

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Telecommunications Cabling Provider Rules 2014

Telecommunications Act 1997

Purpose

The *Telecommunications Cabling Provider Rules 2014* (the **Rules**) have been made by the Australian Communications and Media Authority (the **ACMA**) to replace the following three instruments:

- the *Telecommunications Cabling Provider Rules 2000* (the **2000 CPRs**);
- the *Accreditation Procedures for Cabling Provider Registrars* (the **Accreditation Procedures**); and
- the *Arrangements for Operation of the Registration System (No.3)* (the **Arrangements Instrument**).

The consolidation of the three instruments into the Rules has been made without any substantive changes to the regulatory arrangements provided for by those instruments.

Legislative provisions

Under subsection 421(1) of the *Telecommunications Act 1997* (the **Act**), the ACMA may, by written instrument, make rules that are expressed to apply to specified persons and relate to either or both the performance of cabling work or the supervision of cabling work. A person subject to rules made under subsection 421(1) must comply with those rules (subsection 421(3)). An instrument comprising of rules made under subsection 421(1) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the **LIA**).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make a legislative instrument, the power shall be construed to include a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument. The Rules are made under subsection 421(1) of the Act and revoke the 2000 CPRs, the Arrangements Instrument and the Accreditation Procedures.

Background

The 2000 CPRs and the Accreditation Procedures were due to sunset in October 2015, in accordance with Part 6 of the *Legislative Instruments Act 2003* (the **LIA**). The Arrangements Instrument was not due to sunset until April 2020. However, the ACMA has taken this opportunity to simplify the customer cabling regulatory framework by incorporating it into the Rules.

The consolidation of the 2000 CPRs, the Accreditation Procedures and the Arrangements Instrument into the Rules allows for the continued operation of the regime previously enacted by the three instruments.

Operation

The Rules, made under subsection 421(1) of the Act, are a set of regulatory arrangements which govern the performance, and the supervision of the performance, of customer cabling in order to protect the health and safety of persons, and the integrity of the telecommunications network.

The Rules require that cabling work must comply with the requirements of the Australian Standard *AS/CA S009:2013 Installation requirements for customer cabling (Wiring Rules)*; cabling providers must only use cabling products that are compliant with the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* (the **Telecommunications Labelling Notice**) or any later instrument which replaces the TLN; and all cabling work must be performed or supervised by a registered cabling provider.

The Rules confirm that the ACMA has made the arrangements for the operation of a system for the registration of cabling providers (the **registration system**) in Schedule 1 and that the ACMA must not engage a person to operate the registration system or act as a registrar unless the ACMA has accredited the person in accordance with the Rules.

The Arrangements in Schedule 1 specify the mandatory competency requirements that a cabling provider must demonstrate in order to qualify for registration and also specify requirements for the conduct of cabling registrars.

Public Consultation

The ACMA has consulted with industry stakeholders and the general public on the making of the Rules.

Section 422 of the Act provides that before making rules under section 421, the ACMA must, so far as practicable, try to ensure that interested persons have had an adequate opportunity to comment on the proposed rules and that due consideration has been given to any representations made. Interested persons must be given at least 60 days to make representations about the proposed rules (subsection 422(5)).

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.

The ACMA released a consultation paper and a draft copy of the Rules on 13 June 2014 for a period of 71 days.

The ACMA received three submissions. Two submissions expressed support for the proposed consolidation of the instruments while one submission suggested some minor editorial changes which were accepted and have been incorporated into the Rules.

Regulation Impact

The ACMA considered whether a regulatory impact analysis process was required by undertaking a preliminary assessment and, based on this preliminary assessment, the Office of Best Practice Regulation (**OBPR**) determined that the proposed regulatory changes were minor or machinery in

nature and verified that no further regulatory impact analysis was required – OBPR reference numbers 16630 and 16631.

Documents incorporated in the Rules by reference

The Rules incorporate the following documents by reference, or otherwise refer to them:

Legislation

- the Act;
- the *Archives Act 1983*;
- the *Australian Communications and Media Act 2005*;
- the *Copyright Act 1968*;
- the *Corporations Act 2001*;
- the *Crimes Act 1914*;
- the *Criminal Code Act 1995*;
- the *Disability Discrimination Act 1992*;
- the *Electronic Transactions Act 1999*;
- the *Privacy Act 1988*;
- the *Racial Discrimination Act 1975*;
- the *Sex Discrimination Act 1984*; and
- the Telecommunications Labelling Notice.

Standards and other documents

- Pathways to ACMA Cabling Provider Rules Cabler Registration (the **Pathways**);
- Lift Code EN81 – Safety rules for the construction and installation of lifts – Part 1: Electric Lifts;
- AS/CA S008:2010 – Requirements for Customer Cabling Products;
- AS/CA S009:2013 – Installation Requirements for Customer Cabling (**Wiring Rules**);
- AS 60038 – Standard Voltages;
- AS 1979:1993 – Electric cables-Lifts-Flexible travelling ;
- AS/NZS 60950:2000 – Safety of information technology equipment; and
- AS 4390 – Records Management.

Copies of the legislation listed above can be found on the Australian Government’s ComLaw website (<http://www.comlaw.gov.au/>).

AS and AS/NZS standards can be purchased on the Standards Australia website (www.standards.org.au).

Copies of AS/CA standards can be found on the Communications Alliance website (<http://www.commsalliance.com.au/home>)

The Pathways can be found on the ACMA’s website at www.acma.gov.au.

The Lift Code EN81 can be found at: <http://www.gnel.ir/files/EN81-1E.pdf>

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 Rules which govern customer cabling in order to protect the health or safety of persons, and the integrity of the telecommunications network, are 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 Rules engage any applicable human rights or freedoms and has formed the view that they do not. The Rules are compatible with human rights as they do not raise any human rights issues.

Notes on the Rules

Part 1 – Introductory

Section 1.1 – Name of Rules

This section provides that the name of the Rules is the *Telecommunications Cabling Provider Rules 2014*.

Section 1.2 – Commencement

This section provides that the Rules commence on the day after they are registered on the Federal Register of Legislative Instruments.

Section 1.3 – Revocation

This section revokes the *Telecommunications Cabling Provider Rules 2000*, the *Arrangements for the Operation of the Registration System (No.3)* and the *Accreditation Procedures for Cabling Provider Registrars* on the commencement of the Rules.

Section 1.4 – Definitions

This section defines terms used throughout the Rules.

Section 1.5 – Approval of forms

This section provides that the ACMA may approve, in writing, forms that may or must be used for the purpose of complying with the Rules. Examples include forms used for registration of cabling providers and/or forms such as the Telecommunications Cabling Advice 1 (TCA1) declaration form. The TCA1 form must be completed by a registered cabling provider at the end of each cabling job.

Section 1.6 – Application of the Rules

This section provides that the Rules apply to any individual that performs, or supervises the performance of, any of the types of cabling work specified in Part 2 of the Rules. These types of work are open, restricted and lift cabling work.

This section also provides that the Rules apply to any person that is an accredited registrar or applies to become an accredited registrar.

Part 2 – Cabling Work

Section 2.1 – Types

This section specifies that the Rules apply to three types of cabling work: open, restricted and lift.

Section 2.2 – Open Cabling Work

This section defines the meaning of open cabling work. Typically, open cabling work is cabling work that is associated with larger commercial and industrial installations involving many lines, multi-pair cables, back bone cabling, multi-storey buildings and complex termination modules.

Section 2.3 – Restricted Cabling Work

This section defines the meaning of restricted cabling work. Typically, restricted cabling work is cabling work that is carried out in domestic premises including the connection of customer equipment such as simple telephones, facsimile machines, answering machines, modems, security systems, and alarm systems.

Section 2.4 – Lift Cabling Work

This section defines the meaning of lift cabling work. Typically, lift cabling work is cabling work that is conducted within the lift environment on telecommunications customer equipment and customer cables including the connection of customer equipment such as simple telephones and security cameras.

Part 3 – Registration

Section 3.1 – Arrangements for Registration

This section provides that the ACMA has made the arrangements for the operation of a system for the registration of cabling providers specified in Schedule 1. The system may be run by the ACMA itself or the ACMA may choose to engage one or more persons to operate the system, operate the system and act as a registrar or act as registrars. The ACMA is not required to act as a registrar in relation to the system.

Any person or group that operates the system must be accredited by the ACMA in line with accreditation procedures specified in Schedule 5 of the Rules.

Subsection 3.1(2) specifies the matters for which the registration system makes provision which include the specification of competency requirements with which a cabling provider must comply to

be eligible for registration and arrangements for the auditing of cabling work and registration documents used to certify eligibility for registration. The registration system also incorporates arrangements, consistent with the *Privacy Act 1988* and the Australian Privacy Principles to ensure the protection of information given to registrars.

Subsection 3.1(6) provides that a cabling provider who is registered under the registration system and whose registration has not been suspended or revoked is a “registered cabling provider” for the cabling work to which the registration relates.

Part 4 – Performance of cabling work

Section 4.1 – Performance of cabling work

This section requires that cabling work, being open, restricted or lift cabling work, must be performed by:

- a registered cabling provider who is registered to perform the type of work being undertaken and who has complied with the competency requirements relevant to the type of cabling work being undertaken; or
- an individual who is directly supervised at all times by a registered cabling provider who is registered to perform the type of work being undertaken and who has complied with the competency requirements relevant to the type of cabling work being undertaken.

It is a further requirement in relation to cabling work completed under supervision that the supervising cabling provider accepts full responsibility for the standard of work performed by the individual under supervision.

Section 4.2 – Compliance with Wiring Rules

This section mandates that a cabling provider who is performing or supervising the performance of any open, restricted or lift cabling work must ensure that the cabling work complies with the Wiring Rules as in force or existing from time to time.

Cabling work that is performed in accordance with the requirements of clauses 2 and 3 of Schedule 6 of the Rules, is exempt from the requirements of clauses 9.1.2.1, 9.1.2.2 and 9.1.2.3 of the Wiring Rules.

Section 4.3 – Customer cabling and customer equipment

This section requires a cabling provider who is performing or supervising the performance of cabling to ensure that any customer cabling and equipment installed or used in the course of undertaking the work is compliant with the Telecommunications Labelling Notice as in force or existing from time to time. The Telecommunications Labelling Notice requires customer equipment and customer cabling to be labelled to indicate whether the equipment or cabling complies with the technical standards specified in the notice.

Section 4.4 – Certification of cabling work

This section requires that, at the completion of a cabling job, a cabling provider is required to complete a statement (currently referred to in the industry as a “TCA1 form”) that verifies that work has been completed in compliance with the Wiring Rules. There are circumstances where a TCA1 form is not required and these include: running, moving or removing jumpers on a distribution frame and replacing a minor piece of cabling work such as a plug, socket or module.

When required, a cabling provider must provide a copy of the statement to the provider's employer or customer. A cabling provider may use a copy of the ACMA's standard TCA1 form (available on the ACMA website) or may incorporate the required elements of this form into an invoice or receipt that relates to the cabling work. The cabling provider is required to keep a copy of the TCA1 form for at least 1 year, and must make the form available for inspection by the ACMA, its auditors and inspectors if requested to do so.

Section 4.5 – Additional requirements relating to the performance of restricted cabling work

This section provides that a registered cabling provider performing or supervising the performance of restricted cabling work involving aerial cabling must not use poles that are used, or are available for use, on the property for the distribution of electricity.

Part 5 – Relationship with the ACMA

Section 5.1 – Assistance to the ACMA

This section requires a cabling provider to give all reasonable cooperation to the ACMA and its inspectors or auditors that are authorised by the ACMA to monitor compliance with the Rules.

Section 5.2 – The ACMA may conduct inspections of cabling work

This section provides that the ACMA may conduct inspections of cabling work in response to a written complaint or at its own initiative.

Part 6 – Transitional arrangements

Section 6.1 – Definitions

This section sets out the definitions of certain terms referred to in Part 6.

Section 6.2 – Existing registered cabling providers taken to be registered cabling providers

This section ensures that on the commencement of the Rules, the registration status of a cabling provider does not change and, unless their registration has expired, any cabling provider that was registered in accordance with the 2000 CPRs prior to the commencement date is deemed to be registered under the Rules after that date. The expiry date of an existing registration also remains the same.

Section 6.3 – Existing registrars taken to be accredited

Subsection 6.3(1) ensures that entities that were registrars prior to the commencement of the Rules and which were a party to a Deed in relation to Cabling Provider Registrar Obligations (a **Registrar Obligations Deed**) are taken to be accredited in accordance with the accreditation procedures specified in Schedule 5 to the Rules from the commencement of the Rules.

Subsection 6.3(2) ensures that compliance by a registrar with the Registrar Obligations Deed to which it is a party is deemed to be compliance with the provisions of subclause 6(1) of Schedule 1 to the Rules. This means that existing registrars will not need to enter into a new Deed in the form at Schedule 3 to the Rules.

Section 6.4 – Application for registration made before commencement day

This section permits an application for registration made by a person prior to the commencement of the Rules to be considered against the conditions of the Arrangements Instrument as though it had not been revoked.

Section 6.5 – Application for accreditation made before commencement day

This section permits an application for the accreditation of a registrar made prior to the commencement of the Rules to be considered against the conditions of the Accreditation Procedures as though they had not been revoked.

Schedule 1 – Arrangements for Operation of the Registration System

Part 1 – Competency requirements for registration

Clause 1 – Competency requirements

This clause states that the competency requirements that a cabling provider must comply with in order to be eligible for registration or renewal of registration are specified in Schedule 2 of the instrument. The competency requirements specified in Schedule 2 relate to aerial, underground, coaxial, structured, optical-fibre and broadband cabling work.

A cabling provider that performs or supervises cabling work must have the appropriate competency for the type of cabling work that is being performed or supervised. For example, a cabling provider that performs structured cabling work must have the structured cabling competency. There is no requirement to have a particular competency if the cabling provider does not perform or supervise that particular cabling work.

Clause 2 – Competency requirements to apply to all qualifications, units of training and competency standards

This clause provides that all qualifications, units of training and competency standards must be determined in the manner set out in the competency requirements.

Clause 3 – Registrar to advise applicants of competency requirements

This clause provides that registrars must advise applicants on the requirements for registration for the particular types of cabling work.

Clause 4 – The ACMA may allow use of expired registration as evidence of competency

This clause allows for a person to request that the ACMA consider allowing them to use their expired cabling registration, which has been expired for more than 12 months, as proof of competency to allow them to renew their cabling registration. For such a request to be considered, the cabling provider must make a written application to the ACMA.

Part 2 – Registration of cabling providers and conduct of registrar

Clause 5 – Registrar must be accredited

This clause requires that registrars must be accredited in accordance with requirements as outlined in Schedule 5 to the Rules to conduct registration services.

Section 6 – Deed for accreditation of registrars

This clause requires that, to be accredited, registrars must enter into a Deed as set out in Schedule 3 (a **Schedule 3 Deed**) of the Rules between registrars and the Commonwealth as represented by the Chair of the ACMA. However, as explained above existing registrars will not need to enter into a Schedule 3 Deed because compliance by the registrar with the Deed to which they are already a party is deemed to be compliance with subclause 6(1).

Clause 7 – Conduct of registrar

This clause sets out provisions dealing with the conduct of registrars who are accredited and provide registration services including their obligations to provide appropriate registration forms, issue appropriate registrations and inform registered cabling providers of the date of expiry of their registration. Clause 7 also requires that registrars must abide by the privacy provisions of the *Privacy Act 1988* and the Australian Privacy Principles when dealing with the personal information given to them by cabling providers.

Clause 8 – Registrar no longer accredited – consequences for registered cabling providers

This clause addresses what happens if a registrar ceases to be accredited. The registrations of cabling providers that were registered with the registrar will remain valid until the earlier of the end of a period specified by the ACMA on its website and notified to affected registered cabling providers or the date on which the provider's registration expires.

Part 3 – Conditions for registration

Clause 9 – Formal requirements for registration

This clause outlines the conditions that a person must comply with to be registered as a cabling provider and includes their providing suitable evidence of the attainment of the applicable

competencies as well as their correct completion of the declaration form as set out in Schedule 4 to the Rules.

Clause 10 – Information given by registered cabling providers

This clause requires that a cabling provider must advise their registrar of any changes to their contact details within 21 days of the change occurring.

Part 4 – Conditions for renewal of registration

Clause 11 – Formal requirements for renewal of registration

This clause sets out the formal requirements for the renewal of a registration.

Part 5 – Circumstances in which registration may be suspended, revoked or renewed

Clause 12 – The ACMA may give direction to a registrar to suspend, revoke or renew registration

This clause provides that a registrar must not suspend or revoke a registration, or renew a suspended or revoked registration unless, the ACMA gives the registrar a written direction to that effect.

During the period of suspension, the cabling provider is not permitted to perform cabling work of any type, unless supervised by an appropriately registered cabling provider.

Part 6 – Inspecting cabling work

Clause 13 – The ACMA may conduct inspections of cabling work

This clause provides that the ACMA may conduct inspection of cabling work in response to complaints or on its own initiative.

Part 7 – Auditing registration documents

Clause 14 – Registrar to audit registration documents

This clause outlines the requirements for registrars to validate the information on all registration documents and to resolve any issues prior to issuing a registration.

Schedule 2 – Competency Requirements

This Schedule details the competency requirements a cabling provider must have in order to be registered to perform open, restricted or lift cabling work. A cabling provider that performs or supervises cabling work must have the appropriate competency for the type of cabling work that is being performed or supervised.

The industry developed document *Pathways to ACMA Cabling Provider Rules Cabler Registration* (the **Pathways**) outlines the training modules which are based on the competency requirements in the Rules. The Pathways, as in force or existing from time to time, is published on the ACMA website www.acma.gov.au.

Part 2 of the Schedule details the open cabling requirements along with the key subject matter and practical experience areas while the requirements for restricted cabling and lift cabling are detailed in Parts 3 and 4 respectively.

Schedule 3 – Deed in relation to Cabling Provider Registrar Obligations

This Schedule provides a copy of the approved form of the Deed to be entered into by registrars and the ACMA. The Deed specifies that the Deed is between the registrar and the Commonwealth of Australia as represented by the Chair of the ACMA.

Some key provisions of the Deed are as follows:

Clause 1 – Definitions

This clause set out the definitions in relation to the Deed.

Clause 3 – Scope of Deed

This clause specifies that the Deed sets out the terms and conditions under which a registrar has obtained and may maintain its accreditation as a registrar.

Clause 4 – Term

This clause specifies the Deed commences on the commencement date (being when all parties have executed the Deed) and continues until the Deed is terminated

Clause 5 – Accreditation Procedures and Criteria

This clause specifies the procedures and criteria a registrar must adhere in order to obtain and maintain accreditation. It also requires registrars to provide the ACMA with specified information and allows the ACMA to revoke accreditation after providing the registrar with the opportunity to present reasons as to why their accreditation should not be revoked.

Clause 6 – Consequences of Accreditation

This clause outlines what a registrar is entitled to do once accredited including specifying permitted references in relation to the ACMA.

Clause 7 – Fees

This clause provides that registrars may charge for their services only on a cost recovery basis

Clause 8 – Persons who must not be registered

This clause specifies the circumstances under which a registrar must not issue or renew a cabling registration and that the registrar must comply with a direction to suspend or revoke a registration given by the ACMA.

Clause 9 – Reporting to the ACMA

This clause requires the registrar to provide the ACMA with quarterly and annual reports that must include specified information related to their activities.

Clause 11 – Audit

This clause allows the ACMA to audit a registrar for specified reasons. A registrar must fully cooperate with the auditing process

Clause 12 – Registrar not sole registrar

This clause confirms that multiple registrars may be accredited by the ACMA.

Clause 13 – Registrar Coordinating Committee

This clause requires the registrar to participate in the Registrar Coordination Committee and comply with specified requirements.

Clause 14 – Complaints Handling

This clause requires a registrar to have an inquiry and complaints handling process in place and includes specified requirements to be included in this process.

Clause 15 – On-line Access

This clause requires registrars to provide the ACMA with secure on-line access to their database of registrations and also to provide limited on-line public access to specified information included in their database of cabling provider registrations. The registrar may also provide an on-line application process for registration provided they are able to guarantee the security and integrity of such applications.

Clause 16 – Confidential Information

This clause specifies that a registrar may only disclose information, given to the registrar by the ACMA, which is confidential or has been provided in confidence to any persons, other than the ACMA, if the ACMA gives written approval to do so.

Clause 17 – Protection of Personal Information

This clause requires that a registrar and any subcontractors must comply with the provisions of the *Privacy Act 1988* when dealing with personal information for the purpose of providing services under the Deed.

Clause 18 – Intellectual Property

This clause requires a registrar to agree that all intellectual property in the database vests with the Commonwealth. The registrar may use, and must maintain, the database for the sole purpose of providing registration services during the term of the Deed. A complete and current copy of the database must be provided to the ACMA on a quarterly basis. The database, all derivatives and copies must be returned to the Commonwealth if the Deed is terminated.

Clause 25 – Termination

This clause specifies default events which permit the ACMA to terminate the Deed by giving 30 days written notice to a registrar. Six months after the commencement date, either a registrar or the ACMA may terminate the Deed at any time by giving the other party 3 months' written notice.

Schedule 4 – Cabling Registration Declaration Open/Restricted/Lift

This Schedule includes the form of declaration to be completed by a person applying to a registrar to issue them with a cabling registration.

Schedule 5 – Accreditation Procedures for Cabling Provider Registrars

This Schedule details the accreditation procedures that apply in order for an entity to become a registrar.

Schedule 6 – Standard of cabling work – requirements for exemption of cabling work from compliance with certain clauses of the Wiring Rules

This Schedule details certain cabling work that is not required to comply with specified clauses of the Wiring Rules. The exemption applies to specified scenarios where the performance of cabling work is situated around or near low voltage electrical installations or terminations.