

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority *Radiocommunications (Compliance Labelling – Devices) Notice 2014*

Purpose

The Australian Communications and Media Authority (the ACMA) has made the *Radiocommunications (Compliance Labelling – Devices) Notice 2014* (the 2014 Notice). The 2014 Notice revokes and replaces the *Radiocommunications Devices (Compliance Labelling) Notice 2003* (the 2003 Labelling Notice) without making any significant changes to the regulatory arrangements created by the 2003 Labelling Notice.

The ACMA has made the 2014 Notice as the 2003 Labelling Notice was due to “sunset” (i.e. be automatically repealed) on 1 April 2015, in accordance with Part 6 of the *Legislative Instruments Act 2003* (the LIA).

Legislative Provisions

The 2014 Notice is made under subsection 182(1) of the *Radiocommunications Act 1992* (the Act) which provides that the ACMA may, by notice published in the Gazette, require any person who manufactures or imports a device included in a specified class of devices to apply a label to the device to indicate whether the device complies with radiocommunications standards made by the ACMA under section 162 of the Act (section 162 standard). Section 33(3) of the *Acts Interpretation Act 1901* provides that a power to make an instrument includes the power to vary or revoke that instrument.

A notice made under section 182 of the Act is a legislative instrument for the purposes of the LIA.

Background

The 2003 Labelling Notice, made under subsection 182(1) of the Act, was due to be automatically repealed under section 50 of the LIA on 1 April 2015.

The 2014 Notice and standards made under section 162 of the Act operate together to specify the Australian regulatory arrangements for radiocommunications devices. Section 162 standards set performance requirements for specified radiocommunications devices. The 2003 Labelling Notice specified testing, labelling and record keeping obligations on suppliers of radiocommunications devices subject to an applicable section 162 standard.

Following review, and consultation as outlined below, the ACMA formed the view that the 2003 Labelling Notice was operating effectively and efficiently and continued to form a necessary and useful part of the legislative framework. Accordingly, the ACMA has made the 2014 Notice to replace the 2003 Labelling Notice and continue the regulatory arrangements for specified radiocommunications devices. The 2014 Notice has been made without any significant changes from the 2003 Labelling Notice such that the ongoing effect of the regulatory arrangements is preserved.

Operation

Under section 9 of the *Australian Communications and Media Authority Act 2005*, the ACMA's spectrum management functions include managing radiofrequency spectrum in Australia in accordance with the Act. In managing the radiofrequency spectrum the ACMA specifies regulatory requirements in relation to radiocommunications devices.

The regulatory arrangements for radiocommunications devices impose obligations on suppliers of those devices. A supplier of a device is the manufacturer of the device (for devices manufactured within Australia) or the importer of the device (for devices that are imported into Australia), as well as an agent of the manufacturer or importer.

The regulatory arrangements for radiocommunications devices are part of the ACMA's strategy to manage the risk of interference to radiocommunications services whilst also maximising the efficient use of the radiofrequency spectrum.

Through the use of section 162 standards the ACMA sets mandatory performance standards for specified radiocommunications devices. The 2014 Notice sets testing, labelling and record-keeping requirements for suppliers in relation to the section 162 standards that apply to specified devices.

The 2014 Notice requires suppliers to apply a compliance label to specified devices to assert that the device meets the requirements of any section 162 standard that applies to that device.

Affixing a compliance label on a device is an assertion of compliance with applicable technical standards, as a supplier must ensure that the device complies with each applicable section 162 standard before affixing the label. The labelling requirements assist in limiting the supply of non-compliant devices to the market.

Consultation

Subsection 17(1) of the LIA requires that, before the ACMA makes a legislative instrument, it must be satisfied that any consultation that the ACMA considers is appropriate and reasonably practicable to undertake, has been undertaken.

Between 16 April and 6 June 2014, the ACMA conducted a public consultation process and made a draft of the 2014 Notice available on the ACMA website. A consultation paper was also published on the ACMA website. Relevant parties were notified and invited to comment on the release of the consultation paper and draft 2014 Notice.

The ACMA received 4 submissions in response to the consultation process and the issues raised in the submissions were considered when making the 2014 Notice.

Regulation Impact

The Office of Best Practice Regulation (OBPR) has considered the matter and formed the opinion that making the 2014 Notice is minor or machinery in nature. Accordingly, OBPR advised that no further analysis (in the form of a Regulation Impact Statement) was required. The OBPR exemption number is ID 16649.

Detailed description of the 2014 Notice

Details of the 2014 Notice are in Attachment A.

Documents Incorporated in this Instrument by Reference

The Instrument incorporates the following documents by reference, or otherwise refers to them:

- > *AS/NZS 4417.1 Marking of electrical and electric products to indicate compliance with regulations Part 1: General rules for use of the mark*
- > *Radiocommunications Act 1992*
- > *Radiocommunications Regulations 2001 (New Zealand)*
- > *Radiocommunications (118MHz to 137MHz Amplitude Modulated Equipment—Aeronautical Radio Service) Standard 2012*

- > *Radiocommunications (121.5 MHz and 243.0 MHz Emergency Position Indicating Radio Beacons) Standard 2014*
- > *Radiocommunications (406 MHz Satellite Distress Beacons) Standard 2014*
- > *Radiocommunications (Analogue Speech (Angle Modulated) Equipment) Standard 2014*
- > *Radiocommunications (Compliance Labelling—Electromagnetic Radiation) Notice 2014*
- > *Radiocommunications (Compliance) Notice 2013 No. 2 (New Zealand)*
- > *Radiocommunications (Cordless Telephone) Standard 2008*
- > *Radiocommunications (Devices Used in the Inshore Boating Radio Services Band) Standard 2008*
- > *Radiocommunications Devices (Compliance Labelling) Notice 2003*
- > *Radiocommunications (Digital Cordless Communications Devices—DECT Devices) Standard 2007*
- > *Radiocommunications (Digital Cordless Communications Devices—PHS Devices) Standard 2007*
- > *Radiocommunications (HF CB and Handphone Equipment) Standard 2008*
- > *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*
- > *Radiocommunications (Low Interference Potential Devices) Class Licence 2000*
- > *Radiocommunications (MF and HF Equipment—Land Mobile Service) Standard 2014*
- > *Radiocommunications (MF and HF Radiotelephone Equipment—International Maritime Mobile Service) Standard 2014*
- > *Radiocommunications (Paging Service Equipment) Standard 2014*
- > *Radiocommunications (Radio Standards) Notice 2010 (New Zealand)*
- > *Radiocommunications (Short Range Devices) Standard 2014*
- > *Radiocommunications (UHF CB Radio Equipment) Standard 2011 (No. 1)*
- > *Radiocommunications (VHF Radiotelephone Equipment—Maritime Mobile Service) Standard 2014*
- > *Telecommunications Act 1997, and instruments made under section 407 of the Telecommunications Act 1997*

The Australian Acts and legislative instruments mentioned above can be found on the Australian Government's ComLaw website (<http://www.comlaw.gov.au/>). The New Zealand notice and standard mentioned above can be found on Radio Spectrum Management's website (<http://www.rsm.govt.nz/>). The New Zealand regulations can be found on the New Zealand government's legislation website (<http://www.legislation.govt.nz/>).

Copies of the AS/NZS standard mentioned above can be purchased from the SAI Global Limited website (<http://www.saiglobal.com/>).

Statement of compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule maker in relation to a legislative instrument to which section 42 (disallowance) of the LIA applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

This statement has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The 2014 Notice, which requires suppliers of particular radiocommunications devices to comply with particular requirements before, and after supplying those devices, is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The ACMA has considered whether the 2014 Notice engages any applicable human rights or freedoms and has formed the view that it does not. The 2014 Notice is compatible with human rights as it does not raise any human rights issues.

Attachment A

Detailed description of the Instrument

Part 1 - Preliminary

Section 1 Name of Notice

Section 1 provides that the name of the Notice is the *Radiocommunications (Compliance Labelling – Devices) Notice 2014* (the 2014 Notice).

Section 2 Commencement

Section 2 provides that the 2014 Notice commences on the later of the day after it is registered on the Federal Register of Legislative Instruments or the day on which it is published in the Gazette. Both of these events must occur before the Notice commences.

Section 3 *Radiocommunications Devices (Compliance Labelling) Notice 2003 – revocation*

Section 3 revokes the *Radiocommunications Devices (Compliance Labelling) Notice 2003* (the 2003 Labelling Notice).

Section 4 Definitions

Section 4 defines terms used throughout the 2014 Notice. Most of the terms defined in this section are the same as those set out in the 2003 Labelling Notice.

Section 5 Application

Section 5 specifies that the 2014 Notice only applies to radiocommunications devices that are manufactured in or imported into Australia for supply and to which an applicable section 162 standard applies.

Subsection (2) provides that the 2014 Notice does not apply to devices that are imported or manufactured otherwise than for supply in Australia (e.g. the requirements of the 2014 Notice do not apply to a device that is imported for the purpose of re-export).

Subsection (3) provides that Parts 2, 3 and 4 of the 2014 Notice do not apply to devices that have been imported into Australia from New Zealand where those devices comply with New Zealand labelling legislation. (Subsection 4(4) and Part 5 of the 2014 Notice explain when a device is taken to comply with New Zealand labelling legislation.)

Section 6 Relationship between this Notice and instruments made under section 407 of the *Telecommunications Act 1997*

Section 6 has the effect that a compliance label can only be applied to a device that complies with both the requirements of the 2014 Notice and the requirements of any instrument made under section 407 of the *Telecommunications Act 1997* that also applies to that device. For example, where a device is also an item of customer equipment as defined in section 21 of the *Telecommunications Act 1997*, it must comply with the 2014 Notice as well as the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*. Because the same compliance label (the Regulatory Compliance Mark) can be applied to the device for the purposes of the 2014 Notice and the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*, only a single label needs to be applied to such devices.

Section 7 Relationship between this Notice and instruments made under section 182 of the Act

Section 7 has the effect that a compliance label can only be applied to a device that complies with both the requirements of the 2014 Notice and any other notices made under section 182 of the Act that apply to the device (e.g. the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014* or the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008*). Because the same compliance label (the Regulatory Compliance Mark) can be applied to a device for the purposes of the 2014 Notice and any other section 182 notice, only a single label needs to be applied to such devices.

Part 2 Form and placement of compliance labels

Section 8 Who must apply a compliance label to a device

Subsections (1) and (2) specify the persons who must apply the compliance label to devices supplied to the Australian market. Responsibility for application of the compliance label is dependent upon whether the device is manufactured inside or outside of Australia.

For devices manufactured in Australia, the person responsible for applying a label to a device is the manufacturer, the agent of the manufacturer or another person authorised by the manufacturer or agent to apply labels on behalf of the manufacturer or agent.

For devices manufactured outside of Australia, the label must be applied by the importer, the agent of the importer or by a person authorised in writing by the importer or agent. The person authorised in writing by the importer or agent can be the overseas manufacturer of the device.

Subsection (3) provides that devices that are manufactured as part of a motor vehicle, installed in a motor vehicle, or imported as part of an imported motor vehicle by members of the Federal Chamber of Automotive Industries (FCAI) are not required to be labelled in accordance with subsections (1) or (2).

Section 9 What is a compliance label

Section 9 specifies that a compliance label is a label that meets the requirement of section 9 and sections 9A to 9D.

The compliance label must consist of the Regulatory Compliance Mark (RCM) or, if the label is applied before 1 March 2016, the RCM or the C-Tick mark.

Subsection (3) also specifies that compliance labels must be placed on a device in a place that is accessible by the user. Subsection (4) explains that a label is not accessible if it is necessary to use a specialised tool to gain access to it.

Section 9A Durability of compliance label

Section 9A specifies that the compliance label must be durable and applied to a device permanently or in a way that it is difficult to remove or obliterate.

Section 9B Format of compliance label

Section 9B provides that a compliance label must be at least 3 mm high. The note to the section clarifies that a supplier may, as part of a compliance label, voluntarily apply its own supplier identification details to a device.

Section 9C Placement of compliance label

Section 9C provides that a compliance label must be applied to packaging and documentation accompanying the device if it is not possible or practical to apply the label directly to the device. If a supplier applies a label in this way, subsection (3) requires the supplier of the device to make and keep records detailing why it is not possible or practical to label the surface of the device and set out where each compliance label is subsequently applied. Section 9C is intended to be used only where there are physical or practical impediments to applying a label to the surface of a device and not as a general alternative to device labelling. There is no ability for suppliers to apply to the ACMA for approval to alternatively label a device.

Physical impediments that may affect the capacity to apply a label may include:

- the device is too small to have a label affixed to it; or
- the external surface of the device resists any adhesion or imprinting of the label; or
- the surface of the device is corrugated; or
- the surface is exposed to the elements that defeat the adhesion or durable properties of the label.

Examples of when it may not be practical to label the device include:

- the supplier cannot arrange for the device to be labelled at the point of manufacture and removing the packaging to affix the label affects the supply of the device; or
- where there is a technical or engineering difficulty that impedes the labelling of the device.

Section 9D Electronic labelling

Section 9D allows for the use of electronic labelling. That is, where a device has a built in display a label may be electronically stored on the device and displayed by the user when the device is activated.

Subsection (2) specifies that the supplier must, when using electronic labelling, ensure that documentation accompanying the device sets out the method for displaying the compliance label. Subsection (3) provides that 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 stated in the documentation accompanying the device is used.

Subsection (4) specifies that the location requirements in subsection 9(3), and durability and placement requirements under sections 9A and 9C do not apply to a device where an electronic label has been used.

Part 2A Additional labelling requirements for wireless audio transmitters

Section 9E Additional labelling requirements for suppliers of wireless audio transmitters

Section 9E imposes an additional labelling requirement on suppliers of wireless audio transmitters.

The frequency band 694-820MHz is authorised, through a class licence, for use for wireless audio devices until 31 December 2014. After this date the frequency range will no longer be authorised for the use of those types of devices.

Section 9E requires the supplier of a wireless audio transmitter to apply an additional label that contains a written statement that informs the end user of the limitations on the use of wireless audio transmitter devices that operate in the 694-820MHz frequency band after 31 December 2014.

Subsection (2) specifies the form and text (including font size) that must be used for the additional label.

Subsection (3) allows for a label to be affixed to the device if it is affixed in a prominent position to the container, covering, package, case, box or other object in or with which the device is supplied.

There are two notes after section 9E. Note 1 sets out a non-exhaustive list of examples of devices to which the requirements of section 9E apply. Note 2 clarifies that a label applied under section 9E is not required to contain a compliance mark (although another requirement of the 2014 Notice may require a compliance mark to be applied).

Part 3 Requirements to be met before a compliance label is applied

Division 3.1 – Application of Part 3

Section 10 No application to variants of a device

Section 10 provides that a supplier who has already met any relevant requirements in Part 3 in relation to a device (e.g. registration on the national database) that is or has been previously supplied does not need to meet those requirements in relation to any variant of that device. A variant of a device means a version of the device that is not identical to the device but is not sufficiently different from the device to affect the application to that version of an applicable standard for the device.

Division 3.2 – Registration on national database and issue of supplier code numbers

Section 11 Use of RCM subject to registration on national database or issue of supplier code number

Section 11 requires a supplier to be registered on the national database prior to labelling a device with the compliance label that is the RCM.

Paragraph (1)(b) provides that if the ACMA has not designated a national database, a supplier may apply the RCM to a device if the supplier has been issued with a supplier code number. Subsection (2) provides that if the ACMA has designated in writing a national database under the 2003 Labelling Notice, that database is taken to have been designated in writing by the ACMA for the 2014 Notice.

Section 11A Registration on national database

Section 11A sets out how a supplier registers on the national database and what information the supplier must provide. For the ACMA's purposes, a supplier needs to include sufficient information on the national database to enable the ACMA to identify and contact the supplier. The national database contains prompts and fields for a supplier to insert the required information.

If any information that has been provided by a supplier on the national database changes, this section also requires the supplier to update this information on the national database within 30 days of the change occurring. Suppliers that do not update changed information may be subject to pecuniary penalties, having failed to comply with a requirement to be met after a label has been applied (see section 187A of the Act).

Section 11B Use of C-Tick mark

Section 11B provides that a supplier must not apply the C-Tick mark to a device unless the supplier has been issued a Supplier Code Number (SCN) by the ACMA. Only suppliers that were issued a SCN by the ACMA prior to 1 March 2013 can continue to use the C-Tick mark through to 1 March 2016. After 1 March 2016 suppliers will only be able to use the RCM and must be registered on the national database.

Section 11C Issue of supplier code number

This section will only have effect if the ACMA revokes its designation of the national database. In those circumstances, a supplier may apply in writing, to the ACMA, for an SCN.

Division 3.3 Compliance levels

A section 162 standard that is applicable because of the 2014 Notice will fall within one of three compliance levels. Depending on the particular compliance level for a section 162 standard, the supplier of a device to which the standard applies will need to provide more or less evidence to demonstrate that the device complies. The compliance levels correspond to the risk associated with the supply of a device that is not compliant with the applicable section 162 standards. The higher the compliance level, the greater the risk associated with supply of a device if it were not compliant with the relevant section 162 standard. For example, a section 162 standard identified as compliance level 3 presents the greatest risk if a device does not comply with it.

Section 12 Compliance levels

Section 12 requires that a supplier, before applying a label to a device, must ensure that the device complies with each applicable section 162 standard at the compliance level mentioned in the 'Compliance Level' column (column 3) of Schedule 2 for the standard.

Subsection (2) provides that a supplier of a high-risk or medium-risk device to which subsection 8(3) applies (i.e. the device is of a type imported by a member of the FCAI) must ensure the device complies with each applicable section 162 standard at the compliance level mentioned in column 3 of Schedule 2 for that standard. This ensures that the obligations in respect of compliance are maintained irrespective of the fact that the associated labelling obligations are waived for these devices by virtue of subsection 8(3).

Section 13 Compliance level 1

Section 13 specifies the requirements of compliance level 1 that must be met by a supplier. In order to comply with compliance level 1 in relation to a particular section 162 standard, the supplier must prepare a description of the device and complete and sign a declaration of conformity for the device.

Section 14 Compliance level 2

Section 14 specifies the requirements of compliance level 2 that must be met by a supplier. In order to comply with compliance level 2 in relation to a particular section 162 standard, the supplier must comply with compliance level 1 and show that the device complies with the standard by obtaining and retaining reasonable written evidence that the device complies with the standard. Subsection 14(2) sets out requirements of what such reasonable written evidence must include.

Section 15 Compliance level 3

Section 15 specifies the requirements of compliance level 3 that must be met by a supplier. In order to comply with compliance level 3 in relation to a particular section 162 standard the supplier must comply with compliance level 1 and obtain and retain evidence that the device supplied conforms with the standard. That evidence must be in the form of a test report produced under section 16.

Division 3.4 Testing of devices

Section 16 Testing

Section 16 outlines the requirements if a device is to be tested for conformity with an applicable standard for compliance level 3. The test must be carried out by an accredited testing body. The accredited testing body that tests the device must give a test report to the supplier of the device setting out the tests it has used, the results of those tests and whether the results of those tests show that the device conforms with the standard as specified under section 17. Nothing within the 2014 Notice prevents the use of test reports prepared under this section being used as reasonable evidence of compliance for devices subject to compliance level 2.

Section 17 Test results

Section 17 specifies parameters in regard to testing methodology used when testing a device under section 16 (i.e. for compliance level 3 standards).

The effect of subsections (2) and (3) is that testing results, including any uncertainties that are associated with the methodology or equipment used, must fall within the prescribed limits for the device to be considered to pass the requirements within a section 162 standard. (e.g. if the result of a test confirming that a device has an output that falls between two specified limits has a level of potential variability (an uncertainty) of 5% then the result recorded in the test report must be more than 5% below the upper limit and more than 5% above the lower limit in order for the device to be confirmed to pass the test).

Subsection 17(4) removes the requirement for uncertainty to be considered for devices that are being assessed for their radiated emissions. For those devices, the absolute recorded value of the test must fall between the limits specified in paragraphs (2)(a) and (3)(a) and the uncertainty associated with methodology or equipment need not be considered.

Subsection 17(4A) provides that:

- where standards developed by the European Telecommunications Standards Institute (ETSI) are referenced within a standard for performance; and
- the ETSI standards contain testing methodologies in relation to required measurements; and
- the device is tested in accordance with those ETSI methodologies;

then subsections (2) and (3) do not apply.

Subsection 17(5) provides definitions for terms used in the section.

Part 4 – Requirements to be met after compliance label applied – devices to which Part 5 does not apply

Division 4.1 - Application

Section 18 Application of Part 4

Section 18 specifies that Part 4 applies to a device that is:

- a device to which the supplier of the device has applied a label as a compliance label (but not a device to which Part 5 applies (e.g. a device imported from New Zealand to which a compliance label has been applied under the New Zealand arrangements); and
- a high-risk or medium-risk device to which subsection 8(3) applies (i.e. the device is of a type imported by a member of the FCAI).

Division 4.2 – Record keeping

Section 19 Compliance records—general requirements

Section 19 defines a 'compliance record' as a record that must be kept under section 20.

Subsection (2) provides that a compliance record must be in English, may be a copy of the original record, and may be kept in electronic form.

Section 20 Keeping of records

Section 20 lists the compliance records a supplier must keep for 5 years after the device has ceased to be supplied in Australia. Subsection (2) requires an agent who acts on behalf of an importer or a manufacturer to also keep a copy of the agency agreement between the agent and importer/manufacturer for 5 years.

Section 21 Records of compliance with applicable standard

Section 21 describes what records must be kept for high-risk devices under paragraph 20(1)(c). The records include the test reports showing that the device conforms with the applicable standard and, where the device is a variant of a supplied device, a statement by the supplier that describes the variant, the differences between it and the original device and why the variations do not affect the compliance of the device with the applicable standard.

Section 22 Records of compliance with compliance level 2

Section 22 describes what records must be kept for medium-risk devices under paragraph 20(1)(d). Those records are the records of reasonable evidence mentioned in paragraph 14(1)(b) of the 2014 Notice.

Division 4.3 Availability of compliance records for inspection

Section 23 Where compliance records are to be available

Section 23 specifies that a supplier of a device must ensure that the compliance records for the device are available at the principal business address in Australia of the supplier.

Section 24 Provision of information to authorised officer

Section 24 provides that an authorised officer may request, in writing, specified compliance records for a device from a supplier.

Subsections (2) and (3) require the importer to give the officer the requested records within:

- 10 working days of a date specified in the request; or
- 30 working days of a date specified in the request if the request is for a specified circuit diagram or manual for a device.

Subsection (4) requires an authorised officer to give a supplier a receipt for any documents or records supplied from the supplier and subsection (5) requires the authorised officer to return them to the supplier as soon as practicable and in any event within 60 days.

Subsection (6) provides that if an authorised officer believes that the records kept by a supplier do not provide sufficient evidence that the device complies with each applicable standard, then the officer can, in writing, require a supplier to give the officer a test report from an accredited testing body showing that the device complies (or does not comply) with each applicable standard.

Section 187A of the Act makes it an offence for a supplier not to comply with requirements in the 2014 Notice that are to be met after a label has been applied.

Section 25 Testing of items by testing body

Section 25 provides that an authorised officer may request that a supplier give up to three samples of a device to a specified accredited testing body for testing to show whether the device complies with an applicable standard.

Subsection (2) provides that a supplier must comply with a request within 10 working days after the day specified in the request. Subsection (3) requires a supplier to attempt to obtain evidence that samples have been supplied by way of a receipt from the testing authority.

Subsection (4) provides that the supplier must, on request from the ACMA, provide the ACMA with the receipt obtained under subsection (3) or, if there is no receipt, satisfy the ACMA that the supplier has made reasonable attempts to obtain a receipt.

Subsection (5) specifies that section 25 also applies to a variant of a device.

Part 5—Requirements to be met after compliance label applied—devices imported from New Zealand

Section 26 Purpose of Part 5

Certain devices are subject to regulatory arrangements in New Zealand which are similar or identical to the requirements of the 2014 Notice. Devices labelled for supply to the New Zealand market can, if certain preconditions are met, be supplied to the Australian market without complying with the requirements of the 2014 Notice.

Section 26 explains that Part 5 sets out the ways that the ACMA can determine if a device imported from New Zealand complies with the New Zealand labelling legislation. To establish whether a device complies with New Zealand labelling legislation, reference must be had to subsection 4(4) of the 2014 Notice.

Section 27 Application of Part 5

Section 27 provides that Part 5 applies in respect of a device that is imported into Australia from New Zealand.

Section 28 Importer taken to have labelled device

Section 28 provides that for Part 5, the importer of a device is taken to have labelled the device under Part 2.

Section 29 Provision of information to authorised officer

Section 29 provides that an authorised officer may, in writing, require the importer of a device to give to the officer specified New Zealand compliance records for a device. New Zealand compliance records for a device means certain documents mentioned in section 4 of the New Zealand Compliance Notice.

Subsections (2) and (3) require the importer to give the officer the requested records in relation to the device within:

- 10 working days of a date specified in the request; or
- 30 working days of a date specified in the request if the request is for specified circuit diagrams or manuals.

Subsection (4) requires an authorised officer to give the importer a receipt for any documents or records supplied and subsection (5) requires the authorised officer to return them to the importer as soon as practicable and in any event within 60 days.

Subsection (6) provides that if an authorised officer believes that the records do not provide sufficient evidence that the device complies with each applicable standard, then the officer can, in writing, require an importer to produce a test report from an accredited testing body showing that the device complies with each applicable standard.

Section 187A of the Act makes it an offence not to comply with requirements in the 2014 Notice that are to be met after a label has been applied.

Section 30 Testing of items by testing body

Section 30 provides that an authorised officer may request that an importer of a device from New Zealand (where the device has been labelled in accordance with the New Zealand labelling legislation) give up to three samples of the device to an accredited testing body for testing.

Subsection (2) provides that an importer must comply with the request within 10 working days after the day specified in the request. Subsection (3) requires an importer to attempt to obtain evidence that samples have been supplied by way of a receipt from the testing authority.

Subsection (4) provides that the importer must, on request by the ACMA, provide the ACMA with the receipt obtained under subsection (3) or, if there is no receipt, evidence that the importer has made reasonable attempts to obtain a receipt.

Subsection (5) specifies that, for the purposes of section 30, device includes a variant of a device.

Schedule 1 Compliance marks

Schedule 1 sets out the design of the RCM and C-Tick mark. Notes are inserted to show that the RCM and C-Tick mark are protected symbols for the purposes of section 188A of the Act.

Schedule 2 Applicable standards and compliance levels

Schedule 2 provides a table of applicable standards and compliance levels.