



Radiocommunications (PMTS Jamming Devices – Visiting Forces and Suppliers) Exemption Determination 2011

Radiocommunications Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Determination under subsection 27 (2) of the *Radiocommunications Act 1992*.

Dated 10 November 2011

Chris Chapman
[signed]
Member

Richard Bean
[signed]
Member/~~General Manager~~

Australian Communications and Media Authority

1 Name of Determination

This Determination is the *Radiocommunications (PMTS Jamming Devices – Visiting Forces and Suppliers) Exemption Determination 2011*.

2 Commencement

This Determination commences on the day after it is registered.

Note: All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

3 Revocation

The *Radiocommunications (Prohibited Device) (Mobile Telephone Jamming Devices) Exemption Determination 2004* is revoked.

4 Definitions

In this Determination:

Act means the *Radiocommunications Act 1992*.

Defence Force has the meaning given by section 30 of the *Defence Act 1903*.

Department of Defence means the Department administered by the Minister for Defence.

member of a civilian component of a visiting force has the meaning given by subsection 5 (3) of the *Defence (Visiting Forces) Act 1963*.

member of a visiting force has the meaning given by subsection 5 (2) of the *Defence (Visiting Forces) Act 1963*.

PMTS jamming device has the meaning given by section 4 of the *Radiocommunications (Prohibition of PMTS Jamming Devices) Declaration 2011*.

visiting force has the meaning given by subsection 5 (1) of the *Defence (Visiting Forces) Act 1963*.

5 Exemption in relation to certain activities by visiting forces

- (1) Any act or omission by a visiting person in relation to the use, operation, possession or supply of a PMTS jamming device is exempt from Parts 3.1, 4.1 and 4.2 of the Act in the circumstances specified in subsection (3).
- (2) For the purposes of this section, *visiting person* means a person who:
 - (a) is a:
 - (i) member of a visiting force; or
 - (ii) member of a civilian component of a visiting force; and
 - (b) is performing a function or duty in relation to the defence, security or international relations of Australia or a foreign country whose naval, military or air force is acting in co-operation with the Defence Force.
- (3) For the purposes of subsection (1), all of the following circumstances must exist:
 - (a) the act is done, or the omission occurs, in the performance of the visiting person's functions or duties as a member of a visiting force or civilian component of a visiting force (as the case may be); and
 - (b) in the case of the use or operation of a PMTS jamming device:

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- (i) the use or operation of the PMTS jamming device has been approved in writing by a member of the Defence Force, or an officer of the Department of Defence, in the performance of his or her functions or duties as such a member or officer; and
 - (ii) the use or operation of the PMTS jamming device occurs in accordance with the approval referred to in subparagraph (i).

6 Exemption in relation to certain activities by suppliers of PMTS jamming devices for visiting forces

- (1) Any act or omission by a supplier in relation to the use, operation, possession or supply of a PMTS jamming device is exempt from Parts 3.1, 4.1 and 4.2 of the Act in the circumstances specified in subsection (3).
- (2) For the purposes of this section, *supplier* means a person who satisfies all of the following requirements:
 - (a) the person is a party to a written agreement that:
 - (i) is for the supply of a PMTS jamming device to a visiting force; and
 - (ii) is approved in writing by a member of the Defence Force or an officer of the Department of Defence, in the performance of his or her functions or duties as such a member or officer; and
 - (b) the person is performing a function or duty in relation to the defence, security or international relations of Australia or a foreign country whose naval, military or air force is acting in co-operation with the Defence Force.
- (3) For the purposes of subsection (1), all of the following circumstances must exist:
 - (a) the act is done, or the omission occurs, in accordance with the agreement referred to in subsection (2); and
 - (b) in the case of the use or operation of a PMTS jamming device:
 - (i) the use or operation of the PMTS jamming device has been approved in writing by a member of the Defence Force, or an officer of the Department of Defence, in the performance of his or her functions or duties as such a member or officer; and
 - (ii) the use or operation of the PMTS jamming device occurs in accordance with the approval referred to in subparagraph (i).

7 Exemption in relation to certain activities by suppliers of PMTS jamming devices to Defence Force or Department of Defence

- (1) Any act or omission by a supplier in relation to the use, operation, possession or supply of a PMTS jamming device is exempt from Parts 3.1, 4.1 and 4.2 of the Act in the circumstances specified in subsection (3).
- (2) For the purposes of this section, *supplier* means a person who satisfies all of the following requirements:
 - (a) the person is a party to a written agreement that:
 - (i) is for the supply of a PMTS jamming device to the Defence Force or the Department of Defence; and
 - (ii) is signed by a member of the Defence Force, or an officer of the Department of Defence, in the performance of his or her functions or duties as such a member or officer; and
 - (b) the person is performing a function or duty in relation to the defence, security or international relations of Australia or a foreign country whose naval, military or air force is acting in co-operation with the Defence Force.
- (3) For the purposes of subsection (1), all of the following circumstances must exist:
 - (a) the act is done, or the omission occurs, in accordance with the agreement referred to in subsection (2); and
 - (b) in the case of the use or operation of a PMTS jamming device:
 - (i) the use or operation of the PMTS jamming device has been approved in writing by a member of the Defence Force, or an officer of the Department of Defence, in the performance of his or her functions or duties as such a member or officer; and
 - (ii) the use or operation of the PMTS jamming device occurs in accordance with the approval referred to in subparagraph (i).

Note Sections 24 and 26 of the Act contain certain exemptions that relate to members of the Defence Force and officers of the Department of Defence.