



Radiocommunications Equipment (General) Rules 2021

The Australian Communications and Media Authority makes the following rules under subsection 156(1) of the *Radiocommunications Act 1992*.

Dated: 27 May 2021

James Cameron
[signed]
Member

Cathy Rainsford
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

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Part 1—Preliminary

1 Name

These are the *Radiocommunications Equipment (General) Rules 2021*.

2 Commencement

This instrument commences on the later of the following:

- (a) the same time as Part 1 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* commences;
- (b) the day after the day the instrument is registered on the Federal Register of Legislation.

Note: The *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* is available from the Federal Register of Legislation. The Federal Register of Legislation may be accessed, free of charge, at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 156(1) of the *Radiocommunications Act 1992*.

4 Definitions

- (1) In this instrument:

broadcasting service has the meaning given by section 6 of the *Broadcasting Services Act 1992*.

compliance labelling notice means the *Radiocommunications (Compliance Labelling – Devices) Notice 2014*.

Note: Item 43 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* saves the compliance labelling notice, as modified by that item, as equipment rules made under section 156 of the Act.

EMC labelling notice means the *Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2017*.

Note: Item 44 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* saves the EMC labelling notice, as modified by that item, as equipment rules made under section 156 of the Act.

EMC standard means the *Radiocommunications (Electromagnetic Compatibility) Standard 2017*.

Note: Item 42 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* saves standards made under repealed section 162 of the Act, as modified by that item, as equipment rules made under section 156 of the Act.

EME labelling notice means the *Radiocommunications (Compliance Labelling – Electromagnetic Radiation) Notice 2014*.

Note: Item 45 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* saves the EME labelling notice, as modified by that item, as equipment rules made under section 156 of the Act.

EME standard means the *Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2014*.

Note: Item 42 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* saves standards made under repealed section 162 of the Act, as modified by that item, as equipment rules made under section 156 of the Act.

exemption: see section 48.

general standard: see subsection (3).

permit means a permit issued under section 39.

standard: see subsection (2).

Note 1: A number of other expressions used in this instrument are defined in the Act, including the following:

- (a) ACMA;
- (b) authority;
- (c) constitutional corporation;
- (d) device;
- (e) equipment;
- (f) equipment rules;
- (g) import;
- (h) label;
- (i) licence;
- (j) licensee;
- (k) national emergency declaration;
- (l) operate;
- (m) radiocommunication;
- (n) radiocommunications device;
- (o) radiocommunications transmitter;
- (p) radio emission;
- (q) supply;
- (r) transmitter.

Note 2: Other expressions used in this instrument may be defined in a determination made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005*.

- (2) Each of the following equipment rules is a **standard**:
 - (a) the EMC standard;
 - (b) the EME standard;
 - (c) each general standard.
- (3) Each of the following equipment rules is a **general standard**:
 - (a) the *Radiocommunications (118MHz to 137MHz Amplitude Modulated Equipment – Aeronautical Radio Service) Standard 2012*;
 - (b) the *Radiocommunications (121.5 MHz and 243.0 MHz Emergency Position Indicating Radio Beacons) Standard 2014*;
 - (c) the *Radiocommunications (406 MHz Satellite Distress Beacons) Standard 2014*;
 - (d) the *Radiocommunications (Analogue Speech (Angle Modulated) Equipment) Standard 2014*;
 - (e) the *Radiocommunications (Devices Used in the Inshore Boating Radio Services Band) Standard 2017*;
 - (f) the *Radiocommunications (Digital Cordless Communications Devices – DECT Devices) Standard 2017*;
 - (g) the *Radiocommunications (HF CB and Handphone Equipment) Standard 2017*;
 - (h) the *Radiocommunications (Intelligent Transport Systems) Standard 2018*;

- (i) the *Radiocommunications (MF and HF Equipment – Land Mobile Service) Standard 2014*;
- (j) the *Radiocommunications (MF and HF Radiotelephone Equipment – International Maritime Mobile Service) Standard 2014*;
- (k) the *Radiocommunications (Paging Service Equipment) Standard 2014*;
- (l) the *Radiocommunications (Short Range Devices) Standard 2014*;
- (m) the *Radiocommunications (UHF CB Radio Equipment) Standard 2011 (No. 1)*;
- (n) the *Radiocommunications (VHF Radiotelephone Equipment – Maritime Mobile Service) Standard 2018*.

Note: Item 42 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* saves standards made under repealed section 162 of the Act, as modified by that item, as equipment rules made under section 156 of the Act.

5 References to other instruments

In this instrument, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument or writing is a reference to that other instrument or writing as in force or existing from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Note 3: See section 314A of the Act.

6 Effect of obligations and prohibitions on other obligations and prohibitions

Unless the contrary intention appears, no obligation or prohibition in this instrument limits, or is limited by:

- (a) any other obligation or prohibition in this instrument;
- (b) any obligation or prohibition in the compliance labelling notice;
- (c) any obligation or prohibition in the EMC labelling notice;
- (d) any obligation or prohibition in the EME labelling notice;
- (e) any provision of an instrument made under subsection 407(1) of the *Telecommunications Act 1997*.

Example: In relation to a single device, a person may be subject to a provision in each of Part 2, Part 3, Part 4 and Part 5 of this instrument, a provision in the compliance labelling notice, and a provision in the EMC labelling notice.

7 When a device does not comply with a standard

- (1) In this instrument, a device that was manufactured in Australia does not comply with a standard if:
 - (a) where the device has not been altered or modified in a material respect after its manufacture – the device does not comply with a standard that was applicable to it when it was manufactured;
 - (b) where the device has been altered or modified in a material respect after its manufacture – the device does not comply with a standard that was applicable to it when it was so altered or modified.

- (2) In this instrument, a device that was imported does not comply with a standard if:
- (a) where the device has not been altered or modified in a material respect after it was imported – the device does not comply with a standard that was applicable to it when it was imported;
 - (b) where the device has been altered or modified in a material respect after it was imported – the device does not comply with a standard that was applicable to it when it was so altered or modified.

Part 2—Prohibitions and obligations relating to general standards

8 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 158 of the Act provides that the equipment rules may prescribe standards for equipment. Section 159 of the Act provides that the equipment rules may impose obligations or prohibitions in relation to equipment.

The ACMA has made equipment rules that prescribe standards for equipment.

This Part imposes obligations and prohibitions in relation to the operation, possession and supply of equipment that does not comply with the prescribed standards.

9 Object of this Part

The object of this Part is to contain interference to radiocommunications.

10 Prohibition – causing emissions and general standards

- (1) A person must not, for the purposes of or in connection with radiocommunications, cause a radio emission to be made by a radiocommunications transmitter that does not comply with each general standard that is applicable to it.
- (2) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to cause a radio emission to be made; and
 - (b) the permit specifies a general standard; and
 - (c) the person causes a radio emission to be made by a transmitter that does not comply with the general standard; and
 - (d) the radio emission is made in accordance with the permit.
- (3) Subsection (1) does not apply if an exemption applies.
- (4) Without limiting the generality of subsection (1), a radio emission is made ***in connection with radiocommunications*** if the radio emission interferes, or is likely to interfere, with radiocommunications.

11 Prohibition – possession and general standards

- (1) A person must not possess a device that does not comply with each general standard that is applicable to it, if the possession is for the purpose of operation.
- (2) For the purposes of subsection (1), if:
 - (a) at a particular time, a person has a device in the person's possession, otherwise than for the purpose of supplying the device to another person; and
 - (b) the device can be operated;it must be presumed that the person has the device in the person's possession for the purpose of operating the device, unless the person adduces or points to evidence that suggests a reasonable possibility that, at that time, the person did not have the device in the person's possession for the purpose of operating the device.

- (3) For the purposes of subsection (2), it is immaterial whether the device can be operated:
 - (a) immediately; or
 - (b) after taking one or more steps (for example, the connection of the device to a power supply).
- (4) A reference in this section to a person having a device in the person's possession includes a reference to the person having it under control in any place whatever, whether for the use or benefit of that person or another person, and although another person has the physical possession or custody of it.
- (5) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to possess a device; and
 - (b) the permit specifies a general standard; and
 - (c) the person possesses a device that does not comply with the general standard; and
 - (d) the possession occurs in accordance with the permit.
- (6) Subsection (1) does not apply if an exemption applies.

12 Prohibition – supply and general standards

- (1) A person must not supply a device that does not comply with each general standard that is applicable to it.
- (2) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to supply a device; and
 - (b) the permit specifies a general standard; and
 - (c) the person supplies a device that does not comply with the general standard; and
 - (d) the supply occurs in accordance with the permit.
- (3) Subsection (1) does not apply unless:
 - (a) the person mentioned in subsection (1) is a constitutional corporation; or
 - (b) the supply mentioned in subsection (1) is, or would be, in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the provision or use of a postal, telegraphic, telephonic or other like service; or
 - (vi) the defence of Australia; or
 - (vii) the operation of lighthouses, lightships, beacons or buoys; or
 - (viii) astronomical or meteorological observations; or
 - (ix) an activity of a constitutional corporation; or
 - (x) banking, other than State banking; or
 - (xi) insurance, other than State insurance; or
 - (xii) weighing or measuring.
- (4) Subsection (1) does not apply if an exemption applies.

Part 3—Prohibitions and obligations relating to EMC standard

13 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 158 of the Act provides that the equipment rules may prescribe standards for equipment. Section 159 of the Act provides that the equipment rules may impose obligations or prohibitions in relation to equipment.

The ACMA has made equipment rules that prescribe standards in relation to the electromagnetic compatibility of equipment.

This Part imposes obligations and prohibitions in relation to the operation, possession and supply of equipment that does not comply with the prescribed standards.

14 Object of this Part

The object of this Part is to:

- (a) ensure the electromagnetic compatibility of equipment;
- (b) contain interference to radiocommunications;
- (c) contain interference to any uses or functions of equipment.

15 Prohibition – causing emissions and the EMC standard

- (1) A person must not cause a radio emission to be made by a transmitter that does not comply with the EMC standard.
- (2) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to cause a radio emission to be made; and
 - (b) the permit specifies the EMC standard; and
 - (c) the person causes a radio emission to be made by a transmitter that does not comply with the EMC standard; and
 - (d) the radio emission is made in accordance with the permit.
- (3) Subsection (1) does not apply in relation to a radio emission made by a transmitter unless:
 - (a) the person mentioned in subsection (1) is a constitutional corporation; or
 - (b) the radio emission was made as a result of the device being operated in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the defence of Australia; or
 - (vi) the operation of lighthouses, lightships, beacons or buoys; or
 - (vii) astronomical or meteorological observations; or
 - (viii) an activity of a constitutional corporation; or
 - (ix) banking, other than State banking; or

- (x) insurance, other than State insurance; or
 - (xi) weighing or measuring; or
- (c) the radio emission was likely to interfere with the operation of another device, where that operation was in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the defence of Australia; or
 - (vi) the operation of lighthouses, lightships, beacons or buoys; or
 - (vii) astronomical or meteorological observations; or
 - (viii) an activity of a constitutional corporation; or
 - (ix) banking, other than State banking; or
 - (x) insurance, other than State insurance; or
 - (xi) weighing or measuring; or
- (d) the radio emission was likely to interfere with:
 - (i) radiocommunications; or
 - (ii) broadcasting services; or
 - (iii) carriage services; or
 - (iv) any other postal, telegraphic, telephonic or like services.

(4) Subsection (1) does not apply if an exemption applies.

16 Prohibition – possession and the EMC standard

- (1) A person must not possess a device that does not comply with the EMC standard, if the possession is for the purpose of operation.
- (2) For the purposes of subsection (1), if:
 - (a) at a particular time, a person has a device in the person's possession, otherwise than for the purpose of supplying the device to another person; and
 - (b) the device can be operated;it must be presumed that the person has the device in the person's possession for the purpose of operating the device, unless the person adduces or points to evidence that suggests a reasonable possibility that, at that time, the person did not have the device in the person's possession for the purpose of operating the device.
- (3) For the purposes of subsection (2), it is immaterial whether the device can be operated:
 - (a) immediately; or
 - (b) after taking one or more steps (for example, the connection of the device to a power supply).
- (4) A reference in this section to a person having a device in the person's possession includes a reference to the person having it under control in any place whatever, whether for the use or benefit of that person or another person, and although another person has the physical possession or custody of it.
- (5) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to possess a device; and
 - (b) the permit specifies the EMC standard; and

- (c) the person possesses a device that does not comply with the EMC standard; and
 - (d) the possession occurs in accordance with the permit.
- (6) Subsection (1) does not apply in relation to possession of a device unless:
- (a) the person mentioned in subsection (1) is a constitutional corporation; or
 - (b) the operation mentioned in subsection (1) is, or would be, in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the defence of Australia; or
 - (vi) the operation of lighthouses, lightships, beacons or buoys; or
 - (vii) astronomical or meteorological observations; or
 - (viii) an activity of a constitutional corporation; or
 - (ix) banking, other than State banking; or
 - (x) insurance, other than State insurance; or
 - (xi) weighing or measuring; or
 - (c) the operation mentioned in subsection (1) was, or would be, likely to interfere with the operation of another device, where the operation of that other device was, or would be, in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the defence of Australia; or
 - (vi) the operation of lighthouses, lightships, beacons or buoys; or
 - (vii) astronomical or meteorological observations; or
 - (viii) an activity of a constitutional corporation; or
 - (ix) banking, other than State banking; or
 - (x) insurance, other than State insurance; or
 - (xi) weighing or measuring; or
 - (d) the operation mentioned in subsection (1) was, or would be, likely to interfere with:
 - (i) radiocommunications; or
 - (ii) broadcasting services; or
 - (iii) carriage services; or
 - (iv) any other postal, telegraphic, telephonic or like services.
- (7) Subsection (1) does not apply if an exemption applies.

17 Prohibition – supply and the EMC standard

- (1) A person must not supply a device that does not comply with the EMC standard.
- (2) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to supply a device; and

- (b) the permit specifies the EMC standard; and
 - (c) the person supplies a device that does not comply with the EMC standard; and
 - (d) the supply occurs in accordance with the permit.
- (3) Subsection (1) does not apply unless:
- (a) the person mentioned in subsection (1) is a constitutional corporation; or
 - (b) the supply mentioned in subsection (1) is, or would be, in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the provision or use of a postal, telegraphic, telephonic or other like service; or
 - (vi) the defence of Australia; or
 - (vii) the operation of lighthouses, lightships, beacons or buoys; or
 - (viii) astronomical or meteorological observations; or
 - (ix) an activity of a constitutional corporation; or
 - (x) banking, other than State banking; or
 - (xi) insurance, other than State insurance; or
 - (xii) weighing or measuring.
- (4) Subsection (1) does not apply if an exemption applies.

Part 4—Prohibitions and obligations relating to EME standard

18 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 158 of the Act provides that the equipment rules may prescribe standards for equipment. Section 159 of the Act provides that the equipment rules may impose obligations or prohibitions in relation to equipment.

The ACMA has made equipment rules that prescribe standards in relation to the electromagnetic radiation of equipment.

This Part imposes obligations and prohibitions in relation to the operation, possession and supply of equipment that does not comply with the prescribed standards.

19 Object of this Part

The object of this Part is to protect the health or safety of individuals from any adverse effect likely to be attributable to radio emissions resulting from a reasonably foreseeable use (including a misuse) of radiocommunications transmitters.

20 Prohibition – causing emissions and the EME standard

- (1) A person must not, for the purposes of or in connection with radiocommunications, cause a radio emission to be made by a radiocommunications transmitter that does not comply with the EME standard.
- (2) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to cause a radio emission to be made; and
 - (b) the permit specifies the EME standard; and
 - (c) the person causes a radio emission to be made by a transmitter that does not comply with the EME standard; and
 - (d) the radio emission is made in accordance with the permit.
- (3) Subsection (1) does not apply if an exemption applies.
- (4) Without limiting the generality of subsection (1), a radio emission is made ***in connection with radiocommunications*** if the radio emission interferes, or is likely to interfere, with radiocommunications.

21 Prohibition – possession and the EME standard

- (1) A person must not possess a device that does not comply with the EME standard, if the possession is for the purpose of operation.
- (2) For the purposes of subsection (1), if:
 - (a) at a particular time, a person has a device in the person's possession, otherwise than for the purpose of supplying the device to another person; and
 - (b) the device can be operated;it must be presumed that the person has the device in the person's possession for the purpose of operating the device, unless the person adduces or points to evidence that

suggests a reasonable possibility that, at that time, the person did not have the device in the person's possession for the purpose of operating the device.

- (3) For the purposes of subsection (2), it is immaterial whether the device can be operated:
 - (a) immediately; or
 - (b) after taking one or more steps (for example, the connection of the device to a power supply).
- (4) A reference in this section to a person having a device in the person's possession includes a reference to the person having it under control in any place whatever, whether for the use or benefit of that person or another person, and although another person has the physical possession or custody of it.
- (5) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to possess a device; and
 - (b) the permit specifies the EME standard; and
 - (c) the person possesses a device that does not comply with the EME standard; and
 - (d) the possession occurs in accordance with the permit.
- (6) Subsection (1) does not apply if an exemption applies.

22 Prohibition – supply and the EME standard

- (1) A person must not supply a device that does not comply with the EME standard.
- (2) Subsection (1) does not apply where:
 - (a) a person holds a permit that authorises the person to supply a device; and
 - (b) the permit specifies the EME standard;
 - (c) the person supplies a device that does not comply with the EME standard; and
 - (d) the supply occurs in accordance with the permit.
- (3) Subsection (1) does not apply unless:
 - (a) the person mentioned in subsection (1) is a constitutional corporation; or
 - (b) the supply mentioned in subsection (1) is, or would be, in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the provision or use of a postal, telegraphic, telephonic or other like service; or
 - (vi) the defence of Australia; or
 - (vii) the operation of lighthouses, lightships, beacons or buoys; or
 - (viii) astronomical or meteorological observations; or
 - (ix) an activity of a constitutional corporation; or
 - (x) banking, other than State banking; or
 - (xi) insurance, other than State insurance; or
 - (xii) weighing or measuring.
- (4) Subsection (1) does not apply if an exemption applies.

Part 5—Prohibitions and obligations in relation to labelling notices

23 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 159 of the Act provides that the equipment rules may impose obligations or prohibitions in relation to equipment, and that those rules may prohibit a person from supplying, or offering to supply, a specified kind of equipment unless the person satisfies one or more specified conditions.

The ACMA has made equipment rules that prescribe standards in relation to equipment. The ACMA has also made equipment rules that require a label to be applied to equipment.

This Part imposes obligations and prohibitions in relation to the supply of equipment that is labelled, and in relation to the supply of equipment that is unlabelled.

24 Object of this Part

The object of this Part is to:

- (a) ensure the electromagnetic compatibility of equipment;
- (b) contain interference to radiocommunications;
- (c) contain interference to any uses or functions of equipment;
- (d) protect the health or safety of individuals from any adverse effect likely to be attributable to radio emissions resulting from a reasonably foreseeable use (including a misuse) of radiocommunications transmitters;
- (e) ensure that persons who operate equipment have access to information about the equipment.

25 Prohibition – supplying an unlabelled device

Compliance labelling notice

(1) If:

- (a) a person (the **manufacturer**) manufactures a device in Australia; and
- (b) the compliance labelling notice requires the manufacturer, an agent of the manufacturer, or a person who is authorised by the manufacturer or an agent of the manufacturer, to apply a label to the device in a particular form;

the manufacturer must not supply the device unless a label in that form has been applied to the device in accordance with the notice.

(2) If:

- (a) a person (the **importer**) imports a device; and
- (b) the compliance labelling notice requires the importer, an agent of the importer, or a person who is authorised by the importer or an agent of the importer, to apply a label to the device in a particular form;

the importer must not supply the device unless a label in that form has been applied to the device in accordance with the notice.

Note: See sections 5 and 8 of the compliance labelling notice for the obligation to apply a label to a device. Other sections of that notice specify other obligations in relation to the application of the label, and other matters.

EMC labelling notice

- (3) If:
- (a) a person (the **manufacturer**) manufactures a device in Australia; and
 - (b) the EMC labelling notice requires the manufacturer, an agent of the manufacturer, or a person who is authorised by the manufacturer or an agent of the manufacturer, to apply a label to the device in a particular form;
- the manufacturer must not supply the device unless a label in that form has been applied to the device in accordance with the notice.
- (4) If:
- (a) a person (the **importer**) imports a device; and
 - (b) the EMC labelling notice requires the importer, an agent of the importer, or a person who is authorised by the importer or an agent of the importer, to apply a label to the device in a particular form;
- the importer must not supply the device unless a label in that form has been applied to the device in accordance with the notice.
- Note: See sections 3.1, 3.2 and 3.3 of the EMC labelling notice for the obligation to apply a label to a device. Other sections of that notice specify other obligations in relation to the application of the label, and other matters.

EME labelling notice

- (5) If:
- (a) a person (the **manufacturer**) manufactures a device in Australia; and
 - (b) the EME labelling notice requires the manufacturer, an agent of the manufacturer, or a person who is authorised by the manufacturer or an agent of the manufacturer, to apply a label to the device in a particular form;
- the manufacturer must not supply the device unless a label in that form has been applied to the device in accordance with the notice.
- (6) If:
- (a) a person (the **importer**) imports a device; and
 - (b) the EME labelling notice requires the importer, an agent of the importer, or a person who is authorised by the importer or an agent of the importer, to apply a label to the device in a particular form;
- the importer must not supply the device unless a label in that form has been applied to the device in accordance with the notice.
- Note: See sections 7 and 18 of the EME labelling notice for the obligation to apply a label to a device. Other sections of that notice specify other obligations in relation to the application of the label, and other matters.

26 Application of section 25

- (1) Section 25 does not apply where:
- (a) a person holds a permit that authorises the person to supply an unlabelled device; and
 - (b) the person supplies a device that does not have a label applied to it; and
 - (c) the supply occurs in accordance with the permit.
- (2) Section 25 does not apply if an exemption applies.
- (3) Subsections 25(1), 25(3) and 25(5) do not apply to a manufacturer unless:
- (a) the manufacturer mentioned in the subsection is a constitutional corporation; or

- (b) the manufacturer supplies the relevant device in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the provision or use of a postal, telegraphic, telephonic or other like service; or
 - (vi) the defence of Australia; or
 - (vii) the operation of lighthouses, lightships, beacons or buoys; or
 - (viii) astronomical or meteorological observations; or
 - (ix) an activity of a constitutional corporation; or
 - (x) banking, other than State banking; or
 - (xi) insurance, other than State insurance; or
 - (xii) weighing or measuring.

27 Prohibition – applying a label without satisfying requirements

Compliance labelling notice

- (1) If:
 - (a) the compliance labelling notice requires a person to apply a label to a device; and
 - (b) the compliance labelling notice requires the person to satisfy one or more requirements before applying the label to the device;the person must not apply:
 - (c) the label; or
 - (d) a label that purports to be such a label;before the person satisfies those requirements.

EMC labelling notice

- (2) If:
 - (a) the EMC labelling notice requires a person to apply a label to a device; and
 - (b) the EMC labelling notice requires the person to satisfy one or more requirements before applying the label to the device;the person must not apply:
 - (c) the label; or
 - (d) a label that purports to be such a label;before the person satisfies those requirements.

EME labelling notice

- (3) If:
 - (a) the EME labelling notice requires a person to apply a label to a device; and
 - (b) the EME labelling notice requires the person to satisfy one or more requirements before applying the label to the device;the person must not apply:
 - (c) the label; or
 - (d) a label that purports to be such a label;before the person satisfies those requirements.

28 Application of section 27

- (1) Section 27 does not apply to a person unless:
 - (a) the person is a constitutional corporation; or
 - (b) the person manufactured or imported the relevant device for the purposes of supply in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the provision or use of a postal, telegraphic, telephonic or other like service; or
 - (vi) the defence of Australia; or
 - (vii) the operation of lighthouses, lightships, beacons or buoys; or
 - (viii) astronomical or meteorological observations; or
 - (ix) an activity of a constitutional corporation; or
 - (x) banking, other than State banking; or
 - (xi) insurance, other than State insurance; or
 - (xii) weighing or measuring.
- (2) Section 27 does not apply if an exemption applies.

29 Application of certain requirements in labelling notices

Definition

- (1) In this section, a ***post-label provision*** is a provision of:
 - (a) the compliance labelling notice; or
 - (b) the EMC labelling notice; or
 - (c) the EME labelling notice;that imposes an obligation on a person to do a thing after a label has been applied to equipment.

Example: Part 4 of the compliance labelling notice imposes obligations on the manufacturer or importer of a device, to be met after a label has been applied to the device. The obligations include the keeping of compliance records, and the provision of information to authorised officers.

Post-label provisions

- (2) A post-label provision does not apply to a person unless:
 - (a) the person is a constitutional corporation; or
 - (b) the person manufactured or imported the device for the purposes of supply that is, or would be, in the course of, or in relation to:
 - (i) trade or commerce between Australia and places outside Australia; or
 - (ii) trade or commerce among the States; or
 - (iii) trade or commerce within a Territory, between a State and a Territory, or between two Territories; or
 - (iv) the supply of goods or services to the Commonwealth, to a Territory or to an authority or instrumentality of the Commonwealth or of a Territory; or
 - (v) the provision or use of a postal, telegraphic, telephonic or other like service; or

- (vi) the defence of Australia; or
- (vii) the operation of lighthouses, lightships, beacons or buoys; or
- (viii) astronomical or meteorological observations; or
- (ix) an activity of a constitutional corporation; or
- (x) banking, other than State banking; or
- (xi) insurance, other than State insurance; or
- (xii) weighing or measuring.

(3) A post-label provision does not apply if an exemption applies.

All obligations in labelling notices

- (4) An obligation imposed by a provision of the compliance labelling notice (including a post-label provision) does not apply where:
 - (a) a person holds a permit that authorises the person to supply an unlabelled device; and
 - (b) the person supplies a device that does not have a label applied to it; and
 - (c) the supply occurs in accordance with the permit.
- (5) An obligation imposed by a provision of the EMC labelling notice (including a post-label provision) does not apply where:
 - (a) a person holds a permit that authorises the person to supply an unlabelled device; and
 - (b) the person supplies a device that does not have a label applied to it; and
 - (c) the supply occurs in accordance with the permit.
- (6) An obligation imposed by a provision of the EME labelling notice (including a post-label provision) does not apply where:
 - (a) a person holds a permit that authorises the person to supply an unlabelled device; and
 - (b) the person supplies a device that does not have a label applied to it; and
 - (c) the supply occurs in accordance with the permit.

Part 6—Prohibitions and obligations in relation to supply to unlicensed person

30 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 159 of the Act provides that the equipment rules may impose obligations or prohibitions in relation to equipment, and that those rules may prohibit a person from supplying, or offering to supply, a specified kind of equipment unless the person satisfies one or more specified conditions.

This Part imposes a prohibition on the supply of equipment known as cellular mobile repeaters, except to a person with a licence authorising the operation of that equipment, and imposes related obligations on the suppliers of that equipment.

31 Object of this Part

The object of this Part is to ensure that certain radiocommunications transmitters are not supplied to persons intending to operate those transmitters unless those persons are authorised by or under the Act to operate those transmitters.

32 Definitions

In this Part:

authorised person, in relation to a licensee, means:

- (a) for the licensee of an apparatus licence – a person authorised under subsection 114(1) of the Act;
- (b) for the licensee of a spectrum licence – a person authorised under subsection 68(1) of the Act.

base station means a radiocommunications transmitter that is part of a telecommunications network by means of which a public mobile telecommunications service is supplied.

cellular mobile repeater means a radiocommunications device that draws power from a power source and that, operating as a single radiocommunications device or as part of a system of radiocommunications devices, is able to:

- (a) receive a radio emission from a base station and retransmit the radio emission (or transmit a replica of the radio emission) to:
 - (i) another base station; or
 - (ii) a mobile station that is used to access a public mobile telecommunications service; or
- (b) receive a radio emission from a mobile station that is used to access a public mobile telecommunications service and retransmit the radio emission (or transmit a replica of the radio emission) to:
 - (i) a base station; or
 - (ii) another mobile station that is used to access a public mobile telecommunications service.

exempt repeater: see clause 1 of Schedule 1.

public mobile telecommunications service has the meaning given by section 32 of the *Telecommunications Act 1997*.

supplier means a person who carries on a supply business.

supply business means the business of supplying radiocommunications devices to persons intending to operate them.

33 Prohibition – supply of cellular mobile repeater to unlicensed person

- (1) A supplier must not supply another person (**other person**) with a cellular mobile repeater in the course of carrying on a supply business.
- (2) Subsection (1) does not apply if:
 - (a) the other person presents to the supplier a licence, or a duplicate of the licence, that authorises the other person to operate the cellular mobile repeater; and
 - (b) the supplier records the matters specified in subsection (3) in relation to the supply of the cellular mobile repeater.
- (3) For the purposes of paragraph (2)(b), the matters are:
 - (a) the following details about the licence, or duplicate of the licence, that was presented to the supplier:
 - (i) the licence number;
 - (ii) the date of issue;
 - (iii) the date of expiry;
 - (iv) the licence type;
 - (v) the full name of the licensee;
 - (b) if the supplier provided the cellular mobile repeater to a person other than the licensee – the full name of the person to whom the supplier provided the cellular mobile repeater (**recipient**);
 - (c) other matters that the supplier considers, on reasonable grounds, confirm the identity of the recipient, such as a passport number or driver's licence number;
 - (d) the date on which the supplier provided the cellular mobile repeater to the recipient;
 - (e) matters that the supplier considers, on reasonable grounds, allow the cellular mobile repeater to be uniquely identified, such as the repeater's brand name, model number or serial number;
 - (f) if the recipient claimed to the supplier to be an authorised representative or agent of the licensee – matters that the supplier considers, on reasonable grounds, confirm that the recipient is an authorised representative or agent of the licensee;
 - (g) if the recipient claimed to the supplier to be an authorised person in relation to the licensee – matters that the supplier considers, on reasonable grounds, confirm that the recipient is an authorised person in relation to the licensee;
 - (h) if the recipient claimed to the supplier to be an authorised representative or agent of a person (**the intermediary**) that is claimed to be an authorised person in relation to the licensee – matters that the supplier considers, on reasonable grounds, confirm that:
 - (i) the intermediary is an authorised person in relation to the licensee; and
 - (ii) the recipient is an authorised representative or agent of the intermediary.

Example: An example of matters mentioned in paragraph (f), (g) or (h) is relevant content of a written communication from the licensee, or from a person authorised by the licensee.

- (4) Without limiting this section, paragraph (2)(a) is satisfied if:
 - (a) the other person presents to the supplier a document purporting to be a licence, or a duplicate of the licence, that authorises the other person to operate the cellular mobile repeater; and
 - (b) the supplier believes, on reasonable grounds, that the document was such a licence, or a duplicate of such a licence.
- (5) Subsection (1) does not apply if:
 - (a) at the time the cellular mobile repeater is supplied, the repeater is an exempt repeater; and
 - (b) the supplier records the matters specified in subsection (6) in relation to the supply of the repeater.
- (6) For the purposes of paragraph (5)(b), the matters are:
 - (a) the full name of the person to whom the supplier provided the repeater (**recipient**);
 - (b) other matters that the supplier considers, on reasonable grounds, confirm the identity of the recipient, such as a passport number or driver's licence number;
 - (c) the date on which the supplier provided the cellular mobile repeater to the recipient;
 - (d) matters that the supplier considers, on reasonable grounds, allow the cellular mobile repeater to be uniquely identified, such as the repeater's brand name, model number or serial number.

34 Obligation – keeping records of supply of cellular mobile repeater

- (1) If a supplier records a matter specified in subsection 33(3) in relation to the supply of a cellular mobile repeater, the supplier must keep the record for at least 2 years after the supply.
- (2) If a supplier records a matter specified in subsection 33(6) in relation to the supply of an exempt repeater, the supplier must keep the record for at least 2 years after the supply.

Part 7—Permits

Division 1 Simplified outline

35 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 159 of the Act provides that the equipment rules may prohibit the doing of an act or thing by a person unless the person holds a permit issued by the ACMA under the equipment rules, and the permit authorises the person to do the act or thing.

Parts 2, 3, 4 and 5 of this instrument prohibit the operation, possession or supply of certain equipment, unless the person holds a permit that authorises the person to operate, possess or supply the equipment.

This Part sets out how a person may apply for a permit, how the ACMA may deal with an application for a permit and, if the ACMA issues a permit, how the ACMA and the holder of the permit may deal with the permit.

Note: For permits issued under repealed subsection 167(2) of the Act that were in force immediately before the commencement of Part 4 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020*, see item 47 of Schedule 4 to that Act.

Division 2 Preliminary matters

36 Object of this Part

- (1) The object of this Part is to provide for permits to do an act otherwise prohibited by equipment rules, or not to comply with an obligation that is otherwise required by equipment rules.
- (2) The object specified in subsection (1) is incidental or ancillary to the objects of the other Parts of this instrument.

37 Definitions

In this Part:

application charge means the charge determined under section 60 of the *Australian Communications and Media Authority Act 2005* in relation to an application to the ACMA for a permit.

variation charge means the charge determined under section 60 of the *Australian Communications and Media Authority Act 2005* in relation to an application for the ACMA to vary a permit.

Note: At the time this instrument was made, the charge known as the ‘general service charge’ applied in relation to an application for a permit or an application to vary a permit.

Division 3 Issuing permits

38 Application

- (1) A person may apply, in writing, for a permit.

- (2) An application must be:
 - (a) in the form approved by the ACMA (if any);
 - (b) made in the manner approved by the ACMA (if any);
 - (c) accompanied by the application charge (if any).
- (3) The ACMA may approve more than one form, and more than one manner, for the purposes of subsection (2).
- (4) The application must specify one or more of the following actions the permit would authorise, if issued:
 - (a) to cause a radio emission to be made by a device that does not comply with one or more specified applicable standards;
 - (b) to possess a device that does not comply with one or more specified applicable standards;
 - (c) to supply a device that does not comply with one or more specified applicable standards;
 - (d) to supply an unlabelled device.
- (5) The application must specify one or more standards for the purposes of paragraph (4)(a), (b) or (c).

39 Decision on application

- (1) If a person applies for a permit in accordance with section 38, the ACMA may:
 - (a) issue the permit;
 - (b) refuse to issue the permit.
- (2) If the ACMA issues the permit, the ACMA must specify in the permit a date on which the permit expires.
- (3) If the ACMA issues the permit, the ACMA must specify in the permit that the permit authorises one or more of the following:
 - (a) to cause a radio emission to be made by a device that does not comply with one or more specified applicable standards;
 - (b) to possess a device that does not comply with one or more specified applicable standards;
 - (c) to supply a device that does not comply with one or more specified applicable standards;
 - (d) to supply an unlabelled device.
- (4) If the ACMA issues the permit and the permit authorises an act specified in paragraph (3)(a), (b) or (c), the ACMA must specify one or more standards in the permit.
- (5) If the ACMA refuses to issue the permit, the ACMA must notify the applicant in writing of the refusal and give a statement of reasons for the refusal.
- (6) If the ACMA makes a decision to:
 - (a) issue a permit that authorises an act specified in paragraph (3)(a), (b) or (c); but
 - (b) the ACMA does not specify each standard specified in the application for the permit;the decision is declared to be a decision to which section 285 of the Act applies.

40 Duration of permits

- (1) Subject to subsection (2), a permit is in force for the period:
 - (a) commencing on the day the permit is issued; and
 - (b) ending on the earlier of:
 - (i) the day on which the permit expires;
 - (ii) the day on which the permit is cancelled under this instrument;
 - (iii) the day on which the permit is cancelled under section 307 of the Act.
- (2) If a permit is suspended, the permit is not in force for the period of suspension.

41 Conditions

- (1) If the ACMA issues a permit, the ACMA may include one or more conditions in the permit.
- (2) A condition may provide that the holder of the permit may only be authorised to cause a radio emission to be made by, or to possess or supply, a specified device or a specified class of devices.
- (3) Subsection (2) does not limit subsection (1).
- (4) It is a condition of every permit that the holder of the permit complies with the Act.

Division 4 Dealing with permits

42 Varying permit

Changes to conditions

- (1) The ACMA may vary a permit by:
 - (a) amending a condition included in a permit;
 - (b) including a new condition in a permit;
 - (c) revoking a condition in a permit.
- (2) If the ACMA varies a permit under subsection (1), the ACMA must:
 - (a) notify the holder of the permit in writing and provide reasons for the variation; and
 - (b) provide the holder with a replacement permit.
- (3) If, otherwise than in response to an application made under subsection 43(1), the ACMA makes a decision to vary a permit under subsection (2), the decision is declared to be a decision to which section 285 of the Act applies.

Changes to specified standards

- (4) Except in relation to a permit that only authorises an act specified in paragraph 39(3)(d), the ACMA may vary a permit by:
 - (a) specifying a new standard in the permit;
 - (b) removing a standard specified in the permit;so long as the permit always specifies at least one standard.
- (5) If the ACMA varies a permit under subsection (4), the ACMA must:
 - (a) notify the holder of the permit in writing and provide reasons for the variation; and
 - (b) provide the holder with a replacement permit.

- (6) If, otherwise than in response to an application made under subsection 43(1), the ACMA makes a decision to vary a permit under subsection (4), the decision is declared to be a decision to which section 285 of the Act applies.

Change to duration

- (7) The ACMA may vary a permit by omitting the specified date for the expiry of the permit, and specifying a later date.
- (8) If the ACMA varies a permit under subsection (7), the ACMA must:
 - (a) notify the holder of the permit in writing and provide reasons for the variation; and
 - (b) provide the holder with a replacement permit.

Application of section

- (9) Subsections (1) to (6) apply regardless of whether a person has applied under subsection 43(1).
- (10) Subsections (7) to (8) only apply if a person has applied under subsection 43(1).

43 Applying for variation

- (1) A person may apply, in writing, for the ACMA to vary a permit (***variation application***).
- (2) A variation application must be:
 - (a) in the form approved by the ACMA (if any);
 - (b) made in the manner approved by the ACMA (if any);
 - (c) accompanied by the variation charge (if any).
- (3) The ACMA may approve more than one form, and more than one manner, for the purposes of subsection (2).
- (4) The variation application must specify:
 - (a) the permit to be varied; and
 - (b) the manner in which the permit would be varied.
- (5) If a person makes a variation application, the ACMA may:
 - (a) in accordance with section 42, vary the permit in the manner specified in the application;
 - (b) in accordance with section 42, vary the permit in a manner otherwise than as specified in the application;
 - (c) refuse to vary the permit.
- (6) If the ACMA refuses to vary the permit, the ACMA must notify the applicant in writing of the refusal and provide reasons for the refusal.
- (7) If:
 - (a) a person makes a variation application; and
 - (b) the ACMA makes a decision to refuse to vary the permit, or makes a decision to vary the permit in a manner otherwise than as specified in the application;the decision in paragraph (b) is declared to be a decision to which section 285 of the Act applies.

44 Suspending or cancelling permit

Grounds for suspension or cancellation

- (1) This section applies to a permit if the ACMA is satisfied that:
 - (a) a person holds the permit; and
 - (b) the person has engaged in conduct; and
 - (c) the conduct contravenes a condition of the permit.

Suspension of permit

- (2) If this section applies to a permit, the ACMA may, by notice in writing given to the person, suspend the permit for the period specified in the notice.
- (3) The period specified in the notice must not be greater than 3 months.

Cancellation of permit

- (4) If this section applies to a permit, the ACMA may, by notice in writing given to the person, cancel the permit.
- (5) In deciding whether to cancel a permit, the ACMA:
 - (a) must have regard to all matters that it considers relevant; and
 - (b) without limiting paragraph (a), may have regard to:
 - (i) whether or not a civil penalty order in relation to subsection 160(10) of the Act has been made against the person who holds the permit, or an agent of that person;
 - (ii) whether or not the person who holds the permit, or an agent of that person, has been convicted of an offence against section 136.1 or 137.1 of the *Criminal Code* that relates to the Act.

Reasons for suspension or cancellation

- (6) A notice given under subsection (2) or subsection (4) must give the reasons for suspending or cancelling the permit.

Action to be taken before suspending or cancelling permit

- (7) The ACMA must comply with subsections (8) and (9) before suspending or cancelling a permit, unless the ACMA is satisfied that it is necessary to suspend or cancel the permit as a matter of urgency in order to protect the health or safety of a person.
- (8) The ACMA must give the holder of the permit a notice that:
 - (a) states the ACMA's intention to suspend or cancel the permit;
 - (b) sets out the reason the ACMA intends to suspend or cancel the permit;
 - (c) gives the holder of the permit at least 2 weeks, commencing the day after the notice was given to the holder, to make submissions about the suspension or cancellation of the permit.
- (9) The ACMA must have regard to any submissions made in accordance with paragraph (8)(c).
- (10) For the avoidance of doubt, other action taken by the ACMA in relation to a contravention of a condition does not affect whether the ACMA may suspend or cancel a permit under this section.

Note: Under subsection 160(10) of the Act, contravention of a condition of a permit may be subject to a civil penalty.

Review

- (11) If the ACMA makes a decision to suspend a permit, the decision is declared to be a decision to which section 285 of the Act applies.

Division 5 Transitional

45 Permissions in force before commencement of instrument

- (1) If:
- (a) before the commencement day, the ACMA had given written permission (***pre-existing permission***) to a person under section 174 of the Act as in force immediately before the commencement day; and
 - (b) the pre-existing permission was in force immediately before the commencement day; and
 - (c) the pre-existing permission authorised the person to supply a non-standard device specified in the pre-existing permission (***specified device***);
- the person is taken to have been issued a permit under section 39 of this instrument that:
- (d) authorises the person to supply a device;
 - (e) specifies the date 1 year after the commencement day as the date on which the permit expires;
 - (f) specifies each standard for which the specified device was a non-standard device;
 - (g) includes each condition included in the pre-existing permission;
 - (h) includes a condition that the person is only authorised to supply the specified device.

- (2) In this section:

commencement day means the day Part 1 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* commenced.

non-standard device has the meaning given by subsection 9(2) of the Act, as in force immediately before the commencement day.

Note: For permits issued under repealed subsection 167(2) of the Act that were in force immediately before the commencement of Part 1 of Schedule 4 to the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020*, see item 47 of Schedule 4 to that Act.

Part 8—Exemptions

46 Simplified outline of this Part

Section 156 of the Act allows the ACMA to make equipment rules. Section 159 of the Act provides that the equipment rules may prohibit the doing of an act or thing by a person.

Parts 2, 3, 4 and 5 of this instrument prohibit the operation, possession or supply of certain equipment in certain circumstances, unless an exemption applies.

This Part sets out the exemptions that may apply.

47 Object of this Part

- (1) The object of this Part is to provide for exemptions to do an act otherwise prohibited by equipment rules, or not to comply with an obligation that is otherwise required by equipment rules.
- (2) The object specified in subsection (1) is incidental or ancillary to the objects of the other Parts of this instrument.

48 Definitions

In this instrument, each of the following is an *exemption*:

- (a) section 49;
- (b) subsection 50(1);
- (c) section 51;
- (d) section 52.

49 Exemption – emergency transmission

A person does not contravene a prohibition that relates to:

- (a) causing radio emission to be made by a device; or
- (b) possession of a device for the purpose of operation;

if:

- (c) the person:
 - (i) causes a radio transmission to be made; or
 - (ii) has a device in the person's possession for the purpose of operation; and
- (d) the person does so in the reasonable belief that the transmission or possession was necessary for the purpose of:
 - (i) securing the safety of a vessel, aircraft or space object that was in danger; or
 - (ii) dealing with an emergency involving a serious risk of threat to the environment; or
 - (iii) dealing with an emergency involving risk of death of, or injury to, persons; or
 - (iv) dealing with an emergency involving risk of substantial loss of, or damage to, property; or
 - (v) if a national emergency declaration is in force – dealing with the emergency to which the declaration relates.

50 Exemption – possession or supply for use solely outside Australia

- (1) A person does not contravene a prohibition that relates to:
 - (a) possession of a device; or
 - (b) if the prohibition is in Part 2, Part 3 or Part 4 of this instrument – supply of a device;if the device is intended to be used solely outside Australia.
- (2) If there is applied to a device:
 - (a) a statement that the device is for export only; or
 - (b) a statement indicating, by use of the words specified in subsection (3), that the device is intended to be used solely outside Australia;it is presumed for the purposes of this section, unless the contrary is established, that the device is intended to be so used.
- (3) For the purposes of paragraph (2)(b), the words are:

The device is intended to be used only outside Australia.
- (4) For the purposes of subsection (2), a statement is taken to be applied to a device if:
 - (a) the statement is impressed on, worked into, or annexed or affixed to, the device; or
 - (b) the statement is applied to a covering (including a box, case, frame or wrapper), label or thing in or with which the device is supplied.

51 Exemption – supply for modification

A person does not contravene a prohibition in Part 2, Part 3 or Part 4 of this instrument that relates to supply of a device if the supply was for the purpose of modifying or altering the device so that the device would comply with all standards applicable to it at the time of the alteration or modification.

52 Exemption – supply for re-export

A person does not contravene a prohibition in Part 2, Part 3 or Part 4 of this instrument that relates to supply of a device if:

- (a) the device was imported; and
- (b) the person supplied the device for the purposes of re-export.

Schedule 1—Exempt repeaters

(section 32 and subsection 33(5))

1 Interpretation

In this Schedule:

cellular mobile repeater has the meaning given by section 32.

exempt repeater: see clause 3.

2 Carrier may request ACMA to make instrument

A carrier may request, in writing, the ACMA to make an instrument under clause 3 in relation to a specified cellular mobile repeater.

3 Instrument of exempt repeater

If the ACMA receives a request under clause 2, the ACMA may make a written instrument that declares the cellular mobile repeater specified in the request to be an *exempt repeater*.

4 Publication of exempt repeater

If the ACMA makes an instrument under clause 3 in relation to a cellular mobile repeater, the ACMA must publish the following information on its website:

- (a) the brand name of the repeater;
- (b) the model number of the repeater;
- (c) an image of the repeater;
- (d) the date the instrument was made;
- (e) the carrier that requested the instrument.

5 Refusal to make instrument

- (1) If the ACMA refuses to make an instrument under clause 3, the decision is declared to be a decision to which section 285 of the Act applies.
- (2) If the ACMA refuses to make an instrument under clause 3, the ACMA must give the carrier the reasons for the decision.