



Radiocommunications (Compliance Labelling — Electromagnetic Radiation) Amendment Notice 2013 (No. 1)

Radiocommunications Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Notice under section 182 of the *Radiocommunications Act 1992*.

Dated 17th January 2013

Chris Chapman
[signed]
Member

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

Australian Communications and Media Authority

1 Name of Notice

This Notice is the *Radiocommunications (Compliance Labelling — Electromagnetic Radiation) Amendment Notice 2013 (No. 1)*.

2 Commencement

This Notice commences on:

- (a) 1 March 2013; or
 - (b) the day on which it is published in the *Gazette*;
- whichever occurs last.

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 Amendment of *Radiocommunications (Compliance Labelling — Electromagnetic Radiation) Notice 2003*

Schedule 1 amends the *Radiocommunications (Compliance Labelling — Electromagnetic Radiation) Notice 2003*.

Schedule 1 Amendments

(section 3)

[1] Subsection 4 (1)

insert

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

[2] Subsection 4 (1), definition of AS 2772.2

omit

[3] Subsection 4 (1), definition of *compliance mark*

substitute

compliance mark means the C-Tick mark or the RCM.

[4] Subsection 4 (1), definition of *C-Tick mark*

substitute

C-Tick mark means the mark set out in Part 1 of Schedule 1.

[5] Subsection 4 (1)

insert

national database means a database designated in writing by the ACMA for the purposes of Division 2.2.

Note A database may be designated by the ACMA for the purposes of Division 2.2 even if it forms part of another database or also serves purposes other than purposes provided for in this Notice.

[6] Subsection 4 (1), note after the definition of *RCM*

omit

[7] Section 8, note

omit

[8] After section 8

insert

8A Relationship between this Notice and the *Radiocommunications Devices (Compliance Labelling) Notice 2003*

If a device to which this Notice applies is also 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 under that Notice.

Note An effect of section 8A is that a compliance mark can only be applied to a device if it complies with the applicable requirements of this Notice and the *Radiocommunications Devices (Compliance Labelling) Notice 2003*.

[9] Part 2, Division 2.2, heading

substitute

**Division 2.2 Registration on national database and issue of
supplier code numbers**

[10] Section 10

substitute

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

Before a supplier applies a compliance label consisting of the RCM to a device, the supplier must:

- (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 Division – 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.

10A 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:

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 10A (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.

10B Use of C-Tick mark

Before a supplier applies a compliance label consisting of the C-Tick mark to a device, the supplier must have been issued a supplier code number by the ACMA.

10C Issue of supplier code number

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

[11] Paragraphs 11 (4) (a) – (d)

substitute

- (a) an ABN; or
- (b) an Australian Company Number (ACN); or
- (c) an Australian Registered Body Number (ARBN).

[12] Section 19

substitute

19 What is a compliance label

- (1) A ***compliance label*** for a device is a label that meets the requirements of this section and sections 19A to 19D.
- (2) The label must consist of either:
 - (a) the RCM; or
 - (b) if the label is applied before 1 March 2016 – either of the compliance marks.

Location of compliance label

- (3) Subject to sections 19C and 19D, the label must be placed on the device on a place that is accessible by the user.

Note Section 19C deals with situations where applying a label to the surface of a device is not possible or practical. Section 19D gives a supplier the option of labelling some types of device electronically.

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

[13] Section 19B

substitute

19B 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.

[14] Subsection 19D (4)

omit

Subsection 19 (5)

insert

Subsection 19 (3)

[15] **Schedule 1**
substitute

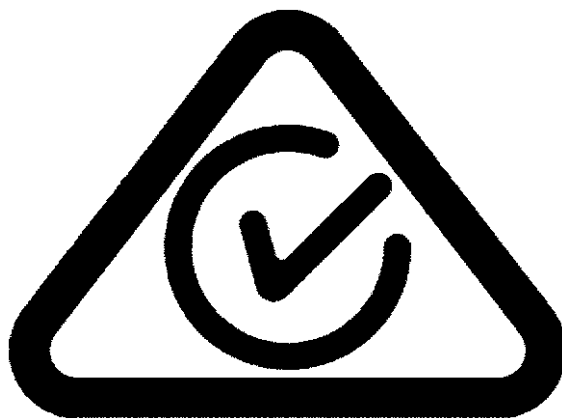
Schedule 1 Compliance marks
(subsection 4 (1))

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.