. The consultation period was open for a period of 62 days. On 12 August 2008, the Communications Alliance Board approved the publication of the Standard and made a submission to the ACMA for the Standard to be referred to in the Declaration.

Given that the Amendment Declaration makes changes to the existing Declaration that are minor and that do not substantially alter existing arrangements, and because public consultation on the Standard has already been undertaken by Communications Alliance, the ACMA did not consult on the changes in the Amendment Declaration.

Regulation Impact

The ACMA consulted with the Office of Best Practice Regulation (**OBPR**) regarding the amending instrument. The OPBR confirmed that this amendment would have a low impact on business, and would appear to impose no or low compliance costs. The OPBR confirmed that a formal regulatory impact statement would not be required.

Notes on the instrument

Section 1 – Name of Declaration

Section 1 provides for the citation of the Amendment Declaration as the *Telecommunications (Types of Cabling Work) Amendment Declaration 2009 (No.1)*. .

Section 2 – Commencement

Section 2 provides that the Amendment Declaration commences on the later of:

- (a) the date it is registered under the *Legislative Instruments Act 2003*; and
- (b) the date of its gazettal.

Section 3 – Amendment of *Telecommunications (Types of Cabling Work) Declaration 1997*

Section 3 amends the Existing Declaration known as the *Telecommunications (Types of Cabling Work) Declaration 1997*.

Schedule 1 Amendment

Item [1] omits the reference to the *AUSTEL technical standard TS 035 – 1996 (Issue 2)* in paragraph 3(b) of Schedule 1 to the Existing Declaration and inserts the reference to the current Standard *AS/ACIF S035:2008*.