



# Telecommunications Act 1997

No. 47, 1997

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This compilation is in 2 volumes

Volume 1: sections 1–594

Volume 2: **Schedules**  
**Endnotes**

Each volume has its own contents

**This compilation includes commenced amendments made by Act No. 25, 2018. Amendments made by Act No. 34, 2018 have not commenced but are noted in the endnotes.**

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Telecommunications Act 1997* that shows the text of the law as amended and in force on 1 July 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## **Schedule 1—Standard carrier licence conditions**

Note: See section 61.

### **Part 1—Compliance with this Act**

#### **1 Compliance with this Act**

- (1) A carrier must comply with this Act.
- (2) In this clause:

*this Act* includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act and Chapter 5 of the *Telecommunications (Interception and Access) Act 1979*.

## Part 3—Access to supplementary facilities

### 16 Simplified outline

The following is a simplified outline of this Part:

- Carriers must provide other carriers with access to facilities for the purpose of enabling the other carriers to:
  - (a) provide competitive facilities and competitive carriage services; or
  - (b) establish their own facilities.

### 17 Access to supplementary facilities

- (1) A carrier (the *first carrier*) must, if requested to do so by another carrier (the *second carrier*) give the second carrier access to facilities owned or operated by the first carrier.
- (2) The first carrier is not required to comply with subclause (1) unless:
  - (a) the access is provided for the sole purpose of enabling the second carrier:
    - (i) to provide competitive facilities and competitive carriage services; or
    - (ii) to establish its own facilities; and
  - (b) the second carrier's request is reasonable; and
  - (c) the second carrier gives the first carrier reasonable notice that the second carrier requires the access; and
  - (d) in a case where the facilities do not consist of customer cabling or customer equipment—the facilities:
    - (i) were in place on 30 June 1991; or

- (ii) were not in place on 30 June 1991, and were not obtained after that date by the first carrier solely by means of commercial negotiation.
- (2A) Subclause (1) does not impose an obligation to the extent (if any) to which the imposition of the obligation would have any of the following effects:
- (a) depriving any person of a right under a contract that was in force at the time the request was made;
  - (b) preventing Telstra from complying with an undertaking in force under section 577A, 577C or 577E;
  - (c) if a final migration plan is in force—requiring Telstra to engage in conduct in connection with matters covered by the final migration plan.
- (2B) If, at the time the request was made:
- (a) one or more provisions (the *contingent provisions*) of a contract have not come into force because:
    - (i) the contingent provisions are subject to a condition precedent; and
    - (ii) the condition precedent has not been satisfied; and
  - (b) there is a possibility that the condition precedent could become satisfied; and
  - (c) assuming that the condition precedent had been satisfied:
    - (i) the contingent provisions would come into force; and
    - (ii) the person would have a right under the contingent provisions;
- paragraph (2A)(a) has effect, in relation to the contract, as if, at the time the request was made:
- (d) the contract was in force; and
  - (e) the person had the right under the contract.
- (3) For the purposes of this clause, in determining whether the second carrier's request is reasonable, regard must be had to the question whether compliance with the request will promote the long-term interests of end-users of carriage services or of services supplied by means of carriage services. That question is to be determined in the

Clause 18

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same manner as it is determined for the purposes of Part XIC of the *Competition and Consumer Act 2010*.

- (4) Subclause (3) is intended to limit the matters to which regard may be had.
- (4A) For the purposes of subclause (1), if:
- (a) there is an agreement in force between Telstra and an NBN corporation; and
  - (b) the agreement relates to the NBN corporation's access to facilities owned or operated by Telstra; and
  - (c) apart from this clause, the agreement would result in the NBN corporation being the operator of the facilities;
- the NBN corporation is taken not to be the operator of the facilities.
- (5) A reference in this clause to a **facility** is a reference to:
- (a) a facility as defined by section 7; or
  - (b) land on which a facility mentioned in paragraph (a) is located; or
  - (c) a building or structure on land referred to in paragraph (b); or
  - (d) customer equipment, or customer cabling, connected to a telecommunications network owned or operated by a carrier.
- (6) In this clause:
- NBN corporation** has the same meaning as in section 577BA.

## 18 Terms and conditions of access

- (1) The first carrier (within the meaning of clause 17) must comply with subclause 17(1) on such terms and conditions as are:
- (a) agreed between the following parties:
    - (i) the first carrier;
    - (ii) the second carrier (within the meaning of that clause);or
  - (b) failing agreement, determined by an arbitrator appointed by the parties.



If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.

- (2) The regulations may make provision for and in relation to the conduct of an arbitration under this clause.
- (3) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this clause, the ACCC may be constituted by a single member, or a specified number of members, of the ACCC. For each such arbitration, that member or those members are to be nominated in writing by the Chairperson of the ACCC.
- (4) Subclause (3) does not, by implication, limit subclause (2).
- (5) A determination made in an arbitration under this clause must not be inconsistent with a Ministerial pricing determination in force under clause 19.
- (6) An arbitrator must not make a determination under this clause if the determination would have the effect of:
  - (a) preventing Telstra from complying with an undertaking in force under section 577A, 577C or 577E; or
  - (b) if a final migration plan is in force—requiring Telstra to engage in conduct in connection with matters covered by the final migration plan.
- (7) If:
  - (a) an agreement mentioned in paragraph (1)(a) is in force; and
  - (b) the agreement is in writing;a determination under this clause has no effect to the extent to which it is inconsistent with the agreement.

## **19 Ministerial pricing determinations**

- (1) The Minister may, by legislative instrument, make a determination setting out principles dealing with price-related terms and conditions relating to the obligations imposed by subclause 17(1).

**Schedule 1** Standard carrier licence conditions  
**Part 3** Access to supplementary facilities

Clause 19

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The determination is to be known as a ***Ministerial pricing determination***.

(3) In this clause:

***price-related terms and conditions*** means terms and conditions relating to price or a method of ascertaining price.

## **Part 4—Access to network information**

### **20 Simplified outline**

The following is a simplified outline of this Part:

- Carriers must provide other carriers with access to certain information relating to the operation of telecommunications networks.

### **21 Access to network information**

- (1) This clause applies to a carrier (the *first carrier*) if the first carrier supplies carriage services to another carrier (the *second carrier*).
- (2) The first carrier must, if requested to do so by the second carrier, provide the second carrier with reasonable access to:
  - (a) timely and detailed information from the first carrier's operations support systems; and
  - (b) timely and detailed traffic flow information.
- (3) The first carrier is not required to comply with subclause (2) unless:
  - (a) a purpose of the access is to enable the second carrier to undertake planning, maintenance or reconfiguration of the second carrier's telecommunications network; and
  - (b) the second carrier's request is reasonable.
- (4) If information is requested by the second carrier under subclause (2), the first carrier must make the information available to the second carrier as soon as practicable after the request is made.
- (5) Clauses 22, 23, 24, 25 and 29 do not, by implication, limit this clause.

## 22 Access to information in databases

- (1) This clause applies to a carrier (the *first carrier*) if the first carrier supplies carriage services to another carrier (the *second carrier*).
- (2) The first carrier must, if requested to do so by the second carrier, provide the second carrier with reasonable access to timely and detailed information that:
  - (a) is contained in the first carrier's databases; and
  - (b) relates to the manner in which the first carrier's telecommunications network treats calls of a particular kind.
- (3) The first carrier is not required to comply with subclause (2) unless:
  - (a) a purpose of the access is to enable the second carrier to undertake planning, maintenance or reconfiguration of the second carrier's telecommunications network; and
  - (b) the second carrier's request is reasonable.
- (4) If information is requested by the second carrier under subclause (2), the first carrier must make the information available to the second carrier as soon as practicable after the request is made.

## 23 Access to network planning information

- (1) This clause applies to a carrier (the *first carrier*) if the first carrier supplies carriage services to another carrier (the *second carrier*).
- (2) The first carrier must, if requested to do so by the second carrier, provide the second carrier with timely and detailed telecommunications network planning information.
- (3) The information is to include (but is not limited to) information relating to the following:
  - (a) the volume or characteristics of traffic being offered by the first carrier to a telecommunications network of the second carrier;

- (b) the telecommunications network performance standards (if any) that have been set by the first carrier.
- (4) The first carrier is not required to comply with subclause (2) unless:
  - (a) a purpose of the provision of the information is to enable the second carrier to undertake planning for its own telecommunications network; and
  - (b) the second carrier's request is reasonable.
- (5) If information is requested by the second carrier under subclause (2), the first carrier must make the information available to the second carrier as soon as practicable after the request is made.

**24 Access to information about likely changes to network facilities—  
completion success rate of calls**

- (1) This clause applies to a carrier (the *first carrier*) if the first carrier supplies carriage services to another carrier (the *second carrier*).
- (2) The first carrier must, if requested to do so by the second carrier, provide the second carrier with timely and detailed information that:
  - (a) relates to likely changes to facilities on a telecommunications network of the first carrier; and
  - (b) will affect the completion success rate of calls offered by the second carrier.
- (3) The first carrier is not required to comply with subclause (2) unless:
  - (a) a purpose of the provision of the information is to enable the second carrier to undertake planning for its own telecommunications network; and
  - (b) the second carrier's request is reasonable.
- (4) If information is requested by the second carrier under subclause (2), the first carrier must make the information available

Clause 25

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to the second carrier as soon as practicable after the request is made.

**25 Access to quality of service information etc.**

- (1) This clause applies to a carrier (the *first carrier*) if the first carrier supplies carriage services to another carrier (the *second carrier*).
- (2) The first carrier must, if requested to do so by the second carrier, provide the second carrier with timely and detailed information relating to:
  - (a) conditions affecting the quality of service experienced by customers of the second carrier; and
  - (b) localisation of telecommunications network conditions affecting traffic offered by the second carrier to the first carrier's telecommunications network; and
  - (c) routing information allowing the second carrier to determine in which telecommunications network calls have failed; and
  - (d) identification of switching or other equipment or facilities in each of the first carrier's telecommunications networks which contribute to a level of uncompleted calls, affecting the second carrier's offered traffic, beyond the threshold agreed by the first carrier and the second carrier and consistent with terms used in the relevant ITU(T) Recommendations; and
  - (e) periodic summaries, in relation to the second carrier's traffic, of unsuccessful call ratios across the first carrier's telecommunications network, categorised by cause of call failure and including separate identification of telecommunications network difficulties and congestion; and
  - (f) telecommunications network control actions taken by the first carrier which would affect the completion success rate of calls offered to the first carrier by the second carrier; and
  - (g) such other matters (if any) as are specified in the regulations.
- (3) The first carrier is not required to comply with subclause (2) unless the second carrier's request is reasonable.

- (4) If information is requested by the second carrier under subclause (2), the first carrier must make the information available to the second carrier as soon as practicable after the request is made.
- (5) In this clause:
- ITU(T) Recommendations** means the E500, E600 and E700 series of recommendations dealing with quality of service, telecommunications network management and traffic engineering promulgated by the International Telecommunication Union, being recommendations in force on:
- (a) 1 July 1997; or
  - (b) such later date (if any) as is specified in the regulations.

## 26 Security procedures

- (1) A carrier (the **first carrier**) is not required to give another carrier (the **second carrier**) information, or access to information, under clause 21, 22, 23, 24 or 25 unless the second carrier has in place security procedures:
- (a) agreed between the first carrier and the second carrier; or
  - (b) failing agreement—determined in writing by the ACCC.
- (2) For the purposes of subclause (1), **security procedures** are procedures designed to protect the confidentiality of information.

## 27 Terms and conditions of compliance

- (1) The first carrier (within the meaning of clause 21, 22, 23, 24 or 25) must comply with a requirement imposed on the first carrier by that clause on such terms and conditions as are:
- (a) agreed between the following parties:
    - (i) the first carrier;
    - (ii) the second carrier (within the meaning of that clause);or
  - (b) failing agreement, determined by an arbitrator appointed by the parties.

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If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.

- (2) The regulations may make provision for and in relation to the conduct of an arbitration under this clause.
- (3) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this clause, the ACCC may be constituted by a single member, or a specified number of members, of the ACCC. For each such arbitration, that member or those members are to be nominated in writing by the Chairperson of the ACCC.
- (4) Subclause (3) does not, by implication, limit subclause (2).
- (5) A determination made in an arbitration under this clause must not be inconsistent with a Ministerial pricing determination in force under clause 28.

**27A Code relating to access to information**

- (1) The ACCC may, by legislative instrument, make a Code setting out conditions that are to be complied with in relation to the provision of information, or access to information, under clause 21, 22, 23, 24 or 25.
- (2) A carrier must comply with the Code.
- (3) This clause does not, by implication, limit a power conferred by or under this Act to make an instrument.
- (4) This clause does not, by implication, limit the matters that may be dealt with by codes or standards referred to in Part 6.
- (5) Subclauses (3) and (4) do not, by implication, limit subsection 33(3B) of the *Acts Interpretation Act 1901*.

**28 Ministerial pricing determinations**

- (1) The Minister may, by legislative instrument, make a determination setting out principles dealing with price-related terms and
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conditions relating to an obligation imposed by clause 21, 22, 23, 24 or 25. The determination is to be known as a ***Ministerial pricing determination***.

(3) In this clause:

***price-related terms and conditions*** means terms and conditions relating to price or a method of ascertaining price.

## **29 Consultation about reconfiguration etc.**

- (1) This clause applies to a carrier (the ***first carrier***) if the first carrier supplies carriage services to another carrier (the ***second carrier***).
- (2) The first carrier must, if requested to do so by the second carrier, consult with the second carrier before modifying or reconfiguring the first carrier's telecommunications network.
- (3) The first carrier is not required to comply with subclause (2) unless the modification or reconfiguration has a bearing on the second carrier's:
  - (a) telecommunications network planning activities; or
  - (b) telecommunications network maintenance activities; or
  - (c) telecommunications network reconfiguration activities.
- (4) The first carrier must comply with the requirement set out in subclause (2) on such terms and conditions as are:
  - (a) agreed between the following parties:
    - (i) the first carrier;
    - (ii) the second carrier; or
  - (b) failing agreement, determined by an arbitrator appointed by the parties.

If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.
- (5) The regulations may make provision for and in relation to the conduct of an arbitration under this clause.

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- (6) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this clause, the ACCC may be constituted by a single member, or a specified number of members, of the ACCC. For each such arbitration, that member or those members are to be nominated in writing by the Chairperson of the ACCC.
- (7) Subclause (6) does not, by implication, limit subclause (5).

**29A Code relating to consultation**

- (1) The ACCC may, by legislative instrument, make a Code setting out conditions that are to be complied with in relation to consultations under clause 29.
- (2) The Code may specify the manner and form in which a consultation is to occur.
- (3) Subclause (2) does not, by implication, limit subclause (1).
- (4) A carrier must comply with the Code.
- (5) This clause does not, by implication, limit a power conferred by or under this Act to make an instrument.
- (6) This clause does not, by implication, limit the matters that may be dealt with by codes or standards referred to in Part 6.
- (7) Subclauses (5) and (6) do not, by implication, limit subsection 33(3B) of the *Acts Interpretation Act 1901*.

## **Part 5—Access to telecommunications transmission towers and to underground facilities**

### **30 Simplified outline**

The following is a simplified outline of this Part:

- Carriers must provide other carriers with access to:
  - (a) telecommunications transmission towers; and
  - (b) the sites of telecommunications transmission towers; and
  - (c) underground facilities that are designed to hold lines.

### **31 Definitions**

In this Part:

***eligible underground facility*** means an underground facility that is used, installed ready to be used, or intended to be used, to hold lines.

***NBN corporation*** has the same meaning as in section 577BA.

***site*** means:

- (a) land; or
- (b) a building on land; or
- (c) a structure on land.

***telecommunications transmission tower*** means:

- (a) a tower; or
- (b) a pole; or
- (c) a mast; or

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(d) a similar structure;  
used to supply a carriage service by means of  
radiocommunications.

**32 Extended meaning of *access***

- (1) For the purposes of this Part, ***giving access*** to a tower includes replacing the tower with another tower located on the same site and giving access to the replacement tower.
- (2) For the purposes of this Part, ***giving access*** to a site on which is situated a tower includes replacing the tower with another tower located on the site.

**33 Access to telecommunications transmission towers**

- (1) A carrier (the ***first carrier***) must, if requested to do so by another carrier (the ***second carrier***), give the second carrier access to a telecommunications transmission tower owned or operated by the first carrier.
- (2) The first carrier is not required to comply with subclause (1) unless:
  - (a) the access is provided for the sole purpose of enabling the second carrier to install a facility used, or for use, in connection with the supply of a carriage service by means of radiocommunications; and
  - (b) the second carrier gives the first carrier reasonable notice that the second carrier requires the access.
- (3) The first carrier is not required to comply with subclause (1) in relation to a particular telecommunications transmission tower if there is in force a written certificate issued by the ACCC stating that, in the ACCC's opinion, compliance with subclause (1) in relation to that tower is not technically feasible.
- (4) In determining whether compliance with subclause (1) in relation to a tower is technically feasible, the ACCC must have regard to:

- (a) whether compliance is likely to result in significant difficulties of a technical or engineering nature; and
  - (b) whether compliance is likely to result in a significant threat to the health or safety of persons who operate, or work on, the tower; and
  - (c) if compliance is likely to have a result referred to in paragraph (a) or (b)—whether there are practicable means of avoiding such a result, including (but not limited to):
    - (i) changing the configuration or operating parameters of a facility situated on the tower; and
    - (ii) making alterations to the tower; and
  - (d) such other matters (if any) as the ACCC considers relevant.
- (4A) Before issuing a certificate under subclause (3), the ACCC may consult the ACMA.
- (5) If the ACCC receives a request to make a decision about the issue of a certificate under subclause (3), the ACCC must use its best endeavours to make that decision within 10 business days after the request was made.
- (6) Subclause (1) does not impose an obligation to the extent (if any) to which the imposition of the obligation would have any of the following effects:
- (a) depriving any person of a right under a contract that was in force at the time the request was made;
  - (b) preventing Telstra from complying with an undertaking in force under section 577A, 577C or 577E;
  - (c) if a final migration plan is in force—requiring Telstra to engage in conduct in connection with matters covered by the final migration plan.
- (7) If, at the time the request was made:
- (a) one or more provisions (the *contingent provisions*) of a contract have not come into force because:
    - (i) the contingent provisions are subject to a condition precedent; and

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- (ii) the condition precedent has not been satisfied; and
  - (b) there is a possibility that the condition precedent could become satisfied; and
  - (c) assuming that the condition precedent had been satisfied:
    - (i) the contingent provisions would come into force; and
    - (ii) the person would have a right under the contingent provisions;
- paragraph (6)(a) has effect, in relation to the contract, as if, at the time the request was made:
- (d) the contract was in force; and
  - (e) the person had the right under the contract.
- (8) For the purposes of subclause (1), if:
- (a) there is an agreement in force between Telstra and an NBN corporation; and
  - (b) the agreement relates to the NBN corporation's access to a telecommunications transmission tower owned or operated by Telstra; and
  - (c) apart from this clause, the agreement would result in the NBN corporation being the operator of the telecommunications transmission tower;
- the NBN corporation is taken not to be the operator of the telecommunications transmission tower.

**34 Access to sites of telecommunications transmission towers**

- (1) A carrier (the *first carrier*) must, if requested to do so by another carrier (the *second carrier*), give the second carrier access to a site if:
- (a) either:
    - (i) the site is owned, occupied or controlled by the first carrier; or
    - (ii) the first carrier has a right (whether conditional or unconditional) to use the site; and
  - (b) there is situated on the site a telecommunications transmission tower owned or operated by the first carrier.

- (2) The first carrier is not required to comply with subclause (1) unless:
- (a) the access is provided for the sole purpose of enabling the second carrier to install a facility used, or for use, in connection with the supply of a carriage service by means of radiocommunications; and
  - (b) the second carrier gives the first carrier reasonable notice that the second carrier requires the access.
- (3) The first carrier is not required to comply with subclause (1) in relation to a particular site if there is in force a written certificate issued by the ACCC stating that, in the ACCC's opinion, compliance with subclause (1) in relation to that site is not technically feasible.
- (4) In determining whether compliance with subclause (1) in relation to a site is technically feasible, the ACCC must have regard to:
- (a) whether compliance is likely to result in significant difficulties of a technical or engineering nature; and
  - (b) whether compliance is likely to result in a significant threat to the health or safety of persons who operate, or work on, a facility situated on the site; and
  - (c) if compliance is likely to have a result referred to in paragraph (a) or (b)—whether there are practicable means of avoiding such a result, including (but not limited to):
    - (i) changing the configuration or operating parameters of a facility situated on the site; and
    - (ii) making alterations to a facility situated on the site; and
  - (d) such other matters (if any) as the ACCC considers relevant.
- (4A) Before issuing a certificate under subclause (3), the ACCC may consult the ACMA.
- (5) If the ACCC receives a request to make a decision about the issue of a certificate under subclause (3), the ACCC must use its best endeavours to make that decision within 10 business days after the request was made.

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- (6) Subclause (1) does not impose an obligation to the extent (if any) to which the imposition of the obligation would have any of the following effects:
- (a) depriving any person of a right under a contract that was in force at the time the request was made;
  - (b) preventing Telstra from complying with an undertaking in force under section 577A, 577C or 577E;
  - (c) if a final migration plan is in force—requiring Telstra to engage in conduct in connection with matters covered by the final migration plan.
- (7) If, at the time the request was made:
- (a) one or more provisions (the *contingent provisions*) of a contract have not come into force because:
    - (i) the contingent provisions are subject to a condition precedent; and
    - (ii) the condition precedent has not been satisfied; and
  - (b) there is a possibility that the condition precedent could become satisfied; and
  - (c) assuming that the condition precedent had been satisfied:
    - (i) the contingent provisions would come into force; and
    - (ii) the person would have a right under the contingent provisions;
- paragraph (6)(a) has effect, in relation to the contract, as if, at the time the request was made:
- (d) the contract was in force; and
  - (e) the person had the right under the contract.
- (8) For the purposes of subclause (1), if:
- (a) there is an agreement in force between Telstra and an NBN corporation; and
  - (b) the agreement relates to the NBN corporation's access to the site of a telecommunications transmission tower, where:
    - (i) the site is owned, operated or controlled by Telstra; or
    - (ii) Telstra has a right (whether conditional or unconditional) to use the site; and



- (c) apart from this clause, the agreement would result in the NBN corporation:
  - (i) being the occupier or controller of the site; or
  - (ii) having a right (whether conditional or unconditional) to use the site;the NBN corporation is taken:
  - (d) not to be the occupier or controller of the site; and
  - (e) not to have a right (whether conditional or unconditional) to use the site.

### **35 Access to eligible underground facilities**

- (1) A carrier (the *first carrier*) must, if requested to do so by another carrier (the *second carrier*), give the second carrier access to an eligible underground facility owned or operated by the first carrier.
- (2) The first carrier is not required to comply with subclause (1) unless:
  - (a) the access is provided for the sole purpose of enabling the second carrier to install a line used, or for use, in connection with the supply of a carriage service; and
  - (b) the second carrier gives the first carrier reasonable notice that the second carrier requires the access.
- (3) The first carrier is not required to comply with subclause (1) in relation to a particular eligible underground facility if there is in force a written certificate issued by the ACCC stating that, in the ACCC's opinion, compliance with subclause (1) in relation to that facility is not technically feasible.
- (4) In determining whether compliance with subclause (1) in relation to an eligible underground facility is technically feasible, the ACCC must have regard to:
  - (a) whether compliance is likely to result in significant difficulties of a technical or engineering nature; and
  - (b) whether compliance is likely to result in a significant threat to the health or safety of persons who operate, or work on, the eligible underground facility; and

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- (c) if compliance is likely to have a result referred to in paragraph (a) or (b)—whether there are practicable means of avoiding such a result, including (but not limited to):
    - (i) changing the configuration or operating parameters of the eligible underground facility; and
    - (ii) making alterations to the eligible underground facility; and
  - (d) such other matters (if any) as the ACCC considers relevant.
- (4A) Before issuing a certificate under subclause (3), the ACCC may consult the ACMA.
- (5) If the ACCC receives a request to make a decision about the issue of a certificate under subclause (3), the ACCC must use its best endeavours to make that decision within 10 business days after the request was made.
- (6) Subclause (1) does not impose an obligation to the extent (if any) to which the imposition of the obligation would have any of the following effects:
- (a) depriving any person of a right under a contract that was in force at the time the request was made;
  - (b) preventing Telstra from complying with an undertaking in force under section 577A, 577C or 577E;
  - (c) if a final migration plan is in force—requiring Telstra to engage in conduct in connection with matters covered by the final migration plan.
- (7) If, at the time the request was made:
- (a) one or more provisions (the *contingent provisions*) of a contract have not come into force because:
    - (i) the contingent provisions are subject to a condition precedent; and
    - (ii) the condition precedent has not been satisfied; and
  - (b) there is a possibility that the condition precedent could become satisfied; and
  - (c) assuming that the condition precedent had been satisfied:

- (i) the contingent provisions would come into force; and
  - (ii) the person would have a right under the contingent provisions;
- paragraph (6)(a) has effect, in relation to the contract, as if, at the time the request was made:
- (d) the contract was in force; and
  - (e) the person had the right under the contract.
- (8) For the purposes of subclause (1), if:
- (a) there is an agreement in force between Telstra and an NBN corporation; and
  - (b) the agreement relates to the NBN corporation's access to an eligible underground facility owned or operated by Telstra; and
  - (c) apart from this clause, the agreement would result in the NBN corporation being the operator of the eligible underground facility;
- the NBN corporation is taken not to be the operator of the eligible underground facility.

### **36 Terms and conditions of access**

- (1) The first carrier (within the meaning of clause 33) must comply with subclause 33(1) on such terms and conditions as are:
- (a) agreed between the following parties:
    - (i) the first carrier;
    - (ii) the second carrier (within the meaning of that clause);or
  - (b) failing agreement, determined by an arbitrator appointed by the parties.
- If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.
- (2) The first carrier (within the meaning of clause 34) must comply with subclause 34(1) on such terms and conditions as are:
- (a) agreed between the following parties:

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- (i) the first carrier;
  - (ii) the second carrier (within the meaning of that clause);
- or

(b) failing agreement, determined by an arbitrator appointed by the parties.

If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.

- (3) The first carrier (within the meaning of clause 35) must comply with subclause 35(1) on such terms and conditions as are:
- (a) agreed between the following parties:
    - (i) the first carrier;
    - (ii) the second carrier (within the meaning of that clause);or
  - (b) failing agreement, determined by an arbitrator appointed by the parties.

If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.

- (4) The regulations may make provision for and in relation to the conduct of an arbitration under this clause.
- (5) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this clause, the ACCC may be constituted by a single member, or a specified number of members, of the ACCC. For each such arbitration, that member or those members are to be nominated in writing by the Chairperson of the ACCC.
- (6) Subclause (5) does not, by implication, limit subclause (4).
- (7) An arbitrator must not make a determination under this clause if the determination would have the effect of:
- (a) preventing Telstra from complying with an undertaking in force under section 577A, 577C or 577E; or
  - (b) if a final migration plan is in force—requiring Telstra to engage in conduct in connection with matters covered by the final migration plan.

- (8) If:
- (a) an agreement mentioned in paragraph (1)(a), (2)(a) or (3)(a) is in force; and
  - (b) the agreement is in writing;
- a determination under this clause has no effect to the extent to which it is inconsistent with the agreement.

### **37 Code relating to access**

- (1) The ACCC may, by legislative instrument, make a Code setting out conditions that are to be complied with in relation to the provision of access under this Part.
- (2) A carrier must comply with the Code.
- (3) This clause does not, by implication, limit a power conferred by or under this Act to make an instrument.
- (4) This clause does not, by implication, limit the matters that may be dealt with by codes or standards referred to in Part 6.
- (5) Subclauses (3) and (4) do not, by implication, limit subsection 33(3B) of the *Acts Interpretation Act 1901*.

### **38 Industry co-operation about sharing of sites and eligible underground facilities**

A carrier, in planning the provision of future carriage services, must co-operate with other carriers to share sites and eligible underground facilities.

### **39 This Part does not limit Part 3 of this Schedule**

This Part does not, by implication, limit Part 3 of this Schedule.

## Part 6—Inspection of facilities etc.

### 40 Simplified outline

The following is a simplified outline of this Part:

- Carriers must keep records about their designated overhead lines, telecommunications transmission towers and underground facilities.
- Carriers must inspect their facilities regularly.
- Carriers must investigate their facilities if there are reasonable grounds to suspect that the facilities are likely to endanger:
  - (a) the health or safety of persons; or
  - (b) property.
- Carriers must take any remedial action that is reasonably required following such an inspection or investigation.

### 41 Records relating to underground facilities

- (1) If a carrier owns or operates designated overhead lines, the carrier must keep and maintain records of the kind and location of those lines.
- (2) If a carrier owns or operates telecommunications transmission towers, the carrier must keep and maintain records of the kind and location of those towers.
- (3) If a carrier owns or operates underground facilities, the carrier must keep and maintain records of:
  - (a) the kind and location of those facilities; and

- (b) if any of those facilities is an eligible underground facility—the capacity of that facility to hold further lines.
- (4) A carrier must not, in purported compliance with subclause (1), (2) or (3), make a record of any matter or thing in such a way that it does not correctly record the matter or thing.
- (5) In this clause:

***designated overhead line*** has the same meaning as in Schedule 3.

***eligible underground facility*** means an underground facility that is used, installed ready to be used, or intended to be used, to hold lines.

***telecommunications transmission tower*** means:

- (a) a tower; or
- (b) a pole; or
- (c) a mast; or
- (d) a similar structure;

used to supply a carriage service by means of radiocommunications.

#### **42 Regular inspection of facilities**

- (1) If a facility is owned or operated by a carrier, the carrier must inspect that facility regularly.
- (2) In determining the regularity of inspections required by subclause (1), regard must be had to good engineering practice.

#### **43 Prompt investigation of dangerous facilities**

If:

- (a) a facility is owned or operated by a carrier; and
- (b) the carrier has reasonable grounds to suspect that the condition of the facility is likely to endanger:
  - (i) the health or safety of persons; or
  - (ii) property;

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the carrier must investigate promptly the condition of the facility.

**44 Remedial action**

- (1) A carrier must take any remedial action that is reasonably required following an inspection under clause 42.
- (2) A carrier must take any remedial action that is reasonably required following an investigation under clause 43.
- (3) A carrier must comply with subclause (1) or (2) as soon as practicable after the carrier becomes aware of the need to take the remedial action concerned.



## Part 7—Any-to-any connectivity

### 44A Simplified outline

The following is a simplified outline of this Part:

- If a carriage service provider's telecommunications network is interconnected with a carrier's telecommunications network, the carrier must obtain a designated interconnection service from the carriage service provider for the purpose of ensuring any-to-any connectivity.

### 45 Definitions

In this Part:

**active declared service** means:

- (a) an active declared service within the meaning of section 152AR of the *Competition and Consumer Act 2010*; or
- (b) a declared service (within the meaning of subsection 152AL(8A) of the *Competition and Consumer Act 2010*) that an NBN corporation supplies (whether to itself or to other persons); or
- (c) a declared service within the meaning of subsection 152AL(8D) or (8E) of the *Competition and Consumer Act 2010*.

Note: Subsections 152AL(8A), (8D) and (8E) of the *Competition and Consumer Act 2010* deal with services supplied by an NBN corporation.

**designated interconnection service** has the meaning given by clause 47.

**eligible service** has the same meaning as in section 152AL of the *Competition and Consumer Act 2010*.

**46 Carriers must obtain designated interconnection services from carriage service providers for the purpose of ensuring any-to-any connectivity**

- (1) If:
- (a) a carrier owns, or supplies a carriage service over, a telecommunications network (the *carrier's telecommunications network*); and
  - (b) a carriage service provider supplies a carriage service over a telecommunications network (the *carriage service provider's telecommunications network*); and
  - (c) any of the following subparagraphs applies:
    - (i) the carriage service provider's telecommunications network is interconnected with the carrier's telecommunications network;
    - (ii) the carriage service provider's telecommunications network is to be interconnected with the carrier's telecommunications network;
    - (iii) the carriage service provider is seeking to have the carriage service provider's telecommunications network interconnected with the carrier's telecommunications network; and
  - (d) the carriage service provider requests the carrier to obtain from the carriage service provider a designated interconnection service for the purpose of ensuring that each end-user who is:
    - (i) connected to the carrier's telecommunications network; and
    - (ii) supplied with a carriage service that involves communication between end-users;is able to communicate, by means of that carriage service, with an end-user who is connected to the carriage service provider's telecommunications network;
- the carrier must obtain the designated interconnection service from the carriage service provider.

- (2) The designated interconnection service is to be obtained on such terms and conditions as are:
- (a) agreed between the carrier and the carriage service provider; or
  - (b) failing agreement, determined by an arbitrator appointed by the parties.
- If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.
- (3) The regulations may make provision for and in relation to the conduct of an arbitration under this clause.
- (4) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this clause, the ACCC may be constituted by a single member, or a specified number of members, of the ACCC. For each such arbitration, that member or those members are to be nominated in writing by the Chairperson of the ACCC.
- (5) Subclause (4) does not, by implication, limit subclause (3).

#### **47 Designated interconnection services**

- (1) The Minister may, by written instrument, declare that a specified eligible service is a ***designated interconnection service*** for the purposes of this Part.
- (2) A declaration under subclause (1) has effect accordingly.
- (3) Before making a declaration under subclause (1) in relation to a service that is not an active declared service, the Minister must, by writing, request the ACCC to give a written report about whether the proposed declaration would promote the achievement of the objective of any-to-any connectivity (as defined by subsection 152AB(8) of the *Competition and Consumer Act 2010*).
- (4) The ACCC must give the report to the Minister within 30 days after receiving the request.

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- (5) In deciding whether to make the declaration, the Minister must have regard to:
  - (a) the ACCC's report; and
  - (b) such other matters (if any) as the Minister considers relevant.
- (6) A declaration under subclause (1) is a legislative instrument.

## **Part 9—Functional separation of Telstra**

### **Division 1—Introduction**

#### **68 Simplified outline**

The following is a simplified outline of this Part:

- Telstra must prepare a draft functional separation undertaking.
- A final functional separation undertaking is a draft functional separation undertaking that has been approved by the Minister.
- Telstra must comply with a final functional separation undertaking.
- However, Telstra is not required to prepare a draft functional separation undertaking if an undertaking about structural separation is in force under section 577A.

#### **69 Definitions**

In this Part:

***business unit*** means a part of Telstra.

***declared network service*** has the meaning given by clause 70.

***eligible service*** has the same meaning as in section 152AL of the *Competition and Consumer Act 2010*.

***equivalence*** means:

- (a) equivalence in relation to terms and conditions relating to price or a method of ascertaining price; and

(b) equivalence in relation to other terms and conditions.

**functional** includes organisational.

**functional separation principles** means the principles set out in clause 74.

**functional separation requirements determination** means a determination under clause 75.

**quarter** means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

**regulated service** has the meaning given by clause 71.

**retail business unit** means a business unit by which Telstra deals with its retail customers.

**supply**, in relation to a service, includes supply by Telstra of the service to itself.

**wholesale/network business unit** means the business unit of Telstra:

- (a) that supplies the following:
  - (i) fault detection, handling and rectification;
  - (ii) service activation and provisioning;
  - (iii) declared network services;  
to Telstra's retail business units, and Telstra's wholesale customers, in relation to eligible services; and
- (b) by which Telstra deals with its wholesale customers.

## 70 Declared network services

For the purposes of this Part, a **declared network service** is a service specified in a legislative instrument made by the Minister for the purposes of this clause.

## 71 Regulated services

- (1) For the purposes of this Part, a **regulated service** is a declared service within the meaning of Part XIC of the *Competition and Consumer Act 2010*.
- (2) Subclause (1) has effect subject to subclause (3).
- (3) The Minister may, by legislative instrument, determine that a specified service is not a **regulated service** for the purposes of this Part.
- (4) The Minister may, by legislative instrument, determine that a specified eligible service is a **regulated service** for the purposes of this Part.

## 72 Notional contracts

For the purposes of this Part:

- (a) a notional contract (however described) between any of Telstra's business units is to be treated as if it were an actual contract; and
- (b) any terms and conditions (whether or not relating to price or a method of ascertaining price) in such a notional contract are to be treated as if they were actual terms and conditions.

## Division 2—Functional separation undertaking

### 73 Contents of draft or final functional separation undertaking

- (1) A draft or final functional separation undertaking must:
  - (a) comply with the functional separation principles; and
  - (b) contain provisions requiring Telstra to establish and maintain a committee to be known as the Oversight and Equivalence Board; and
  - (c) contain provisions requiring Telstra to require the Oversight and Equivalence Board:
    - (i) within a specified period after the end of each quarter during which a final functional separation undertaking is in force, to prepare a report about the extent (if any) to which Telstra complied with the undertaking during that quarter; and
    - (ii) to give a copy of the report to the ACCC and to Telstra's board of directors; and
  - (d) comply with such requirements (if any) as are specified in a functional separation requirements determination.

Note 1: For the functional separation principles, see clause 74.

Note 2: For the functional separation requirements determination, see clause 75.

- (2) For the purposes of subparagraph (1)(c)(i), if a final functional separation undertaking is in force throughout a part, but not the whole, of a particular quarter, that part is taken to be a quarter in its own right.
- (3) If a final functional separation undertaking provides for the ACCC to perform functions or exercise powers in relation to the undertaking, the ACCC may perform those functions, and exercise those powers, in accordance with the undertaking.



## 74 Functional separation principles

- (1) The *functional separation principles* are as follows:
- (a) the principle that there should be equivalence in relation to the supply by Telstra of regulated services to:
    - (i) Telstra's wholesale customers; and
    - (ii) Telstra's retail business units;
  - (b) the principle that Telstra should maintain:
    - (i) one or more retail business units; and
    - (ii) a wholesale/network business unit;
  - (c) the principle that Telstra should maintain arm's length functional separation between:
    - (i) its wholesale/network business unit; and
    - (ii) its retail business units;
  - (d) the principle that Telstra should have systems, procedures and practices that relate to:
    - (i) compliance with a final functional separation undertaking; and
    - (ii) monitoring of, and reporting on, compliance with a final functional separation undertaking; and
    - (iii) the development of performance measures relating to compliance with a final functional separation undertaking; and
    - (iv) independent audit, and other checks, of compliance with a final functional separation undertaking;
  - (e) the principle that Telstra's wholesale/network business unit should not consult Telstra's retail business units about:
    - (i) proposed services to be supplied by Telstra's wholesale/network business unit; or
    - (ii) proposed developments in connection with services supplied by Telstra's wholesale/network business unit;unless Telstra's wholesale/network business unit also consults Telstra's wholesale customers at the same time and in the same manner.

- (2) In determining the principle of equivalence covered by paragraph (1)(a), regard must be had to whether:
  - (a) the terms and conditions relating to price or a method of ascertaining price; and
  - (b) other terms and conditions;on which Telstra supplies regulated services to its wholesale customers are no less favourable than the terms and conditions on which Telstra supplies those services to its retail business units.
- (3) Subclause (2) does not limit the matters to which regard may be had.
- (4) To avoid doubt, this clause does not affect the meaning of anything in Part 33.

## **75 Functional separation requirements determination**

- (1) The Minister may make a written determination (a *functional separation requirements determination*) specifying requirements to be complied with by a draft or final functional separation undertaking.
- (2) A functional separation requirements determination may deal with the manner in which the functional separation principles are to be implemented.
- (3) A functional separation requirements determination may deal with the manner in which a requirement set out in paragraph 73(1)(b) or (c) is to be met.

Note: Clause 73 deals with the contents of a draft or final functional separation undertaking.
- (4) Subclauses (2) and (3) do not limit subclause (1).
- (4A) Before making or varying a functional separation requirements determination, the Minister must:
  - (a) cause to be published on the Department's website a notice:
    - (i) setting out the determination or variation; and

- (ii) inviting persons to make submissions to the Minister about the determination or variation within 14 days after the notice is published; and
  - (b) give the ACCC a copy of the notice; and
  - (c) consider any submissions received within the 14-day period mentioned in paragraph (a); and
  - (d) ask the ACCC to give advice to the Minister, within 28 days after the publication of the notice, about the determination or variation; and
  - (e) have regard to any advice given by the ACCC.
- (4B) Subclause (4A) does not, by implication, prevent the Minister from asking the ACCC to give the Minister additional advice about a matter arising under this clause.
- (5) The Minister must ensure that a functional separation requirements determination comes into force within 90 days after the commencement of this clause.
- (5A) Subclause (5) does not apply if, before the end of the period applicable under subclause (5):
- (a) the following conditions are satisfied:
    - (i) an undertaking given by Telstra is in force under section 577A;
    - (ii) the undertaking requires Telstra to give the ACCC a draft migration plan;
    - (iii) in accordance with the undertaking, Telstra has given the ACCC a draft migration plan;
    - (iv) the ACCC has approved the draft migration plan under section 577BD, 577BDA, 577BDB or 577BDC; or
  - (b) both:
    - (i) an undertaking given by Telstra is in force under section 577A; and
    - (ii) the undertaking does not require Telstra to give the ACCC a draft migration plan.

Note: Section 577A deals with undertakings about structural separation.

**Schedule 1** Standard carrier licence conditions

**Part 9** Functional separation of Telstra

**Division 2** Functional separation undertaking

Clause 75

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- (5B) The Minister may, by writing, extend or further extend the 90-day period referred to in subclause (5) so long as the extension, or the total of the extensions, does not exceed 18 months.
- (5C) The Minister must not make an instrument under subclause (5B) unless:
- (a) Telstra satisfies the Minister that Telstra is preparing an undertaking under section 577A; or
  - (b) both:
    - (i) Telstra has given the ACCC an undertaking under section 577A; and
    - (ii) the ACCC has not decided whether to accept the undertaking; or
  - (c) the following conditions are satisfied:
    - (i) Telstra has given the ACCC an undertaking under section 577A;
    - (ii) the ACCC has decided to accept the undertaking;
    - (iii) that decision is expressed to be subject to the occurrence of one or more specified events within a specified period;
    - (iv) the undertaking is not in force;
    - (v) that period has not ended; or
  - (d) the following conditions are satisfied:
    - (i) an undertaking given by Telstra is in force under section 577A;
    - (ii) the undertaking requires Telstra to give the ACCC a draft migration plan;
    - (iii) Telstra satisfies the Minister that Telstra is preparing a draft migration plan to be given to the ACCC in accordance with the undertaking; or
  - (e) the following conditions are satisfied:
    - (i) an undertaking given by Telstra is in force under section 577A;
    - (ii) the undertaking requires Telstra to give the ACCC a draft migration plan;

- (iii) Telstra has given the ACCC a draft migration plan in accordance with the undertaking;
- (iv) the ACCC has not decided whether to approve the draft migration plan under section 577BD, 577BDA, 577BDB or 577BDC.

Note: Section 577A deals with undertakings about structural separation.

(5D) The Minister must cause a copy of an instrument under subclause (5B) to be tabled in each House of the Parliament within 15 sitting days of that House after making the instrument.

(5E) If:

- (a) before the end of the period applicable under subclause (5), the ACCC accepts an undertaking given by Telstra under section 577A; and
- (b) the decision to accept the undertaking is expressed to be subject to the occurrence of one of more specified events within a specified period (the *post-acceptance period*) after the undertaking is accepted; and
- (c) the post-acceptance period ends after the end of the period applicable under subclause (5); and
- (d) the undertaking does not come into force before the end of the post-acceptance period;

then:

- (e) subclause (5) does not apply; and
- (f) the Minister must ensure that a functional separation requirements determination comes into force within 90 days after the end of the post-acceptance period.

Note: Section 577A deals with undertakings about structural separation.

(5EA) If:

- (a) before the end of the period applicable under subclause (5), the ACCC accepts an undertaking given by Telstra under section 577A; and
- (b) the decision to accept the undertaking is expressed to be subject to the occurrence of one of more specified events

within a specified period (the *post-acceptance period*) after the undertaking is accepted; and

- (c) the post-acceptance period ends after the end of the period applicable under subclause (5); and
- (d) the undertaking comes into force before the end of the post-acceptance period; and
- (e) the undertaking requires Telstra to give the ACCC a draft migration plan; and
- (f) a final migration plan does not come into force before the end of the post-acceptance period;

then:

- (g) subclause (5) does not apply; and
- (h) the Minister must ensure that a functional separation requirements determination comes into force within 90 days after the end of the post-acceptance period.

Note: Section 577A deals with undertakings about structural separation.

(5EB) Subclause (5) does not apply if:

- (a) before the end of the period applicable under subclause (5), the ACCC accepts an undertaking given by Telstra under section 577A; and
- (b) the decision to accept the undertaking is expressed to be subject to the occurrence of one of more specified events within a specified period (the *post-acceptance period*) after the undertaking is accepted; and
- (c) the post-acceptance period ends after the end of the period applicable under subclause (5); and
- (d) the undertaking comes into force before the end of the post-acceptance period; and
- (e) the undertaking does not require Telstra to give the ACCC a draft migration plan.

Note: Section 577A deals with undertakings about structural separation.

(5EC) Subclause (5) does not apply if:

- (a) before the end of the period applicable under subclause (5), the ACCC accepts an undertaking given by Telstra under section 577A; and
- (b) the decision to accept the undertaking is expressed to be subject to the occurrence of one or more specified events within a specified period (the *post-acceptance period*) after the undertaking is accepted; and
- (c) the post-acceptance period ends after the end of the period applicable under subclause (5); and
- (d) the undertaking comes into force before the end of the post-acceptance period; and
- (e) the undertaking requires Telstra to give the ACCC a draft migration plan; and
- (f) a final migration plan has come into force before the end of the post-acceptance period.

Note: Section 577A deals with undertakings about structural separation.

- (5F) The Minister is not required to observe any requirements of procedural fairness in relation to the making of an instrument under subclause (5B).
- (5G) The Minister does not have a duty to consider whether to make an instrument under subclause (5B), whether at the request of a person or in any other circumstances.
- (6) A determination under subclause (1) is not a legislative instrument.
- (7) An instrument under subclause (5B) is not a legislative instrument.

## **76 Draft functional separation undertaking to be given to Minister**

- (1) Telstra must give the Minister a draft functional separation undertaking:
  - (a) within 90 days after the first functional separation requirements determination comes into force; or
  - (b) if a longer period is specified in an instrument under subclause (3)—within that longer period.

- (2) However, subclause (1) does not apply if:
- (a) the following conditions are satisfied:
    - (i) an undertaking given by Telstra is in force under section 577A;
    - (ii) the undertaking requires Telstra to give the ACCC a draft migration plan;
    - (iii) in accordance with the undertaking, Telstra has given the ACCC a draft migration plan;
    - (iv) the ACCC has approved the draft migration plan under section 577BD, 577BDA, 577BDB or 577BDC; or
  - (b) both:
    - (i) an undertaking given by Telstra is in force under section 577A; and
    - (ii) the undertaking does not require Telstra to give the ACCC a draft migration plan.
- Note: Section 577A deals with undertakings about structural separation.
- (3) The Minister may, by writing, specify a period for the purposes of paragraph (1)(b).
- (4) The Minister must not specify a period under subclause (3) unless:
- (a) Telstra satisfies the Minister that Telstra is preparing an undertaking under section 577A; or
  - (b) both:
    - (i) Telstra has given the ACCC an undertaking under section 577A; and
    - (ii) the ACCC has not decided whether to accept the undertaking; or
  - (c) the following conditions are satisfied:
    - (i) Telstra has given the ACCC an undertaking under section 577A;
    - (ii) the ACCC has decided to accept the undertaking;
    - (iii) that decision is expressed to be subject to the occurrence of one or more specified events within a specified period;
    - (iv) the undertaking is not in force;



- (v) that period has not ended; or
- (d) the following conditions are satisfied:
  - (i) an undertaking given by Telstra is in force under section 577A;
  - (ii) the undertaking requires Telstra to give the ACCC a draft migration plan;
  - (iii) Telstra satisfies the Minister that Telstra is preparing a draft migration plan to be given to the ACCC in accordance with the undertaking; or
- (e) the following conditions are satisfied:
  - (i) an undertaking given by Telstra is in force under section 577A;
  - (ii) the undertaking requires Telstra to give the ACCC a draft migration plan;
  - (iii) Telstra has given the ACCC a draft migration plan in accordance with the undertaking;
  - (iv) the ACCC has not decided whether to approve the draft migration plan under section 577BD, 577BDA, 577BDB or 577BDC.

Note: Section 577A deals with undertakings about structural separation.

- (5) Subsection 33(3) of the *Acts Interpretation Act 1901* applies to a power conferred on the Minister by subclause (3). However, the Minister must not revoke a subclause (3) instrument.
- (6) A period specified in a subclause (3) instrument may be a period ascertained wholly or partly by reference to the occurrence of a specified event.
- (6A) The Minister is not required to observe any requirements of procedural fairness in relation to the making of a subclause (3) instrument.
- (7) The Minister does not have a duty to consider whether to exercise the power to make a subclause (3) instrument, whether he or she is requested to do so by Telstra or by any other person, or in any other circumstances.

- (8) The Minister must cause a copy of an instrument under subclause (3) to be published on the Department's website.
- (9) An instrument under subclause (3) is not a legislative instrument.

### **77 Approval of draft functional separation undertaking by Minister**

- (1) This clause applies if Telstra gives the Minister a draft functional separation undertaking (the *original undertaking*).
- (2) The Minister must, by writing:
  - (a) approve the original undertaking; or
  - (b) both:
    - (i) vary the original undertaking; and
    - (ii) approve the original undertaking as varied; or
  - (c) both:
    - (i) determine that Telstra is taken to have given the Minister another draft functional separation undertaking (the *replacement undertaking*) in the terms specified in the determination, instead of the original undertaking; and
    - (ii) approve the replacement undertaking.

#### *Consultation*

- (3) Before making a decision under subclause (2), the Minister must:
  - (a) cause to be published on the Department's website a notice:
    - (i) setting out the original undertaking; and
    - (ii) inviting persons to make submissions to the Minister about the original undertaking within 14 days after the notice is published; and
  - (b) give the ACCC a copy of the notice; and
  - (c) cause to be published on the Department's website a copy of each submission received within the 14-day period mentioned in paragraph (a); and
  - (d) consider any submissions received within the 14-day period mentioned in paragraph (a); and

- (e) ask the ACCC to give advice to the Minister, within 44 days after the notice is published, about the original undertaking; and
- (f) have regard to any advice given by the ACCC.

*Consultation—variation of original undertaking*

- (4) Before making a decision under paragraph (2)(b) to approve the original undertaking as varied, the Minister must:
  - (a) give Telstra a notice:
    - (i) setting out the original undertaking as proposed to be varied; and
    - (ii) inviting Telstra to make submissions to the Minister, within 14 days after the notice is given, about the original undertaking as proposed to be varied; and
  - (b) consider any submissions received from Telstra within the 14-day period mentioned in paragraph (a).

*Consultation—replacement undertaking*

- (5) Before making a decision under paragraph (2)(c) to approve the replacement undertaking, the Minister must:
  - (a) give Telstra a notice:
    - (i) setting out the proposed replacement undertaking; and
    - (ii) inviting Telstra to make submissions to the Minister about the proposed replacement undertaking within 14 days after the notice is given; and
  - (b) consider any submissions received from Telstra within the 14-day period mentioned in paragraph (a).

*Advice by the ACCC*

- (6) Subclause (3) does not, by implication, prevent the Minister from asking the ACCC to give the Minister additional advice about a matter arising under this clause.

Clause 78

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*Notification of decision*

- (7) As soon as practicable after making a decision under subclause (2), the Minister must notify Telstra in writing of the decision.

*Instrument is not a legislative instrument*

- (8) An instrument made under subclause (2) is not a legislative instrument.

**78 Time limit for making an approval decision**

- (1) This clause applies if Telstra gives the Minister a draft functional separation undertaking (the *original undertaking*).
- (2) The Minister must use his or her best endeavours to make a decision under subclause 77(2) in relation to the original undertaking within 6 months after the original undertaking was given to the Minister.

**79 Effect of approval**

- (1) If the Minister approves a draft functional separation undertaking under subclause 77(2), the undertaking becomes a final functional separation undertaking.
- (2) A final functional separation undertaking comes into force on the day after notice of the relevant decision is given to Telstra in accordance with subclause 77(7).
- (3) A final functional separation undertaking may not be withdrawn.

*Undertaking is not a legislative instrument*

- (4) A final functional separation undertaking is not a legislative instrument.

## **80 Variation of final functional separation undertaking**

- (1) This clause applies if a final functional separation undertaking is in force.

### *Variation*

- (2) The Minister may, in writing, vary the final functional separation undertaking:
- (a) at the request of Telstra or another person; or
  - (b) on the Minister's own initiative.
- (3) The Minister does not have a duty to consider whether to exercise the power to vary a final functional separation undertaking, whether he or she is requested to do so by Telstra or by any other person, or in any other circumstances.

### *Consultation*

- (4) Before varying a final functional separation undertaking, the Minister must:
- (a) cause to be published on the Department's website a notice:
    - (i) setting out the proposed variation; and
    - (ii) inviting persons to make submissions to the Minister about the proposed variation within 14 days after the notice is published; and
  - (b) give the ACCC a copy of the notice; and
  - (c) cause to be published on the Department's website a copy of each submission received within the 14-day period mentioned in paragraph (a); and
  - (d) consider any submissions received within the 14-day period mentioned in paragraph (a); and
  - (e) ask the ACCC to give advice to the Minister, within 44 days after the notice is published, about the proposed variation; and
  - (f) have regard to any advice given by the ACCC.

Clause 80

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*Minor variation*

- (5) Subclause (4) does not apply to a proposed variation if the variation is of a minor nature.
- (6) If the proposed variation:
- (a) is of a minor nature; and
  - (b) is not made at the request of Telstra;
- then, before making the proposed variation, the Minister must:
- (c) give Telstra a notice:
    - (i) setting out the proposed variation; and
    - (ii) inviting Telstra to make submissions to the Minister about the proposed variation within 14 days after the notice is given; and
  - (d) consider any submissions received from Telstra within that 14-day period.

*Advice by the ACCC*

- (7) Subclause (4) does not, by implication, prevent the Minister from asking the ACCC to give the Minister additional advice about a matter arising under this clause.

*Notification of variation*

- (8) As soon as practicable after varying a final functional separation undertaking, the Minister must notify Telstra in writing of the variation.

*When variation comes into force*

- (9) A variation of a final functional separation undertaking comes into force on the day after the notice of the variation is given to Telstra in accordance with subclause (8).

*Variation is not a legislative instrument*

- (10) A variation of a final functional separation undertaking is not a legislative instrument.

## **81 Publication of final functional separation undertaking**

- (1) As soon as practicable after a final functional separation undertaking comes into force, Telstra must make a copy of the undertaking available on Telstra's website.
- (2) As soon as practicable after a variation of a final functional separation undertaking comes into force, Telstra must make a copy of the varied final functional separation undertaking available on Telstra's website.

## **82 Compliance with final functional separation undertaking**

- (1) If a final functional separation undertaking is in force, Telstra must comply with the undertaking.
- (2) However, subclause (1) does not apply if an undertaking given by Telstra is in force under section 577A.

Note: Section 577A deals with undertakings about structural separation.

## **Part 10—Control and use by Telstra of certain spectrum licences**

### **Division 1—Introduction**

#### **83 Simplified outline**

The following is a simplified outline of this Part:

- If the excluded spectrum regime applies to Telstra, and a spectrum licence relates to a designated part of the spectrum, Telstra must not be in a position to exercise control of the licence unless the following undertakings given by Telstra are in force:
  - (a) an undertaking about structural separation;
  - (b) an undertaking about hybrid fibre-coaxial networks;
  - (c) an undertaking about subscription television broadcasting licences.
- However, the Minister may exempt Telstra from the requirement to have an undertaking about hybrid fibre-coaxial networks or subscription television broadcasting licences if the Minister is satisfied that Telstra's undertaking about structural separation is sufficient to address concerns about the degree of Telstra's power in telecommunications markets.



## **Division 2—Control and use by Telstra of certain spectrum licences**

### **84 Control by Telstra of certain spectrum licences**

- (1) If:
- (a) the excluded spectrum regime applies to Telstra; and
  - (b) a spectrum licence relates to a designated part of the spectrum;
- Telstra must not be in a position to exercise control of the licence.

Note 1: For excluded spectrum regime, see section 577GA.

Note 2: For when Telstra is in a position to exercise control of a spectrum licence, see clause 88.

- (2) However, the rule in subclause (1) does not apply if:
- (a) both:
    - (i) an undertaking given by Telstra is in force under section 577A; and
    - (ii) the undertaking is covered by subclause (3); and
  - (b) either:
    - (i) an undertaking given by Telstra is in force under section 577C; or
    - (ii) a declaration is in force under subsection 577J(3); and
  - (c) either:
    - (i) an undertaking given by Telstra is in force under section 577E; or
    - (ii) a declaration is in force under subsection 577J(5).

Note 1: Section 577A deals with undertakings about structural separation.

Note 2: Section 577C deals with undertakings about hybrid fibre-coaxial networks.

Note 3: Section 577E deals with undertakings about subscription television broadcasting licences.

- (3) This subclause covers a section 577A undertaking if:

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**Part 10** Control and use by Telstra of certain spectrum licences

**Division 2** Control and use by Telstra of certain spectrum licences

Clause 85

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- (a) the following conditions are satisfied:
  - (i) the undertaking requires Telstra to give the ACCC a draft migration plan;
  - (ii) in accordance with the undertaking, Telstra has given the ACCC a draft migration plan;
  - (iii) the ACCC has approved the draft migration plan under section 577BD, 577BDA, 577BDB or 577BDC; or
- (b) the undertaking does not require Telstra to give the ACCC a draft migration plan.

**85 Use by Telstra of certain spectrum licences**

- (1) If:
  - (a) the excluded spectrum regime applies to Telstra; and
  - (b) a spectrum licence relates to a designated part of the spectrum;Telstra must not supply a carriage service using a radiocommunications device the operation of which is authorised under the licence.

Note: For excluded spectrum regime, see section 577GA.

- (2) However, the rule in subclause (1) does not apply if:
  - (a) both:
    - (i) an undertaking given by Telstra is in force under section 577A; and
    - (ii) the undertaking is covered by subclause (3); and
  - (b) either:
    - (i) an undertaking given by Telstra is in force under section 577C; or
    - (ii) a declaration is in force under subsection 577J(3); and
  - (c) either:
    - (i) an undertaking given by Telstra is in force under section 577E; or
    - (ii) a declaration is in force under subsection 577J(5).

Note 1: Section 577A deals with undertakings about structural separation.

Note 2: Section 577C deals with undertakings about hybrid fibre-coaxial networks.

Note 3: Section 577E deals with undertakings about subscription television broadcasting licences.

- (3) This subclause covers a section 577A undertaking if:
- (a) the following conditions are satisfied:
    - (i) the undertaking requires Telstra to give the ACCC a draft migration plan;
    - (ii) in accordance with the undertaking, Telstra has given the ACCC a draft migration plan;
    - (iii) the ACCC has approved the draft migration plan under section 577BD, 577BDA, 577BDB or 577BDC; or
  - (b) the undertaking does not require Telstra to give the ACCC a draft migration plan.

## Division 3—Other provisions

### 86 Associate

- (1) In this Part, an *associate* of Telstra in relation to control of a spectrum licence is:
- (a) a partner of Telstra; or
  - (b) if Telstra or another person who is an associate of Telstra under another paragraph receives benefits or is capable of benefiting under a trust—the trustee of the trust; or
  - (c) a person (whether a company or not) who:
    - (i) acts, or is accustomed to act; or
    - (ii) under a contract or an arrangement or understanding (whether formal or informal) is intended or expected to act;  
in accordance with the directions, instructions or wishes of, or in concert with:
      - (iii) Telstra; or
      - (iv) Telstra and another person who is an associate of Telstra under another paragraph; or
  - (d) another company if:
    - (i) the other company is a related body corporate of Telstra for the purposes of the *Corporations Act 2001*; or
    - (ii) Telstra, or Telstra and another person who is an associate of Telstra under another paragraph, are in a position to exercise control of the other company.
- (2) However, persons are not associates of each other if the ACCC is satisfied that:
- (a) they do not act together in any relevant dealings relating to the spectrum licence; and
  - (b) neither of them is in a position to exert influence over the business dealings of the other in relation to the spectrum licence.

## **87 Control**

In this Part, *control* includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights.

## **88 When Telstra is in a position to exercise control of a spectrum licence**

- (1) For the purposes of this Part, Telstra is in a position to exercise control of a spectrum licence if:
  - (a) Telstra is the licensee; or
  - (b) Telstra, either alone or together with an associate of Telstra, is in a position to exercise control of the spectrum licensee; or
  - (c) Telstra, either alone or together with an associate of Telstra, is in a position to exercise (whether directly or indirectly) control of the selection of radiocommunications devices authorised to operate under the licence; or
  - (d) Telstra, either alone or together with an associate of Telstra, is in a position to exercise (whether directly or indirectly) control of a significant proportion of the operations of radiocommunications devices authorised to operate under the licence; or
  - (e) Telstra, either alone or together with an associate of Telstra, is in a position to:
    - (i) veto any action taken by the board of directors of the licensee; or
    - (ii) appoint or secure the appointment of, or veto the appointment of, at least half of the board of directors of the licensee; or
    - (iii) exercise, in any other manner, whether directly or indirectly, direction or restraint over any substantial issue affecting the management or affairs of the licensee; or

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- (f) the licensee or more than 50% of its directors:
- (i) act, or are accustomed to act; or
  - (ii) under a contract or an arrangement or understanding (whether formal or informal) are intended or expected to act;  
in accordance with the directions, instructions or wishes of, or in concert with, Telstra or of Telstra and an associate of Telstra acting together or of the directors of Telstra.
- (2) An employee of a licensee is not, except through an association with another person, to be regarded as being in a position to exercise control of a spectrum licence under subclause (1) purely because of being an employee.
- (3) More than one person may be in a position to exercise control of a spectrum licence.

## **Schedule 2—Standard service provider rules**

Note: See section 98.

### **Part 1—Compliance with this Act**

#### **1 Compliance with this Act**

- (1) A service provider must comply with this Act.
- (2) In this clause:

***this Act*** includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act and Chapter 5 of the *Telecommunications (Interception and Access) Act 1979*.

## Part 2—Operator services

### 2 Simplified outline

The following is a simplified outline of this Part:

- Certain operator services must be provided to end-users of standard telephone services.

### 3 Scope of Part

This Part applies to the following operator services:

- (a) services for dealing with faults and service difficulties;
- (b) services of a kind specified in the regulations.

### 4 Operator services must be provided to end-users of a standard telephone service

- (1) A carriage service provider who supplies a standard telephone service must make operator services available to each end-user of that standard telephone service.
- (2) The provider may do this by:
  - (a) providing the operator services itself; or
  - (b) arranging with another person for the provision of the operator services.

### 5 Access to end-users of other carriage service providers

- (1) If:
  - (a) a carriage service provider (the *first provider*) who supplies a standard telephone service itself provides a particular kind of operator services to end-users of its standard telephone service; and



- (b) another carriage service provider (the ***second provider***) who supplies a standard telephone service does not itself provide that kind of operator services to particular end-users of its standard telephone service; and
  - (c) the second provider requests the first provider to enter into an agreement for the first provider to provide that kind of operator services to those end-users of the second provider's standard telephone service;
- the first provider must comply with the request.
- (2) The operator services are to be provided to the end-users of the second provider's standard telephone service in accordance with the request and on such terms and conditions as are:
    - (a) agreed between the first provider and the second provider; or
    - (b) failing agreement, determined by an arbitrator appointed by the parties.If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.
  - (3) The regulations may make provision for and in relation to the conduct of an arbitration under this clause.
  - (4) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this clause, the ACCC may be constituted by a single member, or a specified number of members, of the ACCC. For each such arbitration, that member or those members are to be nominated in writing by the Chairperson of the ACCC.
  - (5) Subclause (4) does not, by implication, limit subclause (3).

## Part 3—Directory assistance services

### 6 Simplified outline

The following is a simplified outline of this Part:

- Directory assistance services must be made available to end-users of standard telephone services.

### 7 Directory assistance services must be provided to end-users

- (1) A carriage service provider who supplies a standard telephone service must make directory assistance services available to each end-user of the service.
- (2) The provider may do this by:
  - (a) providing the directory assistance services itself; or
  - (b) arranging with another person for the provision of the directory assistance services.

### 8 Access by end-users of other carriage service providers

- (1) If:
  - (a) a carriage service provider (the *first provider*) who supplies a standard telephone service itself provides directory assistance services to end-users of its standard telephone service; and
  - (b) another carriage service provider (the *second provider*) who supplies a standard telephone service does not itself provide directory assistance services to particular end-users of its standard telephone service; and
  - (c) the second provider requests the first provider to enter into an agreement for the first provider to provide directory assistance services to those end-users of the second provider's standard telephone service;the first provider must comply with the request.

- (2) The directory assistance services are to be provided to the end-users of the second provider's standard telephone service in accordance with the request and on such terms and conditions as are:
- (a) agreed between the first provider and the second provider; or
  - (b) failing agreement, determined by an arbitrator appointed by the parties.

If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.

- (3) The regulations may make provision for and in relation to the conduct of an arbitration under this clause.
- (4) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this clause, the ACCC may be constituted by a single member, or a specified number of members, of the ACCC. For each such arbitration, that member or those members are to be nominated in writing by the Chairperson of the ACCC.
- (5) Subclause (4) does not, by implication, limit subclause (3).

## Part 4—Integrated public number database

### 9 Simplified outline

The following is a simplified outline of this Part:

- If a person or association is under an obligation to provide and maintain an integrated public number database, carriage service providers must give the person or association information in connection with the fulfilment of that obligation.

### 10 Carriage service providers must give information to Telstra

- (1) This clause applies if Telstra is obliged by a condition of a carrier licence to provide and maintain an integrated public number database.
- (2) If:
  - (a) a carriage service provider supplies a carriage service to an end-user; and
  - (b) the end-user has a public number;the carriage service provider must give Telstra such information as Telstra reasonably requires in connection with Telstra's fulfilment of that obligation.
- (3) In this clause:

**number** has the same meaning as in Division 2 of Part 22.

**public number** means a number specified in the numbering plan as mentioned in subsection 455(3).

## **11 Carriage service providers must give information to another person or association**

- (1) This clause applies if a person or association is obliged by section 472 to provide and maintain an integrated public number database.
- (2) If:
  - (a) a carriage service provider supplies a carriage service to an end-user; and
  - (b) the end-user has a public number;the carriage service provider must give the person or association such information as the person or association reasonably requires in connection with the person's or association's fulfilment of that obligation.
- (3) In this clause:

*number* has the same meaning as in Division 2 of Part 22.

*public number* means a number specified in the numbering plan as mentioned in subsection 455(3).

## Part 5—Itemised billing

### 12 Simplified outline

The following is a simplified outline of this Part:

- A carriage service provider who supplies a standard telephone service must provide itemised billing for each of its customers of such a service.

### 13 Itemised billing

- (1) This clause applies to a carriage service provider who supplies a standard telephone service.
- (2) The provider must provide itemised billing for calls made using such a service. The provider may do this by:
  - (a) providing the itemised billing itself; or
  - (b) arranging with another person for the provision of the itemised billing.
- (3) The rule set out in subclause (2) does not apply in relation to calls made using a particular service if the customer chooses not to have itemised billing for calls made using that service.
- (4) The rule set out in subclause (2) does not apply to designated local calls unless the customer requests the provider to provide itemised billing in relation to those calls.
- (5) For the purposes of the application of this clause to a carriage service provider who supplies a standard telephone service to a customer, a **designated local call** is a call that:
  - (a) is made using that service; and
  - (b) is made between points in the applicable zone in relation to the provider and in relation to the customer; and
  - (c) is not an exempt call (as defined by subclause (6)).

- (6) For the purposes of subclause (5), a call is an **exempt call** if:
- (a) the call involves the use of a public mobile telecommunications service (whether by the party who originated the call or by any other party to the call); or
  - (b) the call involves the use of a satellite service.
- (7) A reference in this clause to the **applicable zone** is a reference to the applicable zone for the purposes of Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.
- (8) For the purposes of this clause, a call is regarded as an untimed local call if, and only if, the call is an eligible local call for the purposes of Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.
- (9) In this clause:
- itemised billing**, in relation to calls of a particular kind, means the provision to a customer of a bill that:
- (a) if there is in force a written determination made by the ACMA relating to that kind of service—shows such details as are specified in the determination; or
  - (b) in any other case—shows, for each call of that kind that is not regarded as an untimed local call, the following details:
    - (i) the date on which the call was made;
    - (ii) the number to which the call was made;
    - (iii) the duration of the call;
    - (iv) the charge applicable to the call;
- and complies with a determination in force under clause 15.
- satellite service** means a carriage service, where customer equipment used in connection with the supply of the service communicates directly with a satellite-based facility.
- (10) A determination under paragraph (a) of the definition of **itemised billing** in subclause (9) is a legislative instrument.

## **14 Exemptions from itemised billing requirements**

- (1) The ACMA may, by notice in the *Gazette*, declare that a specified carriage service provider is exempt from the requirement set out in subclause 13(2) in so far as that requirement applies in relation to specified customers. The declaration has effect accordingly.

Note: Providers or customers may be specified by name, by inclusion in a particular class or in any other way.

- (2) In deciding whether a provider should be exempt from the requirement set out in subclause 13(2), the ACMA must have regard to:
- (a) the technical feasibility of complying with the requirement set out in that subclause; and
  - (b) any plans by the provider to install a capability to provide itemised billing to those customers.
- (3) Subclause (2) does not, by implication, limit the matters to which the ACMA may have regard.

## **15 Details that are not to be specified in an itemised bill**

- (1) The ACMA may, by written instrument, determine that specified details must not be shown in an itemised bill provided by a carriage service provider to a customer.
- (2) In making a determination under subclause (1), the ACMA must have regard to the Australian Privacy Principles. This subclause does not, by implication, limit the matters to which the ACMA is to have regard.
- (3) A carriage service provider must comply with a determination under subclause (1).



## **Part 6—Priority assistance**

### **16 Simplified outline**

The following is a simplified outline of this Part:

- This Part deals with priority assistance for people with life-threatening medical conditions.
- A carriage service provider must comply with the priority assistance industry code.
- If a carriage service provider receives an inquiry from a prospective residential customer about the supply of a standard telephone service, and the provider does not offer priority assistance, the provider must:
  - (a) inform the prospective residential customer that the provider does not offer priority assistance in connection with the service; and
  - (b) inform the prospective residential customer of the names of one or more carriage service providers from whom the prospective residential customer can obtain priority assistance.

### **17 Priority assistance industry code**

For the purposes of this Part, the *priority assistance industry code* is:

- (a) the code that is:
  - (i) entitled *Priority Assistance for Life Threatening Medical Conditions*; and
  - (ii) registered under Part 6; or

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- (b) if that code is replaced by another code registered under Part 6—the replacement code.

**18 Compliance with the priority assistance industry code**

A carriage service provider must comply with the priority assistance industry code to the extent (if any) to which the code is applicable to the provider.

**19 Information for prospective residential customers of a carriage service provider who does not offer priority assistance**

*Scope*

- (1) This clause applies to a carriage service provider if:
  - (a) the provider receives an inquiry from a prospective residential customer about the supply of a standard telephone service; and
  - (b) the provider does not offer priority assistance in connection with the service.

*Requirement*

- (2) The provider must:
  - (a) inform the prospective residential customer that the provider does not offer priority assistance in connection with the service; and
  - (b) inform the prospective residential customer of the names of one or more carriage service providers from whom the prospective residential customer can obtain priority assistance in connection with a standard telephone service.

*Definition*

- (3) In this clause:  
***priority assistance*** has the same meaning as in the priority assistance industry code.

## **20 Requirements for Telstra**

This Part does not impose a requirement on Telstra if clause 19 of the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997* is in force.

Note: Clause 19 of the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997* is about Telstra's priority assistance obligations.

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**Part 1** General provisions

**Division 1** Simplified outline and definitions

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## **Schedule 3—Carriers' powers and immunities**

Note: See section 484.

### **Part 1—General provisions**

#### **Division 1—Simplified outline and definitions**

##### **1 Simplified outline**

The following is a simplified outline of this Part:

- A carrier may enter on land and exercise any of the following powers:
  - (a) the power to inspect the land to determine whether the land is suitable for the carrier's purposes;
  - (b) the power to install a facility on the land;
  - (c) the power to maintain a facility that is situated on the land.
- The power to install a facility may only be exercised if:
  - (a) the carrier holds a facility installation permit; or
  - (b) the facility is a low-impact facility; or
  - (c) the facility is a temporary facility for use by, or on behalf of, a defence organisation for defence purposes; or
  - (d) the installation is carried out before 1 July 2000 for the sole purpose of connecting a building to a network that was in existence on 30 June 1997.

- A facility installation permit will only be issued in relation to a facility if:
  - (a) the carrier has made reasonable efforts to negotiate in good faith with the relevant proprietors and administrative authorities; and
  - (b) in a case where the facility is a designated overhead line—each relevant administrative authority has approved the installation of the line; and
  - (c) the telecommunications network to which the facility relates is or will be of national significance; and
  - (d) the facility is an important part of the telecommunications network to which the facility relates; and
  - (e) either the greater part of the infrastructure of the telecommunications network to which the facility relates has already been installed or relevant administrative authorities are reasonably likely to approve the installation of the greater part of the infrastructure of the telecommunications network to which the facility relates; and
  - (f) the advantages that are likely to be derived from the operation of the facility in the context of the telecommunications network to which the facility relates outweigh any form of degradation of the environment that is likely to result from the installation of the facility.

**Schedule 3** Carriers' powers and immunities

**Part 1** General provisions

**Division 1** Simplified outline and definitions

Clause 2

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- In exercising powers under this Part, a carrier must comply with certain conditions, including:
  - (a) doing as little damage as practicable;
  - (b) acting in accordance with good engineering practice;
  - (c) complying with recognised industry standards;
  - (d) complying with conditions specified in the regulations;
  - (e) complying with conditions specified in a Ministerial Code of Practice;
  - (f) complying with conditions specified in a facility installation permit;
  - (g) giving notice to the owner of land.

## 2 Definitions

In this Part:

***Aboriginal person*** means a person of the Aboriginal race of Australia.

***defence organisation*** means:

- (a) the Defence Department; or
- (b) the Australian Defence Force; or
- (c) an organisation of a foreign country, so far as the organisation:
  - (i) has functions corresponding to functions of, or of a part of, the Defence Department or the Australian Defence Force; and

- (ii) is authorised by the Commonwealth to operate or train in Australia or an external Territory; or
- (d) a part of such an organisation or body.

**designated overhead line** has the meaning given by clause 3.

**ecological community** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**ecosystem** means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

**enter on land** includes enter on a public place.

**environment** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**Environment Secretary** means the Secretary of the Department responsible for the administration of the *Environment Protection and Biodiversity Conservation Act 1999*.

**facility installation permit** means a permit issued under clause 25.

**installation**, in relation to a facility, includes:

- (a) the construction of the facility on, over or under any land; and
- (b) the attachment of the facility to any building or other structure; and
- (c) any activity that is ancillary or incidental to the installation of the facility (for this purpose, **installation** includes an activity covered by paragraph (a) or (b)).

**international agreement** means:

- (a) a convention to which Australia is a party; or
- (b) an agreement or arrangement between Australia and a foreign country;

and includes, for example, an agreement, arrangement or understanding between a Minister and an official or authority of a foreign country.

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**land** includes submerged land (but does not include submerged land that is beneath Australian waters within the meaning of Schedule 3A).

**listed international agreement** means an international agreement specified in the regulations.

**public inquiry**, in relation to a facility installation permit, means a public inquiry under Part 25 about whether the permit should be issued and, if so, the conditions (if any) that should be specified in the permit.

**public place** includes a place to which members of the public have ready access.

**public utility** means a body that provides to the public:

- (a) reticulated products or services, such as electricity, gas, water, sewerage or drainage; or
- (b) carriage services (other than carriage services supplied by a carriage service provider); or
- (c) transport services; or
- (d) a product or service of a kind that is similar to a product or service covered by paragraph (a), (b) or (c).

**threatened ecological community** means an ecological community that is included in the list of threatened ecological communities kept under Division 1 of Part 13 of the *Environment Protection and Biodiversity Conservation Act 1999*.

**threatened species** means a species that is included in one of the following categories of the list of threatened species kept under Division 1 of Part 13 of the *Environment Protection and Biodiversity Conservation Act 1999*:

- (a) extinct in the wild;
- (b) critically endangered;
- (c) endangered;
- (d) vulnerable.



***Torres Strait Islander*** means a descendant of an indigenous inhabitant of the Torres Strait Islands.

### **3 Designated overhead line**

A reference in this Part to a ***designated overhead line*** is a reference to a line:

- (a) that is suspended above the surface of:
  - (i) land (other than submerged land); or
  - (ii) a river, lake, tidal inlet, bay, estuary, harbour or other body of water; and
- (b) the maximum external cross-section of any part of which exceeds:
  - (i) 13 mm; or
  - (ii) if another distance is specified in the regulations—that other distance.

### **4 Extension to a tower to be treated as the installation of a facility**

- (1) For the purposes of the application of this Part to the installation of facilities, if:
  - (a) a tower is a facility; and
  - (b) the tower is, or is to be, extended;then:
  - (c) the carrying out of the extension is to be treated as the carrying out of the installation of the facility; and
  - (d) the extension is to be treated as a facility in its own right.
- (2) To avoid doubt, a reference in this clause to a ***tower*** does not include a reference to an antenna.
- (3) In this clause:  
***tower*** means a tower, pole or mast.

## Division 2—Inspection of land

### 5 Inspection of land

- (1) A carrier may, for the purposes of determining whether any land is suitable for its purposes:
  - (a) enter on, and inspect, the land; and
  - (b) do anything on the land that is necessary or desirable for that purpose, including, for example:
    - (i) making surveys, taking levels, sinking bores, taking samples, digging pits and examining the soil; and
    - (ii) felling and lopping trees and clearing and removing other vegetation and undergrowth; and
    - (iii) closing, diverting or narrowing a road or bridge; and
    - (iv) installing a facility in, over or under a road or bridge; and
    - (v) altering the position of a water, sewerage or gas main or pipe; and
    - (vi) altering the position of an electricity cable or wire.
- (2) A carrier may, for the purpose of surveying or obtaining information in relation to any land that, in the carrier's opinion, is or may be suitable for its purposes:
  - (a) enter on any land; and
  - (b) do anything on the entered land that is necessary or desirable for that purpose, including, for example:
    - (i) making surveys and taking levels; and
    - (ii) felling and lopping trees and clearing and removing other vegetation and undergrowth; and
    - (iii) closing, diverting or narrowing a road or bridge; and
    - (iv) installing a facility in, over or under a road or bridge; and
    - (v) altering the position of a water, sewerage or gas main or pipe; and
    - (vi) altering the position of an electricity cable or wire.

- (3) A reference in this Part to engaging in activities under this Division includes a reference to exercising powers under this Division.

## Division 3—Installation of facilities

### 6 Installation of facilities

- (1) A carrier may, for purposes connected with the supply of a carriage service, carry out the installation of a facility if:
- (a) the carrier is authorised to do so by a facility installation permit; or
  - (b) the facility is a low-impact facility (as defined by subclause (3)); or
  - (c) the facility is a temporary facility for use by, or on behalf of, a defence organisation for defence purposes.

Note: If the installation of a facility is not authorised by this clause, the installation may require the approval of an administrative authority under a law of a State or Territory.

- (2) If subclause (1) authorises a carrier to carry out a particular activity, the carrier may, for purposes in connection with the carrying out of that activity:
- (a) enter on, and occupy, any land; and
  - (b) on, over or under the land, do anything necessary or desirable for those purposes, including, for example:
    - (i) constructing, erecting and placing any plant, machinery, equipment and goods; and
    - (ii) felling and lopping trees and clearing and removing other vegetation and undergrowth; and
    - (iii) making cuttings and excavations; and
    - (iv) restoring the surface of the land and, for that purpose, removing and disposing of soil, vegetation and other material; and
    - (v) erecting temporary workshops, sheds and other buildings; and
    - (vi) levelling the surface of the land and making roads.

- (3) The Minister may, by legislative instrument, determine that a specified facility is a low-impact facility for the purposes of this clause. The determination has effect accordingly.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

- (4) A designated overhead line must not be specified in an instrument under subclause (3).
- (4A) A submarine cable (within the meaning of Schedule 3A) must not be specified in an instrument under subclause (3).
- (5) A tower must not be specified in an instrument under subclause (3) unless:
- (a) the tower is attached to a building; and
  - (b) the height of the tower does not exceed 5 metres.
- (6) To avoid doubt, a reference in subclause (5) to a **tower** does not include a reference to an antenna.
- (7) An extension to a tower must not be specified in an instrument under subclause (3) unless:
- (a) the height of the extension does not exceed 5 metres; and
  - (b) there have been no previous extensions to the tower.
- For this purpose, **tower** has the same meaning as in clause 4.
- (8) Paragraphs (1)(a) and (c) do not, by implication, limit subclause (3).
- (9) A reference in this Part to engaging in activities under this Division includes a reference to exercising powers under this Division.

## Division 4—Maintenance of facilities

### 7 Maintenance of facilities

- (1) A carrier may, at any time, maintain a facility.
- (2) A carrier may do anything necessary or desirable for the purpose of exercising powers under subclause (1), including (but not limited to):
  - (a) entering on, and occupying, land; and
  - (b) removing, or erecting a gate in, any fence.
- (3) A reference in this clause to the *maintenance* of a facility (the *original facility*) includes a reference to:
  - (a) the alteration, removal or repair of the original facility; and
  - (b) the provisioning of the original facility with material or with information (whether in electronic form or otherwise); and
  - (c) ensuring the proper functioning of the original facility; and
  - (d) the replacement of the whole or a part of the original facility in its original location, where the conditions specified in subclause (5) are satisfied; and
  - (e) the installation of an additional facility in the same location as the original facility, where the conditions specified in subclause (6) are satisfied; and
  - (f) in a case where any tree, undergrowth or vegetation obstructs, or is likely to obstruct, the operation of the original facility—the cutting down or lopping of the tree, or the clearing or removal of the undergrowth or vegetation, as the case requires.
- (4) A reference in this clause to the *maintenance* of a facility does not include a reference to the extension of a tower. For this purpose, *tower* has the same meaning as in clause 4.
- (5) For the purposes of paragraph (3)(d), the following conditions are specified:

- (a) the levels of noise that are likely to result from the operation of the replacement facility are less than or equal to the levels of noise that resulted from the operation of the original facility;
  - (b) in a case where the original facility is a tower:
    - (i) the height of the replacement facility does not exceed the height of the original facility; and
    - (ii) the volume of the replacement facility does not exceed the volume of the original facility;
  - (c) in a case where the facility is not a tower:
    - (i) the volume of the replacement facility does not exceed the volume of the original facility; or
    - (ii) the replacement facility is located inside a fully-enclosed building, the original facility was located inside the building and the building is not modified externally as a result of the replacement of the original facility; or
    - (iii) the replacement facility is located inside a duct, pit, hole, tunnel or underground conduit;
  - (d) such other conditions (if any) as are specified in the regulations.
- (6) For the purposes of paragraph (3)(e), the following conditions are specified:
- (a) the combined levels of noise that are likely to result from the operation of the additional facility and the original facility are less than or equal to the levels of noise that resulted from the operation of the original facility;
  - (b) either:
    - (i) the additional facility is located inside a fully-enclosed building, the original facility is located inside the building and the building is not modified externally as a result of the installation of the additional facility; or
    - (ii) the additional facility is located inside a duct, pit, hole, tunnel or underground conduit;

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- (c) such other conditions (if any) as are specified in the regulations.
- (7) For the purposes of paragraphs (5)(a), (b) and (c) and (6)(a), (b) and (c), trivial variations are to be disregarded.
- (8) For the purposes of subclauses (5) and (6):
  - (a) the measurement of the height of a tower is not to include any antenna extending from the top of the tower; and
  - (b) the volume of a facility is the apparent volume of the materials that:
    - (i) constitute the facility; and
    - (ii) are visible from a point outside the facility; and
  - (c) a structure that makes a facility inside the structure unable to be seen from any point outside the structure is to be treated as if it were a fully-enclosed building.
- (9) A reference in this Part to engaging in activities under this Division includes a reference to exercising powers under this Division.
- (10) In this clause (other than subclause (4)):  
*tower* means a tower, pole or mast.



## **Division 5—Conditions relating to the carrying out of authorised activities**

### **8 Carrier to do as little damage as practicable**

In engaging in an activity under Division 2, 3 or 4, a carrier must take all reasonable steps to ensure that the carrier causes as little detriment and inconvenience, and does as little damage, as is practicable.

### **9 Carrier to restore land**

- (1) If a carrier engages in an activity under Division 2, 3 or 4 in relation to any land, the carrier must take all reasonable steps to ensure that the land is restored to a condition that is similar to its condition before the activity began.
- (2) The carrier must take all reasonable steps to ensure that the restoration begins within 10 business days after the completion of the first-mentioned activity.
- (3) The rule in subclause (2) does not apply if the carrier agrees with:
  - (a) the owner of the land; and
  - (b) if the land is occupied by a person other than the owner—the occupier;to commence restoration at a time after the end of that period of 10 business days.

### **10 Management of activities**

A carrier must, in connection with carrying out an activity covered by Division 2, 3 or 4, take all reasonable steps:

- (a) to act in accordance with good engineering practice; and
- (b) to protect the safety of persons and property; and
- (c) to ensure that the activity interferes as little as practicable with:

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- (i) the operations of a public utility; and
- (ii) public roads and paths; and
- (iii) the movement of traffic; and
- (iv) the use of land; and
- (d) to protect the environment.

**11 Agreements with public utilities**

- (1) A carrier must make reasonable efforts to enter into an agreement with a public utility that makes provision for the manner in which the carrier will engage in an activity that is:
  - (a) covered by Division 2, 3 or 4; and
  - (b) likely to affect the operations of the utility.
- (2) A carrier must comply with an agreement in force under subclause (1).

**12 Compliance with industry standards**

If a carrier engages in an activity covered by Division 2, 3 or 4, the carrier must do so in accordance with any standard that:

- (a) relates to the activity; and
- (b) is recognised by the ACMA as a standard for use in that industry; and
- (c) is likely to reduce a risk to the safety of the public if the carrier complies with the standard.

**13 Compliance with international agreements**

If a carrier engages in an activity covered by Division 2, 3 or 4, the carrier must do so in a manner that is consistent with Australia's obligations under a listed international agreement that is relevant to the activity.

## **14 Conditions specified in the regulations**

If a carrier engages, or proposes to engage, in an activity covered by Division 2, 3 or 4, the carrier must comply with any conditions that are specified in the regulations.

## **15 Conditions specified in a Ministerial Code of Practice**

- (1) The Minister may, by legislative instrument, make a Code of Practice setting out conditions that are to be complied with by carriers in relation to any or all of the activities covered by Division 2, 3 or 4 (other than activities covered by a facility installation permit) or by Part 3 of Schedule 3A.
- (2) A carrier must comply with the Code of Practice.
- (3) The following are examples of conditions that may be set out in the Code of Practice:
  - (a) a condition requiring carriers to undertake assessments, or further assessments, of the environmental impact of the activity concerned;
  - (b) a condition requiring carriers to consult a particular person or body in relation to the activity concerned;
  - (c) a condition requiring carriers to obtain the approval of a particular person or body in relation to the activity concerned.
- (4) This clause does not, by implication, limit a power conferred by or under this Act to make an instrument.
- (5) This clause does not, by implication, limit the matters that may be dealt with by codes or standards referred to in Part 6.
- (6) Subclauses (4) and (5) do not, by implication, limit subsection 33(3B) of the *Acts Interpretation Act 1901*.

## **16 Conditions to which a facility installation permit is subject**

If:

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- (a) a carrier engages, or proposes to engage, in an activity covered by Division 3; and
  - (b) that activity is or will be authorised by a facility installation permit; and
  - (c) the facility installation permit is subject to one or more conditions;
- the carrier must comply with those conditions.

**17 Notice to owner of land—general**

- (1) Before engaging in an activity under Division 2, 3 or 4 in relation to any land, a carrier must give written notice of its intention to do so to:
  - (a) the owner of the land; and
  - (b) if the land is occupied by a person other than the owner—the occupier.
- (2) The notice must specify the purpose for which the carrier intends to engage in the activity.
- (3) The notice under subclause (1) must contain a statement to the effect that, if a person suffers financial loss or damage in relation to property because of anything done by a carrier in engaging in the activity, compensation may be payable under clause 42.
- (4) The notice must be given at least 10 business days before the carrier begins to engage in the activity.
- (4A) Despite subclause (4), the notice need be given only 2 business days before the carrier begins to engage in an activity authorised by Division 2 (which deals with inspection) that:
  - (a) is not inconsistent with Australia's obligations under a listed international agreement; and
  - (b) could not have an effect described in one or more of subparagraphs 27(7)(a)(ii) to (xii) (inclusive) of this Schedule; and
  - (c) will not have an adverse effect on a streetscape or other landscape; and

- (d) will not have an impact on a place, area or thing described in paragraph 27(7)(c) or (d) of this Schedule.
- (5) A person may waive the person's right to be given a notice under subclause (1).
- (6) Subclause (1) does not apply if:
- (a) the carrier intends to engage in activities under Division 2 (which deals with inspection of land), 3 (which deals with installation of facilities) or 4 (which deals with maintenance); and
  - (b) those activities need to be carried out without delay in order to protect:
    - (i) the integrity of a telecommunications network or a facility; or
    - (ii) the health or safety of persons; or
    - (iii) the environment; or
    - (iv) property; or
    - (v) the maintenance of an adequate level of service.
- (6A) Subclause (1) does not apply if:
- (a) the carrier intends to engage in an activity under Division 2, 3 or 4 in relation to the installation, proposed installation or maintenance of a temporary defence facility; and
  - (b) the carrier considers that compliance with subclause (1) is impracticable in the circumstances.
- (6B) For the purposes of this clause, a **temporary defence facility** is a facility of the kind that is mentioned in paragraph 6(1)(c) of this Schedule.
- (7) Subclause (1) does not apply if the carrier intends to engage in an activity under Division 2 (which deals with inspection) in relation to land that is a public place and the activity:
- (a) is not inconsistent with Australia's obligations under a listed international agreement; and

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- (b) could not have an effect described in one or more of subparagraphs 27(7)(a)(ii) to (xii) (inclusive) of this Schedule; and
- (c) will not have an adverse effect on a streetscape or other landscape; and
- (d) will not have an impact on a place, area or thing described in paragraph 27(7)(c) or (d) of this Schedule.

**18 Notice to owner of land—lopping of trees etc.**

- (1) At least 10 business days before engaging in any of the following activities under Division 2, 3 or 4:
  - (a) cutting down or lopping a tree on private land;
  - (b) clearing or removing undergrowth or vegetation on private land;a carrier must give:
  - (c) the owner of the land; and
  - (d) if the land is occupied by a person other than the owner—the occupier;a written notice requesting that the tree be cut down or lopped, or that the undergrowth or vegetation be cleared, as the case may be, in the manner, and within the period, specified in the notice.
- (2) The carrier may only engage in those activities if the request is not complied with.
- (3) A person may waive the person's right to be given a notice under subclause (1).
- (3A) Subclauses (1) and (2) do not apply if:
  - (a) the carrier intends to engage in an activity under Division 2, 3 or 4 in relation to the installation, proposed installation or maintenance of a temporary defence facility; and
  - (b) the carrier considers that compliance with subclause (1) is impracticable in the circumstances.

- (3B) For the purposes of this clause, a **temporary defence facility** is a facility of the kind mentioned in paragraph 6(1)(c) of this Schedule.
- (4) Subclauses (1) and (2) do not apply if:
- (a) the carrier intends to engage in activities under Division 2 (which deals with inspection of land), 3 (which deals with installation of facilities) or 4 (which deals with maintenance); and
  - (b) those activities need to be carried out without delay in order to protect:
    - (i) the integrity of a telecommunications network or a facility; or
    - (ii) the health or safety of persons; or
    - (iii) the environment; or
    - (iv) property; or
    - (v) the maintenance of an adequate level of service.

#### **19 Notice to roads authorities, utilities etc.**

- (1) At least 10 business days before engaging in any of the following activities under Division 3 or 4:
- (a) closing, diverting or narrowing a road or bridge;
  - (b) installing a facility on, over or under a road or bridge;
  - (c) altering the position of a water, sewerage or gas main or pipe;
  - (d) altering the position of an electricity cable or wire;
- a carrier must give written notice of its intention to do so to the person or authority responsible for the care and management of the road, bridge, main, pipe, cable or wire.
- (2) A person or authority may waive the person's or authority's right to be given a notice under subclause (1).
- (2A) Subclause (1) does not apply if:
- (a) the carrier intends to engage in an activity under Division 2, 3 or 4 in relation to the installation, proposed installation or maintenance of a temporary defence facility; and

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- (b) the carrier considers that compliance with subclause (1) is impracticable in the circumstances.
- (2B) For the purposes of this clause, a *temporary defence facility* is a facility of the kind mentioned in paragraph 6(1)(c) of this Schedule.
- (3) Subclause (1) does not apply if:
  - (a) the carrier intends to engage in activities under Division 2 (which deals with inspection of land), 3 (which deals with installation of facilities) or 4 (which deals with maintenance); and
  - (b) those activities need to be carried out without delay in order to protect:
    - (i) the integrity of a telecommunications network or a facility; or
    - (ii) the health or safety of persons; or
    - (iii) the environment; or
    - (iv) property; or
    - (v) the maintenance of an adequate level of service.

**20 Roads etc. to remain open for passage**

If a carrier engages in an activity covered by Division 3, the carrier must ensure that a facility installed over a road, bridge, path or navigable water is installed in a way that will allow reasonable passage by persons, vehicles and vessels.



## **Division 6—Facility installation permits**

### **21 Application for facility installation permit**

- (1) A carrier may apply to the ACMA for a permit authorising the carrier to carry out the installation of one or more facilities.
- (2) The permit is called a *facility installation permit*.

### **22 Form of application**

An application must be:

- (a) in writing; and
- (b) in accordance with the form approved in writing by the ACMA.

### **23 Application to be accompanied by charge**

An application for a facility installation permit must be accompanied by the charge (if any) fixed by a determination under section 60 of the *Australian Communications and Media Authority Act 2005* in relation to so much of the ACMA's expenses in connection with dealing with the application as do not relate to the conduct of a public inquiry in relation to the permit.

### **24 Withdrawal of application**

This Division does not prevent the withdrawal of an application and the submission of a fresh application.

### **25 Issue of facility installation permit**

- (1) After considering the application, the ACMA may issue a facility installation permit authorising the applicant to carry out the installation of any or all of the facilities specified in the application.

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(2) The ACMA must not issue a facility installation permit unless the ACMA has held a public inquiry in relation to the permit.

(3) The ACMA may decide to refuse to issue a facility installation permit without holding a public inquiry in relation to the permit.

Note: An example of the operation of this subclause would be a case where the application does not disclose grounds on which the ACMA could issue the permit.

(4) If the ACMA decides to refuse to issue a facility installation permit, it must give the applicant a written notice setting out the decision.

(5) Clause 23 does not prevent a charge from being fixed by a determination under section 60 of the *Australian Communications and Media Authority Act 2005* in relation to the holding of a public inquiry in relation to a permit.

**26 Deemed refusal of facility installation permit**

(1) If:

(a) the ACMA receives an application for a facility installation permit; and

(b) 10 business days pass and the ACMA has neither:

(i) notified the applicant in writing that the ACMA has decided to refuse to issue the permit; nor

(ii) notified the applicant in writing that the ACMA has decided to hold a public inquiry in relation to the permit;

the ACMA is taken, at the end of that period of 10 business days, to have decided to refuse to issue the permit.

(2) If:

(a) the ACMA receives an application for a facility installation permit; and

(b) 65 business days pass and the ACMA has neither:

(i) notified the applicant in writing that the ACMA has decided to refuse to issue the permit; nor

- (ii) notified the applicant in writing that the ACMA has decided to issue the permit;
- the ACMA is taken, at the end of that period of 65 business days, to have decided to refuse to issue the permit.
- (3) The ACMA may, by written instrument, determine that subclause (2) has effect, in relation to a specified application for a facility installation permit, as if a reference in that subclause to 65 business days were a reference to such greater number of business days, not exceeding 85 business days, as is specified in the determination. The determination has effect accordingly.
- (4) In determining the validity of any action taken by the ACMA under Part 25 in relation to the holding of a public inquiry in relation to in a permit, regard must be had to the ACMA's need to act with sufficient speed to meet the time limit imposed by subclause (2).

## **27 Criteria for issue of facility installation permit**

### *Criteria*

- (1) The ACMA must not issue a facility installation permit that authorises a carrier to carry out the installation of one or more facilities unless the ACMA is satisfied that:
- (a) the telecommunications network to which the facilities relate is, or is likely to be, of national significance; and
  - (b) the facilities are, or are likely to be, an important part of the telecommunications network to which the facilities relate; and
  - (c) any of the following conditions is satisfied:
    - (i) the greater part of the infrastructure of the telecommunications network to which the facilities relate has already been installed;
    - (ii) the greater part of the infrastructure of the telecommunications network to which the facilities relate has not been installed but each administrative authority whose approval was required or would, apart

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- from Division 3, be required, for the installation of the greater part of the infrastructure of the network has given, or is reasonably likely to give, such approval;
- (iii) no part of the infrastructure of the telecommunications network to which the facilities relate has been installed, but each administrative authority whose approval was required or would, apart from Division 3, be required, for the installation of the greater part of the infrastructure of the network has given, or is reasonably likely to give, such an approval; and
- (d) the advantages that are likely to be derived from the operation of the facilities in the context of the telecommunications network to which the facilities relate outweigh any form of degradation of the environment that is likely to result from the installation of the facilities; and
- (e) in a case where none of the facilities consists of a designated overhead line—the conditions set out in subclause (2) are satisfied; and
- (f) in a case where any of the facilities consists of a designated overhead line—all the conditions set out in subclause (2A) are satisfied; and
- (g) where the facility is proposed to be located near a community sensitive site, including residential areas, childcare centres, schools, aged care centres, hospitals, playgrounds and regional icons:
- (i) the community has been fully consulted, and wherever possible, has agreed to the facility; and
  - (ii) alternative less sensitive sites have been considered; and
  - (iv) efforts have been made to minimise electromagnetic radiation exposure to the public.

*Conditions relating to facilities other than designated overhead lines*

- (2) For the purposes of paragraph (1)(e), the following conditions are specified:

- (a) the carrier has made reasonable efforts to negotiate in good faith with:
  - (i) each proprietor whose approval is required, or would, apart from Division 3, be required, for carrying out the installation; and
  - (ii) each administrative authority whose approval is required, or would, apart from Division 3, be required, for carrying out the installation; and
- (b) one of the following subparagraphs applies:
  - (i) at least one approval that is referred to in subparagraph (a)(i) has not been obtained within 20 business days after the beginning of the negotiations concerned;
  - (ii) at least one approval that is referred to in subparagraph (a)(ii) has not been obtained within 6 months after the beginning of the negotiations concerned;
  - (iii) at least one approval that is referred to in paragraph (a) has been refused.

*Conditions relating to facilities consisting of designated overhead lines*

- (2A) For the purposes of paragraph (1)(f), the following conditions are specified:
  - (a) the carrier has made reasonable efforts to negotiate in good faith with each proprietor whose approval is required, or would, apart from Division 3, be required, for carrying out the installation; and
  - (b) at least one of those approvals has not been obtained within 20 business days after the beginning of the negotiations concerned; and
  - (c) each administrative authority whose approval is required, or would, apart from Division 3, be required, for the installation of the line has given such an approval.

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*Networks of national significance*

- (3) In determining the matter set out in paragraph (1)(a), the ACMA must have regard to the following:
- (a) the geographical reach of the network;
  - (b) the number of customers connected, or likely to be connected, to the network;
  - (c) the importance of the network to the national economy;
  - (d) such other matters (if any) as the ACMA considers relevant.

*When facilities are an important part of a network*

- (4) In determining the matter set out in paragraph (1)(b), the ACMA must have regard to at least one of the following:
- (a) the technical importance of the facilities in the context of the telecommunications network to which the facilities relate;
  - (b) the economic importance of the facilities in the context of the telecommunications network to which the facilities relate;
  - (c) the social importance of the facilities in the context of the telecommunications network to which the facilities relate.

*When advantages of facilities outweigh degradation of the environment*

- (5) In determining the matter set out in paragraph (1)(d), the ACMA must have regard to the following:
- (a) the extent to which the installation of the facilities is likely to promote the long-term interests of end-users of carriage services or of services supplied by means of carriage services;
  - (b) the impact of the installation, maintenance or operation of the facilities on the environment;
  - (c) the objective of facilitating the timely supply of efficient, modern and cost-effective carriage services to the public;
  - (d) any relevant technical and/or economic aspects of the installation, maintenance or operation of the facilities in the

context of the telecommunications network to which the facilities relate;

- (e) whether the installation of the facilities contributes to:
  - (i) the fulfilment by the applicant of the universal service obligation; or
  - (ii) the compliance by the applicant with the obligations under a contract entered into under section 14 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* for a purpose relating to the achievement of a policy objective set out in paragraph 13(1)(a) or (b) of that Act; or
  - (iii) the compliance by the applicant with the terms and conditions of a grant made under section 14 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* for a purpose relating to the achievement of a policy objective set out in paragraph 13(1)(a) or (b) of that Act;
- (f) whether the installation of the facilities involves co-location with one or more other facilities;
- (g) whether the installation of the facilities facilitates co-location, or future co-location, with one or more other facilities;
- (h) such other matters (if any) as the ACMA considers relevant.

*Long-term interests of end-users*

- (6) For the purposes of this clause, the question whether a particular thing promotes the long-term interests of end-users of carriage services or of services supplied by means of carriage services is to be determined in the same manner as that question is determined for the purposes of Part XIC of the *Competition and Consumer Act 2010*.

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*Environmental impact*

- (7) In determining the matter set out in paragraph (5)(b), the ACMA must have regard to the following:
- (a) whether the installation, maintenance or operation of the facilities:
    - (i) is inconsistent with Australia's obligations under a listed international agreement; or
    - (ii) could threaten with extinction, or significantly impede the recovery of, a threatened species; or
    - (iii) could put a species of flora or fauna at risk of becoming a threatened species; or
    - (iv) could have an adverse effect on a threatened species of flora or fauna; or
    - (v) could damage the whole or a part of a habitat of a threatened species of flora or fauna; or
    - (vi) could damage the whole or a part of a place, or an ecological community, that is essential to the continuing existence of a threatened species of flora or fauna; or
    - (vii) could threaten with extinction, or significantly impede the recovery of, a threatened ecological community; or
    - (viii) could have an adverse effect on a threatened ecological community; or
    - (ix) could damage the whole or a part of the habitat of a threatened ecological community; or
    - (x) could have an adverse effect on a listed migratory species (as defined in the *Environment Protection and Biodiversity Conservation Act 1999*); or
    - (xi) will have or is likely to have a significant impact on the environment in a Commonwealth marine area (as defined in the *Environment Protection and Biodiversity Conservation Act 1999*); or
    - (xii) will have or is likely to have a significant impact on the environment on Commonwealth land (as defined in the *Environment Protection and Biodiversity Conservation Act 1999*);



- (b) the visual effect of the facilities on streetscapes and other landscapes;
- (c) whether the facilities are to be installed at any of the following places:
  - (i) a declared World Heritage property (as defined in the *Environment Protection and Biodiversity Conservation Act 1999*);
  - (ia) a declared Ramsar wetland (as defined in the *Environment Protection and Biodiversity Conservation Act 1999*);
  - (ii) a place that Australia is required to protect by the terms of a listed international agreement;
  - (iii) an area that, under a law of the Commonwealth, a State or a Territory, is reserved wholly or principally for nature conservation purposes (however described);
  - (iv) an area that, under a law of the Commonwealth, a State or a Territory, is protected from significant environmental disturbance;
- (d) whether the facilities are to be installed at or near an area or thing that is:
  - (i) included in the National Heritage List or Commonwealth Heritage List, within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999*; or
  - (iii) registered under a law of a State or Territory relating to heritage conservation; or
  - (iv) of particular significance to Aboriginal persons, or Torres Strait Islanders, in accordance with their traditions;
- (e) such other matters (if any) as the ACMA considers relevant.

*Deemed approvals by administrative authorities*

- (8) The ACMA may, by written instrument, determine that this clause has the effect it would have if it were assumed that a specified administrative authority had given a specified approval for the

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installation of one or more specified facilities. The determination has effect accordingly.

Note: For specification by class, see subsection 33(3AB) of the *Acts Interpretation Act 1901*.

*Definitions*

(9) In this clause:

**administrative authority** means:

- (a) the holder of an office; or
- (b) an authority of a State or a Territory; or
- (c) a local government body;

performing administrative functions under a law of a State or a Territory.

**approval** means an approval or permission (however described).

**negotiations** includes:

- (a) the submission of an application for approval; and
- (b) pursuing an application for approval.

**proprietor** means an owner or occupier of land.

**review**, in relation to a refusal to give an approval, means a review on the merits (in other words, a review that is not based on the grounds that the refusal is contrary to law).

**telecommunications network** includes a proposed telecommunications network.

**28 Special provisions relating to environmental matters**

(1) Chapters 2 and 4 and Divisions 1 to 4 (inclusive) of Part 13 of the *Environment Protection and Biodiversity Conservation Act 1999* do not apply to:

- (a) the performance of a function, or the exercise of a power, conferred on the ACMA by this Division; or

- (b) an action (as defined in that Act) authorised by a facility installation permit.
- (2) Before issuing a facility installation permit, the ACMA must consult the Environment Secretary.
- (5) In this clause:
  - this Division* includes:
    - (a) Part 25, to the extent that that Part relates to the holding of a public inquiry in relation to a permit; and
    - (b) Part 29, to the extent that that Part relates to this Division.

### **29 Consultation with the ACCC**

Before making a decision to issue, or to refuse to issue, a facility installation permit, the ACMA must consult the ACCC.

### **30 Facility installation permit has effect subject to this Act**

- (1) A facility installation permit has effect subject to this Act.
- (2) In this clause:

*this Act* includes the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and regulations under that Act.

### **31 Duration of facility installation permit**

- (1) A facility installation permit comes into force when it is issued and remains in force until the end of the period specified in the permit.
- (2) However, the ACMA may, by written notice given to the holder of a facility installation permit, extend the period specified in the permit if the ACMA is satisfied that the extension is warranted because of special circumstances.

### **32 Conditions of facility installation permit**

- (1) A facility installation permit is subject to such conditions as are specified in the permit.
- (2) A condition of a facility installation permit may restrict, limit or prevent the carrying out of, an activity under Division 3. This subclause does not, by implication, limit subclause (1).
- (3) The following are examples of conditions to which a facility installation permit may be subject:
  - (a) a condition requiring the holder to undertake an assessment, or a further assessment, of the environmental impact of the installation of the facility concerned;
  - (b) a condition requiring the holder to consult a particular person or body in relation to the installation of the facility concerned;
  - (c) a condition requiring the holder to obtain the approval of a particular person or body in relation to the installation of the facility concerned.

### **33 Surrender of facility installation permit**

The holder of a facility installation permit may, at any time, surrender the permit by written notice given to the ACMA.

### **34 Cancellation of facility installation permit**

- (1) The ACMA may, by written notice given to the holder of a facility installation permit, cancel the permit.
- (2) In deciding whether to cancel the permit, the ACMA may have regard to:
  - (a) any contravention of Division 5; and
  - (b) any matter which the ACMA was entitled to have regard in deciding whether to issue a permit.
- (3) Subclause (2) does not, by implication, limit the matters to which the ACMA may have regard.

### **35 Review of decisions by Administrative Appeals Tribunal**

- (1) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the ACMA under clause 25 or 26 to refuse to issue a facility installation permit if the ACMA has not held a public inquiry in relation to the permit.
- (2) If the ACMA:
  - (a) makes a decision of a kind covered by subclause (1); and
  - (b) gives to the person or persons whose interests are affected by the decision written notice of the making of the decision;that notice is to include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision.
- (3) A failure to comply with subclause (2) does not affect the validity of a decision.
- (4) In this clause:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

## **Division 7—Exemptions from State and Territory laws**

### **36 Activities not generally exempt from State and Territory laws**

- (1) Divisions 2, 3 and 4 do not operate so as to authorise an activity to the extent that the carrying out of the activity would be inconsistent with the provisions of a law of a State or Territory.
- (2) The rule set out in subclause (1) has effect subject to any exemptions that are applicable under clause 37.

### **37 Exemption from State and Territory laws**

- (1) This clause applies to an activity carried on by a carrier if the activity is authorised by Division 2, 3 or 4.
- (2) The carrier may engage in the activity despite a law of a State or Territory about:
  - (a) the assessment of the environmental effects of engaging in the activity; or
  - (b) the protection of places or items of significance to Australia's natural or cultural heritage; or
  - (c) town planning; or
  - (d) the planning, design, siting, construction, alteration or removal of a structure; or
  - (e) the powers and functions of a local government body; or
  - (f) the use of land; or
  - (g) tenancy; or
  - (h) the supply of fuel or power, including the supply and distribution of extra-low voltage power systems; or
  - (i) a matter specified in the regulations.
- (3) Paragraph (2)(b) does not apply to a law in so far as the law provides for the protection of places or items of significance to the cultural heritage of Aboriginal persons or Torres Strait Islanders.

- (4) Paragraph (2)(h) does not apply to a law in so far as the law deals with the supply of electricity at a voltage that exceeds that used for ordinary commercial or domestic requirements.

### **38 Concurrent operation of State and Territory laws**

It is the intention of the Parliament that, if clause 37 entitles a carrier to engage in activities despite particular laws of a State or Territory, nothing in this Division is to affect the operation of any other law of a State or Territory, so far as that other law is capable of operating concurrently with this Act.

### **39 Liability to taxation not affected**

This Division does not affect the liability of a carrier to taxation under a law of a State or Territory.

## Division 8—Miscellaneous

### 41 Guidelines

- (1) In performing a function, or exercising a power, conferred on the ACMA by this Part, the ACMA must have regard to:
  - (a) any guidelines in force under subclause (2); and
  - (b) such other matters as the ACMA considers relevant.
- (2) The ACMA may, by written instrument, formulate guidelines for the purposes of subclause (1).

### 42 Compensation

- (1) If a person suffers financial loss or damage because of anything done by a carrier under Division 2, 3 or 4 in relation to:
  - (a) any property owned by the person; or
  - (b) any property in which the person has an interest;there is payable to the person by the carrier such reasonable amount of compensation:
  - (c) as is agreed between them; or
  - (d) failing agreement—as is determined by a court of competent jurisdiction.
- (2) Compensation payable under subclause (1) includes, without limitation, compensation in relation to:
  - (a) damage of a temporary character as well as of a permanent character; and
  - (b) the taking of sand, soil, stone, gravel, timber, water and other things.
- (3) In this clause:

***court of competent jurisdiction***, in relation to property, means:
  - (a) the Federal Court; or



- (b) the Supreme Court of the State or Territory in which the property is situated or was situated at the time of the relevant loss or damage; or
- (c) an inferior court that has jurisdiction:
  - (i) for the recovery of debts up to an amount not less than the amount of compensation claimed by the person; and
  - (ii) in relation to the locality in which the property, or part of the property, is situated or was situated at the time of the relevant loss or damage.

*inferior court* means:

- (a) a County Court, District Court or local Court of a State or Territory; or
- (b) a court of summary jurisdiction exercising civil jurisdiction.

#### **43 Power extends to carrier's employees etc.**

If, under a provision of Division 2, 3 or 4, a carrier is empowered to:

- (a) enter on land; or
- (b) inspect land; or
- (c) occupy land; or
- (d) do anything else on, over or under land;

the provision also empowers:

- (e) an employee of the carrier; or
- (f) a person acting for the carrier under a contract; or
- (g) an employee of a person referred to in paragraph (f);

to do that thing.

#### **44 State and Territory laws that discriminate against carriers and users of carriage services**

- (1) The following provisions have effect:
  - (a) a law of a State or Territory has no effect to the extent to which the law discriminates, or would have the effect (whether direct or indirect) of discriminating, against a

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particular carrier, against a particular class of carriers, or against carriers generally;

(b) without limiting paragraph (a), a person is not entitled to a right, privilege, immunity or benefit, and must not exercise a power, under a law of a State or Territory to the extent to which the law discriminates, or would have the effect (whether direct or indirect) of discriminating, against a particular carrier, against a particular class of carriers, or against carriers generally;

(c) without limiting paragraph (a), a person is not required to comply with a law of a State or Territory to the extent to which the law discriminates, or would have the effect (whether direct or indirect) of discriminating, against a particular carrier, against a particular class of carriers, or against carriers generally.

(2) The following provisions have effect:

(a) a law of a State or Territory has no effect to the extent to which the law discriminates, or would have the effect (whether direct or indirect) of discriminating, against a particular eligible user, against a particular class of eligible users, or against eligible users generally;

(b) without limiting paragraph (a), a person is not entitled to a right, privilege, immunity or benefit, and must not exercise a power, under a law of a State or Territory to the extent to which the law discriminates, or would have the effect (whether direct or indirect) of discriminating, against a particular eligible user, against a particular class of eligible users, or against eligible users generally;

(c) without limiting paragraph (a), a person is not required to comply with a law of a State or Territory to the extent to which the law discriminates, or would have the effect (whether direct or indirect) of discriminating, against a particular eligible user, against a particular class of eligible users, or against eligible users generally.

(3) For the purposes of this clause, if a carriage service is, or is proposed to be, supplied to a person by means of a controlled

network, or a controlled facility, of a carrier, the person is an **eligible user**.

- (4) The Minister may, by legislative instrument, exempt a specified law of a State or Territory from subclause (1).

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

- (5) The Minister may, by legislative instrument, exempt a specified law of a State or Territory from subclause (2).

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

- (6) An exemption under subclause (4) or (5) may be unconditional or subject to such conditions (if any) as are specified in the exemption.

Note: The following are examples of a law of a State or Territory:

- (a) a provision of a State or Territory Act;
- (b) a provision of a legislative instrument made under a State or Territory Act.

#### **45 State and Territory laws may confer powers and immunities on carriers**

It is the intention of the Parliament that this Part is not to be construed as preventing a law of a State or Territory from conferring powers or immunities on carriers, so long as that law is capable of operating concurrently with this Act.

#### **46 ACMA may limit tort liability in relation to the supply of certain carriage services**

- (1) The ACMA may, by legislative instrument, impose limits on amounts recoverable in tort in relation to acts done, or omissions made, in relation to the supply of specified carriage services.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

- (2) An instrument under subclause (1) has effect accordingly.

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- (3) A limit imposed by an instrument under subclause (1) may be expressed to apply in relation to:
  - (a) the total of the amounts that can be recovered in relation to a single event; or
  - (b) the total of the amounts that can be recovered by a particular plaintiff in relation to a single event.
- (4) An instrument under subclause (1) may impose a limit expressed as:
  - (a) a dollar amount; or
  - (b) a method of calculating an amount.
- (5) Subclauses (3) and (4) do not, by implication, limit subclause (1).
- (6) This clause does not apply to a cause of action under Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (which deals with the customer service guarantee).
- (7) This clause does not apply to a cause of action under clause 42 (which deals with compensation for loss or damage resulting from a carrier's activities under Division 2, 3 or 4).

**47 Ownership of facilities**

Unless the circumstances indicate otherwise, a facility, or a part of a facility, that is supplied, installed, maintained or operated by a carrier remains the property of its owner:

- (a) in any case—whether or not it has become (either in whole or in part), a fixture; and
- (b) in the case of a network unit—whether or not a nominated carrier declaration is in force in relation to the network unit.

**48 ACMA may inform the public about designated overhead lines, telecommunications transmission towers and underground facilities**

- (1) The ACMA may inform members of the public about the kinds and location of:

- (a) designated overhead lines; and
  - (b) telecommunications transmission towers; and
  - (c) underground facilities.
- (2) In performing the function conferred on the ACMA by subclause (1), the ACMA must have regard to the following matters:
- (a) if:
    - (i) the ACMA is satisfied that a body or association represents carriers; and
    - (ii) the body or association has given the ACMA a written statement setting out the body's or association's views about how the ACMA should perform that function; the views set out in the statement;
  - (b) the legitimate business interests of carriers;
  - (c) the objective of safeguarding national security;
  - (d) the privacy of end-users of carriage services supplied by means of the lines, towers or facilities concerned.
- (3) Subclause (2) does not, by implication, limit the matters to which the ACMA may have regard.
- (4) Clauses 40 and 41 do not apply to the function conferred on the ACMA by subclause (1).
- (5) In this clause:
- telecommunications transmission tower*** means:
- (a) a tower; or
  - (b) a pole; or
  - (c) a mast; or
  - (d) a similar structure;
- used to supply a carriage service by means of radiocommunications.

## **50 Monitoring of progress in relation to placing facilities underground**

The ACMA is to monitor, and report to the Minister on, progress in relation to the implementation of efforts to place facilities underground.

## **51 Removal of certain overhead lines**

(1) If:

- (a) an overhead line (the *eligible overhead line*) is attached to a pole (the *first pole*); and
- (b) the eligible overhead line, or a portion of the eligible overhead line, is suspended between the first pole and another pole (the *second pole*); and
- (c) the installation of the eligible overhead line was or is authorised by:
  - (i) this Act; or
  - (ii) section 116 of the *Telecommunications Act 1991*; or
  - (iii) Division 3 of Part 7 of the *Telecommunications Act 1991*; or
  - (iv) a repealed law of the Commonwealth; and
- (d) there is also attached to the first pole one or more other overhead cables, where at least one of the other overhead cables is a non-communications cable; and
- (e) each of the non-communications cables is permanently removed (either simultaneously or over a period) and is not replaced;

the owner of the eligible overhead line must, within 6 months after the completion of the last of the removals referred to in paragraph (e), permanently remove so much of the eligible overhead line as is suspended between the first pole and the second pole.

- (2) If:
- (a) there is a local government body for the area in which the first pole is situated; and
  - (b) there is no prescribed administrative authority for the State or Territory in which the first pole is situated;
- the local government body may, by writing:
- (c) exempt the owner of the eligible overhead line from compliance with subclause (1) in relation to the first pole; or
  - (d) extend the period of 6 months mentioned in subclause (1) for the purposes of the application of subclause (1) to the owner of the eligible overhead line and to the first pole.
- (3) If there is a prescribed administrative authority for the State or Territory in which the first pole is situated, the prescribed administrative authority may, by writing:
- (a) exempt the owner of the eligible overhead line from compliance with subclause (1) in relation to the first pole; or
  - (b) extend the period of 6 months mentioned in subclause (1) for the purposes of the application of subclause (1) to the owner of the eligible overhead line and to the first pole.
- (4) If:
- (a) there is no local government body for the area in which the first pole is situated; and
  - (b) there is no prescribed administrative authority for the State or Territory in which the first pole is situated;
- the regulations may make provision for and in relation to:
- (c) the exemption of the owner of the eligible overhead line from compliance with subclause (1) in relation to the first pole; and
  - (d) the extension of the period of 6 months mentioned in subclause (1) for the purposes of the application of subclause (1) to the owner of the eligible overhead line and to the first pole.

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- (5) Regulations made for the purposes of subclause (4) may make provision with respect to a matter by conferring a power on the ACMA.
- (6) This clause does not prevent 2 or more instruments under subclause (2) or (3) from being combined in the same document.
- (7) In this clause:

**administrative authority** means:

- (a) the holder of an office; or  
(b) an authority of a State or a Territory;

that performs administrative functions under a law of a State or a Territory.

**line** includes a disused line.

**non-communications cable** means an overhead cable (other than a line).

**overhead cable** means a wire or cable that is suspended above the surface of:

- (a) land (other than submerged land); or  
(b) a river, lake, tidal inlet, bay, estuary, harbour or other body of water.

**overhead line** means a line that is suspended above the surface of:

- (a) land (other than submerged land); or  
(b) a river, lake, tidal inlet, bay, estuary, harbour or other body of water.

**prescribed administrative authority**, in relation to a State or a Territory, means an administrative authority that:

- (a) performs administrative functions under a law of the State or the Territory; and  
(b) is specified in the regulations.



## **52 Commonwealth laws not displaced**

Divisions 2, 3 and 4 do not authorise a carrier to engage in an activity contrary to the requirements of another law of the Commonwealth.

## **53 Subdivider to pay for necessary alterations**

If:

- (a) it becomes necessary, in the opinion of a carrier, because of the subdivision of any land, to remove, or alter the position of, a facility on, over or under the land; and
- (b) the carrier incurs costs in connection with anything reasonably done in connection with the removal or alteration;

the person who subdivided the land is liable to pay to the carrier so much of those costs as is reasonable, and that amount may be recovered in a court of competent jurisdiction as a debt due to the carrier.

## **54 Service of notices**

(1) If:

- (a) a carrier is unable, after diligent inquiry, to find out who owns particular land; or
- (b) a carrier is unable to serve a notice under this Part on the owner of land either personally or by post;

the carrier may serve a notice under this Part on the owner of the land by publishing a copy of the notice in a newspaper circulating in a district in which the land is situated and:

- (c) if the land is occupied—serving a copy of the notice on the occupier; or
- (d) if the land is not occupied—attaching, if practicable, a copy of the notice to a conspicuous part of the land.

(2) If a carrier is unable, after diligent inquiry, to find out:

- (a) whether particular land is occupied; or
- (b) who occupies particular land;

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the carrier may treat the land as unoccupied land.

- (3) If a carrier is unable to serve a notice under this Part on the occupier of land either personally or by post, the carrier may serve a notice under this Part on the occupier by:
- (a) publishing a copy of the notice in a newspaper circulating in a district in which the land is situated; and
  - (b) attaching, if practicable, a copy of the notice to a conspicuous part of the land.
- (4) This clause does not affect the operation of any other law of the Commonwealth, or of any law of a State or Territory, that authorises the service of a document otherwise than as provided in this clause.

## **Part 2—Transitional provisions**

### **60 Existing buildings, structures and facilities—application of State and Territory laws**

A law of a State or Territory that relates to:

- (a) the standards applicable to:
  - (i) the design; or
  - (ii) the manner of the construction; of a building, structure or facility; or
- (b) the approval of the construction of a building, structure or facility; or
- (c) the occupancy, or use, of a building, structure or facility; or
- (d) the alteration or demolition of a building, structure or facility; does not apply to a building, structure or facility that is owned or operated by a carrier to the extent that the construction, alteration or demolition of the building, structure or facility was or is authorised by:
  - (e) section 116 of the *Telecommunications Act 1991*; or
  - (f) Division 3 of Part 7 of the *Telecommunications Act 1991*; or
  - (g) a repealed law of the Commonwealth.

### **61 Existing buildings, structures and facilities—application of the common law**

A rule of the common law that relates to trespass does not apply to the continued existence of a building, structure or facility that is owned or operated by a carrier to the extent that the construction or alteration of the building, structure or facility was or is authorised by:

- (a) section 116 of the *Telecommunications Act 1991*; or
- (b) Division 3 of Part 7 of the *Telecommunications Act 1991*; or
- (c) a repealed law of the Commonwealth.

## **Part 3—Compensation for acquisition of property**

### **62 Compensation for acquisition of property**

- (1) If:
- (a) either of the following would result in an acquisition of property from a person:
    - (i) anything done by a carrier under, or because of, this Schedule;
    - (ii) the existence of rights conferred on a carrier under, or because of, this Schedule in relation to a building, structure or facility owned or operated by the carrier; and
  - (b) the acquisition of property would not be valid, apart from this clause, because a particular person had not been compensated;  
the carrier must pay that person:
    - (c) a reasonable amount of compensation agreed on between the person and the carrier; or
    - (d) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.
- (2) In assessing compensation payable under this clause arising out of an event, the following must be taken into account:
- (a) any compensation obtained by the person as a result of an agreement between the person and the carrier otherwise than under this clause but arising out of the same event;
  - (b) any damages or compensation recovered by the person from the carrier, or other remedy given, in a proceeding begun otherwise than under this clause but arising out of the same event.
- (3) This clause does not limit the operation of clause 42.
- (4) In this clause:

*acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.

### **63 Application of this Part**

This Part applies in relation to:

- (a) anything done by a carrier under, or because of, this Schedule after the commencement of Schedule 2 to the *Telecommunications and Other Legislation Amendment (Protection of Submarine Cables and Other Measures) Act 2005*; and
- (b) the existence of rights:
  - (i) in relation to a building, structure or facility owned or operated by a carrier; and
  - (ii) that are conferred on a carrier under, or because of, this Schedule on or after the commencement of Schedule 2 to the *Telecommunications and Other Legislation Amendment (Protection of Submarine Cables and Other Measures) Act 2005*.

## Schedule 3A—Protection of submarine cables

Note: See section 484A.

### Part 1—Preliminary

#### 1 Simplified outline

The following is a simplified outline of this Schedule:

- This Schedule regulates the installation of certain submarine cables that are connected to places in Australia.
- The ACMA may declare protection zones in relation to submarine cables. In a protection zone, certain activities are prohibited and restrictions may be imposed on other activities.
- Carriers who intend to install certain submarine cables in certain Australian waters must apply for a permit to do so from the ACMA.

#### 2 Definitions

(1) In this Schedule, unless the contrary intention appears:

**Aboriginal person** means a person of the Aboriginal race of Australia.

**advisory committee** means an advisory committee established by section 58 of the *Australian Communications and Media Authority Act 2005*.

**Attorney-General's Department** means the Department administered by the Attorney-General.

**Australia**, when used in a geographical sense, includes all of the external Territories.

Note: *Australia* has a different meaning in this Schedule from the meaning it has elsewhere in this Act.

***Australian national*** means:

- (a) an Australian citizen; or
- (b) a body corporate established by, or under, a law of:
  - (i) the Commonwealth; or
  - (ii) a State; or
  - (iii) a Territory; or
- (c) the Commonwealth; or
- (d) a State; or
- (e) a Territory.

***Australian ship*** means a ship other than a foreign ship.

***Australian waters*** means:

- (a) the waters of the territorial sea of Australia; and
- (b) the waters of the exclusive economic zone of Australia; and
- (c) the sea above that part of the continental shelf of Australia that is beyond the limits of the exclusive economic zone.

Note: *Australia*, when used in this definition, includes all of the external territories.

***business day*** means a day on which the ACMA is open for business in both:

- (a) Victoria; and
- (b) the Australian Capital Territory.

***cetacean*** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

***coastal waters***:

- (a) of a State, means that part of the sea that is included in the coastal waters of the State within the meaning of the *Coastal Waters (State Powers) Act 1980*; and
- (b) of the Northern Territory, means that part of the sea that is included in the coastal waters of the Territory within the

Clause 2

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meaning of the *Coastal Waters (Northern Territory Powers) Act 1980*.

**Commonwealth marine area** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**Commonwealth regulatory approval**, in relation to the installation of a submarine cable or cables, means an approval (however described) that:

- (a) relates to the installation of the cable or cables; and
- (b) is required under:
  - (i) the *Environment Protection and Biodiversity Conservation Act 1999*; or
  - (ii) any other law of the Commonwealth (other than this Schedule).

**conduct** means an act, an omission to perform an act or a state of affairs.

**declared Ramsar wetland** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**declared World Heritage property** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**domestic submarine cable** means that part of a line link (within the meaning of section 30):

- (a) that is laid on or beneath the seabed that lies beneath Australian waters; and
- (b) that is laid for purposes that include connecting a place in Australia with another place in Australia (whether or not the cable is laid via a place outside Australia); and
- (c) that is connected to a place in Australia;

and includes any device attached to that part of the line link, if the device is used in or in connection with the line link, but does not include an international submarine cable.

Note 1: Any part of a line link that is laid elsewhere than on or beneath the Australian seabed, and any device attached to such part of a line link, is not a domestic submarine cable for the purposes of this Schedule.



Note 2: See also subclause (3).

**ecological character** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**ecological community** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**engage in conduct** means to do an act or omit to do an act.

**environment** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**Environment Secretary** means the Secretary of the Department administered by the Minister who is for the time being responsible for administering the *Environment Protection and Biodiversity Conservation Act 1999*.

**foreign national** means a person who is not an Australian national.

**foreign ship** has the same meaning as in the *Customs Act 1901*.

**installation**, in relation to a submarine cable, includes:

- (a) the laying of the cable on or beneath the seabed; and
- (b) the attachment of the cable to any other cable or thing; and
- (c) any activity that is ancillary or incidental to the installation of the cable (for this purpose, **installation** includes an activity covered by paragraph (a) or (b)).

**international agreement** means:

- (a) a convention to which Australia is a party; or
- (b) an agreement or arrangement between Australia and a foreign country;

and includes, for example, an agreement, arrangement or understanding between a Minister and an official or authority of a foreign country.

**international submarine cable** means that part of a line link (within the meaning of section 30):

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- (a) that is laid on or beneath the seabed that lies beneath Australian waters; and
  - (b) that is laid for purposes that include connecting a place in Australia with a place outside Australia (whether or not the cable is laid via another place in Australia); and
  - (c) that is connected to a place in Australia;
- and includes any device attached to that part of the line link, if the device is used in or in connection with the line link.

Note 1: Any part of a line link that is laid elsewhere than on or beneath the Australian seabed, and any device attached to such part of a line link, is not an international submarine cable for the purposes of this Schedule.

Note 2: See also subclause (4).

**listed international agreement** means any of the following:

- (a) an agreement that is a listed international agreement for the purposes of Schedule 3;
- (b) an international agreement specified in regulations made for the purposes of this definition.

**listed marine species** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**listed migratory species** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**listed threatened species** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**National Heritage List** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**National Heritage value** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

**non-protection zone installation permit** means a permit under Division 3 of Part 3 of this Schedule.

**protection zone** means a protection zone declared by the ACMA under clause 4.

**protection zone installation permit** means a permit under Division 2 of Part 3 of this Schedule.

**security** has the same meaning as in the *Australian Security Intelligence Organisation Act 1979*.

**ship** means any kind of vessel used in navigation by water, however propelled or moved.

**submarine cable** means:

- (a) a domestic submarine cable; or
- (b) an international submarine cable.

Note: See also subclause (5).

**threatened ecological community** means an ecological community that is included in the list of threatened ecological communities kept under Division 1 of Part 13 of the *Environment Protection and Biodiversity Conservation Act 1999*.

**threatened species** means a species that is included in one of the following categories of the list of threatened species kept under Division 1 of Part 13 of the *Environment Protection and Biodiversity Conservation Act 1999*:

- (a) extinct in the wild;
- (b) critically endangered;
- (c) endangered;
- (d) vulnerable.

**Torres Strait Islander** means a descendant of an indigenous inhabitant of the Torres Strait Islands.

**world heritage values** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.

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- (2) A reference in this Schedule to the location of a submarine cable includes, in relation to a submarine cable that is not yet installed, a reference to the proposed location of the submarine cable.
- (3) A reference in this Schedule to a *domestic submarine cable* includes a reference to a part of a domestic submarine cable.
- (4) A reference in this Schedule to an *international submarine cable* includes a reference to a part of an international submarine cable.
- (5) A reference in this Schedule to a *submarine cable* includes a reference to a part of a submarine cable.

**2A Extension to offshore areas**

Section 11 has effect, in relation to this Schedule, as if the reference in paragraph (1)(b) of that section to each of the eligible Territories were a reference to each of the external Territories.

**2B Submarine cable installed in a protection zone**

For the purposes of this Schedule, in determining whether a submarine cable is in, or is installed in, a protection zone, it is immaterial whether the cable is the cable, or any of the cables, in relation to which the protection zone was declared.

## **Part 2—Protection zones**

### **Division 1—Simplified outline**

#### **3 Simplified outline**

The following is a simplified outline of this Part:

- The ACMA may declare a protection zone in relation to a submarine cable installed in Australian waters.
- The ACMA must consult with an advisory committee, with the Environment Secretary and with the public before it declares a protection zone.
- Certain activities are prohibited in the zone and restrictions may be imposed on other activities in the zone.
- It is an offence for a person to damage a submarine cable in a protection zone, to engage in an activity that is prohibited in a protection zone, or to contravene any restrictions imposed on an activity in a protection zone.

## **Division 2—Declaration of protection zones**

### **Subdivision A—Declarations**

#### **4 ACMA may declare a protection zone**

- (1) The ACMA may, by legislative instrument, declare a protection zone in relation to one or more submarine cables, or one or more submarine cables that are proposed to be installed, in Australian waters.
- (1A) The ACMA must not declare a protection zone in relation to one or more domestic submarine cables, or one or more domestic submarine cables that are proposed to be installed, unless:
  - (a) the cable or cables are specified in the regulations; or
  - (b) the route or routes of the proposed cable or cables are specified in the regulations.
- (2) Before the ACMA declares a protection zone, the ACMA must comply with Subdivision B.

Note: Subdivision B requires the ACMA to develop a proposal for the protection zone and to consult about the proposal, and to satisfy other prerequisites.

#### **5 Declaration on ACMA's initiative or in response to request**

A declaration of a protection zone may be made:

- (a) on the ACMA's own initiative; or
- (b) at the request of a person.

#### **6 Response to a request to declare a protection zone**

*ACMA decides to develop a proposal*

- (1) If:
  - (a) a person requests the ACMA to declare a protection zone; and

(b) the ACMA decides to develop a proposal for a protection zone in response to the request;  
the ACMA must give the person a copy of its proposal.

*ACMA decides not to develop a proposal*

- (2) If:
- (a) a person requests the ACMA to declare a protection zone;  
and
  - (b) the ACMA decides not to develop a proposal for a protection zone in response to the request;
- the ACMA must notify the person in writing of the ACMA's decision and the reasons for the decision.

## **7 Decision not to declare a requested protection zone or to declare a different protection zone**

*No declaration*

- (1) If:
- (a) a person requests the ACMA to declare a protection zone;  
and
  - (b) the ACMA develops a proposal for the protection zone in response to the request; and
  - (c) the ACMA decides not to declare the protection zone;
- the ACMA must notify the person in writing of the ACMA's decision and the reasons for the decision.

*Declaration different from request*

- (2) If:
- (a) a person requests the ACMA to declare a protection zone;  
and
  - (b) the ACMA develops a proposal for the protection zone in response to the request; and
  - (c) the ACMA declares a protection zone that is different from the requested protection zone;

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the ACMA must give the person a copy of the declaration, together with a written statement setting out the ACMA's reasons for declaring a protection zone that is different from the requested protection zone.

**8 Location of submarine cable to be specified in declaration**

- (1) A declaration of a protection zone:
  - (a) must specify a nominal location for the cable or cables in all Australian waters in which the cable is installed; and
  - (b) must not specify a location for the cable or cables outside Australian waters.
- (2) The location must be expressed in geographic coordinates and must include the geodetic datum to which the coordinates refer.

**9 Area of a protection zone**

*Area is as set out in this clause unless declaration specifies otherwise*

- (1) Unless the ACMA specifies otherwise in the declaration of a protection zone, the protection zone in relation to:
  - (a) one submarine cable—is the area set out in subclause (2); and
  - (b) more than one submarine cable—is the area set out in subclause (4).

*Protection zone in relation to only one submarine cable*

- (2) The protection zone in relation to one submarine cable:
  - (a) consists of so much of the following as is Australian waters:
    - (i) the area within 1,852 metres either side of the points on the surface of the sea above the nominal location of the cable; and
    - (ii) the waters beneath that area; and
  - (b) the seabed and subsoil beneath that area.

Note: If a cable leaves one area of Australian waters and subsequently enters another area of Australian waters, subclause (2) has the effect that the



protection zone in relation to that cable covers both areas of Australian waters.

- (3) A declaration of a protection zone in relation to one submarine cable has no effect to the extent that it covers an area outside the area described in subclause (2).

*Protection zone in relation to more than one submarine cable*

- (4) The protection zone in relation to more than one submarine cable:
- (a) consists of so much of the following as is Australian waters:
    - (i) the area between the nominal location of the cables; and
    - (ii) the area within 1,852 metres from the outside edge of the points on the surface of the sea above the nominal location of each of the two outermost cables; and
    - (iii) the waters beneath those areas; and
  - (b) the seabed and subsoil beneath those areas.

Note: If a cable leaves one area of Australian waters and subsequently enters another area of Australian waters, subclause (4) has the effect that the protection zone in relation to that cable covers both areas of Australian waters.

- (5) A declaration of a protection zone in relation to more than one submarine cable has no effect to the extent that it covers an area outside the area described in subclause (4).

*Nominal location*

- (6) In this clause:

***nominal location***, of a submarine cable or cables, means the nominal location specified in the declaration of the protection zone in relation to the cable or cables.

## 10 Prohibited activities

- (1) A declaration of a protection zone may specify activities that are prohibited in the protection zone.

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- (2) If a declaration of a protection zone does not specify activities that are prohibited in the protection zone, the activities specified in subclause (4) are prohibited.
- (3) An activity which is specified in a declaration of a protection zone must be an activity that is covered by subclause (4).
- (4) This subclause covers the following activities:
  - (a) the use of:
    - (i) trawl gear that is designed to work on or near the seabed (for example, a demersal trawl); or
    - (ii) a net anchored to the seabed and kept upright by floats (for example, a demersal gillnet); or
    - (iii) a fishing line that is designed to catch fish at or near the seabed (for example, a demersal line); or
    - (iv) a dredge; or
    - (v) a pot or trap; or
    - (vi) a squid jig; or
    - (vii) a seine; or
    - (viii) a structure moored to the seabed with the primary function of attracting fish for capture (for example, a fish aggregating device);
  - (b) towing, operating, or suspending from a ship:
    - (i) any item mentioned in paragraph (a); or
    - (ii) a net, line, rope, chain or any other thing used in connection with fishing operations;
  - (c) lowering, raising or suspending an anchor from a ship;
  - (d) sand mining;
  - (e) exploring for or exploiting resources (other than marine species);
  - (f) mining or the use of mining techniques;
  - (g) any activity that involves a serious risk that an object will connect with the seabed, if a connection between the object and a submarine cable would be capable of damaging the cable;

- (h) an activity specified in the regulations, being an activity that, if done near a submarine cable, would involve a serious risk of damaging the cable.
- (5) However, subclause (4) does not cover an activity if:
  - (a) the activity is carried on by, or on behalf of, a person who owns or operates a submarine cable in the protection zone; and
  - (b) the activity consists of the maintenance or repair of the submarine cable.

## **11 Restricted activities**

- (1) A declaration of a protection zone may specify restrictions that are imposed in the protection zone on activities in the protection zone.
- (2) An activity on which restrictions are imposed must be an activity that is covered by subclause (3).
- (3) This subclause covers the following activities:
  - (a) the use of:
    - (i) a net that is above the seabed at all times; or
    - (ii) lures or baits attached to a line towed behind a ship;
  - (b) towing, operating, or suspending from a ship:
    - (i) any item mentioned in paragraph (a); or
    - (ii) a net, line, rope, chain or any other thing used in connection with fishing operations;
  - (c) fishing using a line;
  - (d) installing, maintaining or removing an electricity cable, an oil or gas pipeline, any like cables or pipelines and any associated equipment;
  - (e) constructing, maintaining or removing an installation for the use of ships;
  - (f) constructing or maintaining navigational aids;
  - (g) any activity that involves a risk that an object will connect with the seabed, if a connection between the object and a submarine cable would be capable of damaging the cable;

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- (h) an activity specified in the regulations, being an activity that, if done near a submarine cable, could involve a risk of damaging the cable.
- (4) However, subclause (3) does not cover an activity if:
  - (a) the activity is carried on by, or on behalf of, a person who owns or operates a submarine cable in the protection zone; and
  - (b) the activity consists of the maintenance or repair of the submarine cable.

**12 Conditions**

- (1) A declaration of a protection zone may be subject to any conditions that the ACMA considers appropriate.
- (2) Those conditions must be specified in the declaration.

**13 When a declaration takes effect**

- (1) A declaration of a protection zone takes effect at the time specified by the ACMA.
- (2) If a declaration relates only to a submarine cable or cables that are not yet installed, the ACMA must not specify a time before the time that the ACMA is satisfied that installation of the cable or cables will begin.

**14 Duration of declaration**

- (1) A declaration of a protection zone continues in effect until the ACMA revokes it.
- (2) To avoid doubt, a declaration continues in effect even if the submarine cable or cables in the protection zone have ceased to operate.

## **Subdivision B—Prerequisites to declaration of a protection zone**

### **15 ACMA to develop a proposal for a protection zone**

- (1) Before the ACMA declares a protection zone in relation to one or more submarine cables, or one or more submarine cables that are proposed to be installed, the ACMA must develop a proposal for the protection zone.
- (2) The proposal must include:
  - (a) the nominal location of the submarine cable or cables in Australian waters; and
  - (b) if the area of the proposed protection zone is different from the area under clause 9—details of the location and dimensions of the proposed protection zone; and
  - (c) details of the activities to be prohibited in the proposed protection zone; and
  - (d) details of the restrictions that are to be imposed on activities in the proposed protection zone.
- (3) A proposal developed under subsection (1) is not a legislative instrument.

### **16 ACMA to refer proposal to advisory committee**

- (1) The ACMA must refer a proposal developed under clause 15 to an advisory committee.

Note: See clause 49 for requirements that relate to advisory committees.
- (2) The advisory committee may make recommendations in relation to the proposal.
- (3) If the advisory committee does not make recommendations in relation to the proposal, the committee must give the ACMA a statement setting out the opinion of each committee member in relation to the proposal.

## **17 ACMA to publish proposal etc.**

### *Scope*

- (1) This clause applies to a proposal developed under clause 15.

### *Publication*

- (2) The ACMA must:
- (a) publish the proposal on the ACMA's website; and
  - (b) invite public submissions on the proposal.

### *Provision of copy of proposal*

- (3) If a person requests the ACMA to give the person a copy of the proposal, the ACMA must give the person a copy of the proposal within 2 business days after the day on which the ACMA received the request.
- (4) However, subclause (3) does not apply if the ACMA has:
- (a) declared the protection zone to which the proposal relates; or
  - (b) decided not to declare the protection zone to which the proposal relates.
- (5) If the person requests that a copy of the proposal be given in electronic form, the ACMA may give the copy in electronic form.
- (6) The ACMA is not entitled to impose a charge for giving the person a copy of the proposal.

## **17A ACMA to publish summary of proposal**

### *Scope*

- (1) This clause applies to a proposal developed under clause 15.

### *Publication*

- (2) The ACMA must:
- (a) prepare a summary of the proposal; and

- (b) publish the summary:
  - (i) in the *Gazette*; and
  - (ii) on the ACMA's website; and
  - (iii) in a newspaper circulating generally in each State, the Australian Capital Territory and the Northern Territory; and
  - (iv) if an external Territory is affected by the proposal—in a newspaper circulating generally in the external Territory.
- (3) The summary of the proposal must include information about how people can:
  - (a) access the proposal on the ACMA's website; and
  - (b) request a copy of the proposal under subclause 17(3).

### **18 Cable must be a submarine cable of national significance**

- (1) The ACMA must not declare a protection zone in relation to one or more submarine cables unless the ACMA is satisfied that the cable, or each cable, is or will be a cable of national significance.
- (2) For the purposes of subclause (1) if:
  - (a) a cable is specified in regulations made for the purposes of subclause 4(1A); or
  - (b) a route of a cable is specified in regulations made for the purposes of subclause 4(1A);the cable is taken to be of national significance.

### **19 Consultation with Environment Secretary**

- (1) The ACMA must not declare a protection zone in relation to one or more submarine cables unless the ACMA has consulted with the Environment Secretary in relation to the proposal for the protection zone.
- (2) The ACMA must have regard to any advice or recommendations provided by the Environment Secretary in relation to the proposal.

## 20 Matters the ACMA must have regard to

In deciding whether to declare a protection zone in relation to one or more submarine cables, the ACMA must have regard to:

- (a) the recommendations or statement of opinions of the advisory committee that considered the proposal for the protection zone; and
- (b) any submissions received from the public about the proposal for the protection zone; and
- (c) the objective of facilitating the supply of efficient, modern and cost-effective carriage services to the public; and
- (d) if the proposed protection zone relates to a submarine cable that is not yet installed—the impact of the installation on the environment; and
- (e) if the proposed protection zone relates to a submarine cable that is not yet installed—any relevant technical and economic aspects of the installation; and
- (f) if the proposed protection zone relates to a submarine cable that is not yet installed—whether the submarine cable is to be co-located with an existing submarine cable or cables; and
- (g) if the proposed protection zone relates to a submarine cable that is not yet installed—the economic and social benefits that are likely to result from the installation of the cable; and
- (h) any other matters that the ACMA considers relevant.

## 21 Environment and heritage considerations

For the purposes of paragraph 20(d) of this Schedule, the ACMA must have regard to:

- (a) whether the installation, maintenance or operation of the submarine cable:
  - (i) is inconsistent with Australia's obligations under a listed international agreement; or
  - (ii) could have an adverse effect on a listed threatened species or threatened ecological community, or impede the recovery of a listed threatened species or threatened ecological community; or



- (iii) could have an adverse effect on a listed marine species;  
or
  - (iv) could have an adverse effect on the environment,  
including the environment within a Commonwealth  
marine area; or
  - (v) could have an adverse effect on cetaceans; or
  - (vi) could have an adverse effect on a listed migratory  
species; or
  - (vii) could have an adverse effect on the National Heritage  
values of a place included in the National Heritage List;  
or
  - (viii) could have an adverse effect on the ecological character  
of a declared Ramsar wetland; or
  - (ix) could have an adverse effect on the world heritage  
values of a declared World Heritage property; or
  - (x) could have an adverse effect on a place that Australia is  
required to protect by the terms of a listed international  
agreement; or
  - (xi) could have an adverse effect on an area that, under the  
law of the Commonwealth, a State or a Territory, is  
reserved wholly or principally for marine conservation  
purposes (however described); or
  - (xii) could have an adverse effect on an area that, under a law  
of the Commonwealth, a State or a Territory, is  
protected from significant environmental disturbance;  
and
- (b) whether the submarine cable is to be installed at or near an  
area or thing that is of particular significance to Aboriginal  
persons, or Torres Strait Islanders, in accordance with their  
traditions; and
- (c) such other matters (if any) as the ACMA considers relevant.

## **22 Deadline for final decision about protection zone**

If the ACMA publishes a proposal for a protection zone under  
clause 17, the ACMA's decision whether or not to declare the

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protection zone must be made as soon as practicable, and in any event within 12 months, after the day on which the proposal was published.

## **Division 3—Varying or revoking a declaration of a protection zone**

### **Subdivision A—Variation or revocation**

#### **23 ACMA may vary or revoke a declaration of a protection zone**

- (1) The ACMA may, by legislative instrument, vary or revoke a declaration of a protection zone.

Note: Clause 48 requires a carrier to notify the ACMA if a submarine cable ceases to be used.

- (2) Before the ACMA varies or revokes a declaration of a protection zone, the ACMA must comply with Subdivision B.

Note: Subdivision B requires the ACMA to develop a variation or revocation proposal and to consult about the proposal.

#### **24 Variation or revocation on ACMA's initiative or in response to request**

A variation or revocation of a declaration of a protection zone may be made:

- (a) on the ACMA's own initiative; or  
(b) at the request of a person.

#### **25 ACMA to notify affected carrier of request to vary or revoke a declaration**

If a person requests the ACMA to vary or revoke a declaration of a protection zone, the ACMA must, as soon as practicable, give details of the request to each carrier who is responsible for a submarine cable or cables in the protection zone.

## **26 Response to a request to vary or revoke a declaration**

*ACMA decides to develop a variation or revocation proposal*

(1) If:

- (a) a person requests the ACMA to vary or revoke a declaration of a protection zone; and
- (b) the ACMA decides to develop a variation or revocation proposal in response to the request;

the ACMA must:

- (c) give the person a copy of its proposal; and
- (d) if the proposal differs from what the person requested—  
notify the person in writing of the reasons for the difference.

*ACMA decides not to develop a variation or revocation proposal*

(2) If:

- (a) a person requests the ACMA to vary or revoke a declaration of a protection zone; and
- (b) the ACMA decides not to develop a proposal to vary or revoke a declaration of a protection zone in response to the request;

the ACMA must notify the person in writing of the ACMA's decision and the reasons for the decision.

## **27 Decision not to vary or revoke a declaration after a request to do so**

If, after developing a proposal to vary or revoke a declaration of a protection zone in response to a request by a person, the ACMA:

- (a) decides not to vary or revoke the declaration; or
- (b) decides to vary the declaration in a way different from that requested; or
- (c) decides to vary the declaration when revocation was requested; or
- (d) decides to revoke the declaration when variation was requested;

the ACMA must notify the person in writing of the ACMA's decision and the reasons for the decision.

## **28 When a variation or revocation takes effect**

A variation or revocation of a declaration of a protection zone takes effect at the time specified by the ACMA.

## **29 Protection zone as varied must not exceed permitted area**

Subclauses 9(3) and (5) (about the area of a protection zone) continue to apply in relation to a declaration of a protection zone that is varied under this Division.

## **Subdivision B—Prerequisites to variation or revocation of declaration**

### **30 ACMA to develop a variation or revocation proposal**

- (1) Before the ACMA varies or revokes a declaration of a protection zone, the ACMA must develop a proposal to vary or revoke the declaration.
- (2) A proposal developed under subsection (1) is not a legislative instrument.

### **31 ACMA to refer proposal to advisory committee**

- (1) The ACMA must refer a proposal developed under clause 30 to an advisory committee.  
Note: See clause 49 for requirements that relate to advisory committees.
- (2) The advisory committee may make recommendations in relation to the proposal.
- (3) If the advisory committee does not make recommendations in relation to the proposal, the committee must give the ACMA a statement setting out the opinion of each committee member in relation to the proposal.

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**32 ACMA to publish proposal etc.**

*Scope*

- (1) This clause applies to a proposal developed under clause 30.

*Publication*

- (2) The ACMA must:
- (a) publish the proposal on the ACMA's website; and
  - (b) invite public submissions on the proposal.

*Provision of copy of proposal*

- (3) If a person requests the ACMA to give the person a copy of the proposal, the ACMA must give the person a copy of the proposal within 2 business days after the day on which the ACMA received the request.
- (4) However, subclause (3) does not apply if the ACMA has:
- (a) made the variation or revocation to which the proposal relates; or
  - (b) decided not to make the variation or revocation to which the proposal relates.
- (5) If the person requests that a copy of the proposal be given in electronic form, the ACMA may give the copy in electronic form.
- (6) The ACMA is not entitled to impose a charge for giving the person a copy of the proposal.

**32A ACMA to publish summary of proposal**

*Scope*

- (1) This clause applies to a proposal developed under clause 30.

*Summary*

- (2) The ACMA must:
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- (a) prepare a summary of the proposal; and
- (b) publish the summary:
  - (i) in the *Gazette*; and
  - (ii) on the ACMA's website; and
  - (iii) in a newspaper circulating generally in each State, the Australian Capital Territory and the Northern Territory; and
  - (iv) if an external Territory is affected by the proposal—in a newspaper circulating generally in the external Territory.
- (3) If the summary under subclause (2) relates to a proposal to vary a declaration of a protection zone, the summary must include:
  - (a) the name of the protection zone; and
  - (b) details of the location and dimensions of the protection zone as proposed to be varied; and
  - (c) details of the location and dimensions of the protection zone as it exists before the variation; and
  - (d) an outline of the reasons for the variation; and
  - (e) information about how people can:
    - (i) access the proposal on the ACMA's website; and
    - (ii) request a copy of the proposal under subclause 32(3).
- (4) If the summary under subclause (2) relates to a proposal to revoke a declaration of a protected zone, the summary must include:
  - (a) the name of the protection zone; and
  - (b) details of the location and dimensions of the protection zone; and
  - (c) an outline of the reasons for the revocation; and
  - (d) information about how people can:
    - (i) access the proposal on the ACMA's website; and
    - (ii) request a copy of the proposal under subclause 32(3).

### **33 Consultation with Environment Secretary**

- (1) The ACMA must not vary or revoke a declaration of a protection zone unless the ACMA has consulted with the Environment Secretary in relation to the proposal to vary or revoke the declaration.
- (2) The ACMA must have regard to any advice or recommendations provided by the Environment Secretary in relation to the proposal.

### **34 Matters the ACMA must have regard to**

In deciding whether to vary or revoke a declaration of a protection zone, the ACMA must have regard to:

- (a) the recommendations or statement of opinions of the advisory committee that considered the variation or revocation proposal; and
- (b) any submissions received from the public about the variation or revocation proposal; and
- (c) the legitimate commercial interests of:
  - (i) the owner of each submarine cable in the protection zone; and
  - (ii) if the carrier responsible for a cable in the protection zone is not the owner of the cable—that carrier; and
- (d) any other matters that the ACMA considers relevant.

### **35 Deadline for final decision about varying or revoking a protection zone**

If the ACMA publishes a proposal to vary or revoke a declaration of a protection zone under clause 32, the ACMA must decide whether to vary or revoke the declaration within 180 days after the day on which the proposal was published.



## **Division 4—Offences in relation to a protection zone**

### **Subdivision A—Damaging a submarine cable**

#### **36 Damaging a submarine cable**

- (1) A person commits an offence if:
- (a) the person engages in conduct; and
  - (b) the conduct results in damage to a submarine cable; and
  - (c) the cable is in a protection zone.

Penalty: Imprisonment for 10 years or 600 penalty units, or both.

- (2) Strict liability applies to paragraph (1)(c).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

#### **37 Negligently damaging a submarine cable**

- (1) A person commits an offence if:
- (a) the person engages in conduct; and
  - (b) the conduct results in damage to a submarine cable; and
  - (c) the person is negligent as to the fact that the conduct results in that damage; and
  - (d) the cable is in a protection zone.

Penalty: Imprisonment for 3 years or 180 penalty units, or both.

- (2) Strict liability applies to paragraph (1)(d).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

#### **38 Defence to offences of damaging a submarine cable**

Subclauses 36(1) and 37(1) do not apply if:

- (a) the conduct that resulted in damage to the submarine cable was necessary to save a life or a ship; or

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- (b) the conduct that resulted in damage to the submarine cable was necessary to prevent pollution; or
- (c) the defendant took all reasonable steps to avoid causing damage to the submarine cable; or
- (d) the defendant is the carrier who owns or operates the submarine cable; or
- (e) when the conduct occurred, the defendant was acting on behalf of the carrier who owns or operates the submarine cable.

Note: The defendant bears an evidential burden in relation to the matters in this clause. See subsection 13.3(3) of the *Criminal Code*.

**39 Master or owner of ship used in offence of damaging a submarine cable**

- (1) A person (the *first person*) commits an offence if:
  - (a) the first person is the owner or master of a ship; and
  - (b) the first person permits another person to use the ship; and
  - (c) the other person commits an offence against clause 36; and
  - (d) the ship is used in the commission of the offence and the first person is reckless as to that fact.

Penalty: Imprisonment for 10 years or 600 penalty units, or both.

- (2) Strict liability applies to paragraph (1)(c).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

**Subdivision B—Engaging in prohibited or restricted activities**

**40 Engaging in prohibited or restricted activities**

A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct occurs in a protection zone; and
- (c) the conduct:
  - (i) is prohibited in the protection zone; or

- (ii) contravenes a restriction imposed on an activity in the protection zone; and
- (d) the conduct is not engaged in by the carrier who owns or operates the cable, or a person acting on behalf of such a carrier, for the purpose of maintaining or repairing a submarine cable for which the carrier is responsible; and
- (e) the conduct is not engaged in by a carrier who holds a protection zone installation permit, or a person acting on such a carrier's behalf, in, or in the course of, the installation of a submarine cable in accordance with the permit.

Penalty: Imprisonment for 5 years or 300 penalty units, or both.

#### **41 Aggravated offence of engaging in prohibited or restricted activities**

A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the conduct occurs in a protection zone; and
- (c) the conduct:
  - (i) is prohibited in the protection zone; or
  - (ii) contravenes a restriction imposed on an activity in the protection zone; and
- (d) the person engages in the conduct with the intention of making a commercial gain; and
- (e) the conduct is not engaged in by the carrier who owns or operates the cable, or a person acting on behalf of such a carrier, for the purpose of maintaining or repairing a submarine cable for which the carrier is responsible; and
- (f) the conduct is not engaged in by a carrier who holds a protection zone installation permit, or a person acting on such a carrier's behalf, in, or in the course of, the installation of a submarine cable in accordance with the permit.

Penalty: Imprisonment for 7 years or 420 penalty units, or both.

#### **42 Defences to offences of engaging in prohibited or restricted activities**

Clauses 40 and 41 do not apply if:

- (a) the conduct was necessary to save a life or ship; or
- (b) the conduct was necessary to prevent pollution; or
- (c) the defendant took all reasonable steps to avoid engaging in the conduct.

Note: The defendant bears an evidential burden in relation to the matters in this clause. See subsection 13.3(3) of the *Criminal Code*.

#### **43 Alternative verdict if aggravated offence not proven**

If, on a trial for an offence against clause 41:

- (a) the arbiter of fact is not satisfied that the defendant engaged in the activity with the intention of making a commercial gain; and
- (b) the arbiter of fact is otherwise satisfied that the defendant has committed an offence against clause 40;

the arbiter may find the defendant not guilty of the offence against clause 41 but guilty of an offence against clause 40, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

#### **44 Master or owner of ship used in offence of engaging in prohibited or restricted activities**

- (1) A person (the *first person*) commits an offence if:
  - (a) the first person is the owner or master of a ship; and
  - (b) the first person permits another person to use the ship; and
  - (c) the other person commits an offence against clause 40 or 41; and
  - (d) the ship is used in the commission of the offence and the first person is reckless as to that fact.

Penalty:

- (a) if the other person committed an offence against clause 40—  
imprisonment for 5 years or 300 penalty units, or both; or
  - (b) if the other person committed an offence against clause 41—  
imprisonment for 7 years or 420 penalty units, or both.
- (2) Strict liability applies to paragraph (1)(c).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

## **Subdivision C—Foreign nationals and foreign ships**

### **44A Foreign nationals and foreign ships**

#### *Foreign nationals—no involvement of ship*

- (1) This Division does not apply to anything done, or omitted to be done, if:
- (a) the thing is done, or omitted to be done, by a foreign national; and
  - (b) the thing is done, or omitted to be done in, on, or beneath the seabed that lies beneath, either or both of the following:
    - (i) the waters of the exclusive economic zone of Australia;
    - (ii) the sea above that part of the continental shelf of Australia that is beyond the limits of the exclusive economic zone; and
  - (c) the thing done, or omitted to be done, does not involve a ship;
- unless the thing done, or omitted to be done, touches, concerns, arises out of or is connected with:
- (d) the exploration of the continental shelf of Australia; or
  - (e) the exploitation of the resources of the continental shelf of Australia (including the exploitation of the resources of the waters of the exclusive economic zone); or
  - (f) the operations of artificial islands, installations or structures that are under Australia's jurisdiction.

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*Foreign nationals—involvement of foreign ship*

- (2) This Division does not apply to anything done, or omitted to be done, if:
- (a) the thing is done, or omitted to be done, by a foreign national; and
  - (b) the thing is done, or omitted to be done, in either or both of the following:
    - (i) the waters of the exclusive economic zone of Australia;
    - (ii) the sea above that part of the continental shelf of Australia that is beyond the limits of the exclusive economic zone; and
  - (c) the thing done, or omitted to be done, involves a foreign ship; unless the thing done, or omitted to be done, touches, concerns, arises out of or is connected with:
    - (d) the exploration of the continental shelf of Australia; or
    - (e) the exploitation of the resources of the continental shelf of Australia (including the exploitation of the resources of the waters of the exclusive economic zone); or
    - (f) the operations of artificial islands, installations or structures that are under Australia's jurisdiction.

**Division 5—Miscellaneous****45 Person may claim damages**

- (1) A person who suffers, directly or indirectly, loss or damage:
  - (a) because a submarine cable in a protection zone is damaged by conduct of another person; or
  - (b) because another person engages in conduct that is prohibited in a protection zone; or
  - (c) because another person engages in conduct that contravenes a restriction imposed on an activity in a protection zone;may recover the amount of the loss or damage:
  - (d) against that other person; or
  - (e) against any person involved in the contravention (whether or not a person is convicted of an offence in respect of the contravention).
- (2) An action under subclause (1) may be commenced at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.
- (3) A reference in subclause (1) to a person who is involved in a contravention is a reference to a person who has:
  - (a) aided, abetted, counselled or procured the contravention; or
  - (b) induced, whether by threats or promises or otherwise, the contravention; or
  - (c) been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
  - (d) conspired with others to effect the contravention.
- (4) Jurisdiction is conferred on the Federal Court in any matter arising under this clause in respect of which a civil proceeding is instituted under this clause.

**46 Indemnity for loss of anchor etc.**

- (1) If:
- (a) after all reasonable precautionary measures have been taken, an anchor, a net or any other fishing gear belonging to a ship is sacrificed in order to avoid damaging a submarine cable in a protection zone; and
  - (b) at the time the sacrifice is made, no person on board the ship is engaging in conduct:
    - (i) that is prohibited in the protection zone; or
    - (ii) that contravenes a restriction imposed on an activity in the protection zone;
- the owner of the ship is entitled to be indemnified for that loss by the carrier responsible for the submarine cable.
- (2) Jurisdiction is conferred on the Federal Court in any matter arising under this clause in respect of which a civil proceeding is instituted under this clause.

**47 ACMA to notify relevant authorities of declaration, variation etc. of protection zone**

- (1) If the ACMA declares a protection zone under clause 4, or varies or revokes a declaration under clause 23, the ACMA must notify the authorities mentioned in subclause (2) as soon as practicable of the details of the ACMA's decision to declare the protection zone or vary or revoke the declaration.
- (2) The authorities are the following:
- (aa) the Department administered by the Minister administering Part XII of the *Customs Act 1901*;
  - (ab) the Australian Defence Force;
  - (ac) the Australian Federal Police;
    - (a) the Australian Fisheries Management Authority;
    - (b) that part of the Defence Department known as the Australian Hydrographic Office;
    - (c) the Australian Maritime Safety Authority;



- (d) the authority administering the business carried on at a port or ports of a State or the Northern Territory, if the port or ports are directly affected by the declaration;
  - (e) the National Offshore Petroleum Safety and Environmental Management Authority;
  - (f) the National Offshore Petroleum Titles Administrator;
  - (g) an authority that is:
    - (i) established by or under a law of the Commonwealth, a State or a Territory; and
    - (ii) specified in an instrument in force under subclause (3).
- (3) The Minister may, by legislative instrument, specify one or more authorities for the purposes of subparagraph (2)(g)(ii).

#### **48 Notice if carrier decommissions a submarine cable**

If:

- (a) a declaration of a protection zone in relation to a submarine cable has effect; and
  - (b) the cable ceases to be in use (other than temporarily);
- the carrier who is responsible for the cable must notify the ACMA in writing of the cessation, as soon as practicable after the cessation happens.

#### **49 Composition of advisory committee**

- (1) An advisory committee established for the purposes of clause 16 or 31 must have no more than 12 members.
- (2) Without limiting the persons who may be appointed as members of an advisory committee established for the purposes of clause 16 or 31, the ACMA may appoint persons who, in the opinion of the ACMA, represent the concerns of any of the following:
  - (a) the Commonwealth;
  - (b) an interested State;
  - (c) an interested authority or instrumentality of the Commonwealth or a State;

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**Division 5** Miscellaneous

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- (d) an interested industry;
- (e) an interested group.

(3) In this clause:

***interested***, in relation to a State, authority, instrumentality, industry or group, means having concerns or interests that are affected by the proposal that the committee is to consider, or that are likely to be so affected should the ACMA declare the protection zone proposed in the proposal.

***State*** includes the Northern Territory.

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## **Part 3—Permits to install submarine cables**

### **Division 1—Simplified outline**

#### **50 Simplified outline**

The following is a simplified outline of this Part:

- A carrier may apply to the ACMA to install a submarine cable in a protection zone.
- A carrier may apply to the ACMA to install an international submarine cable in both:
  - (a) a protection zone; and
  - (b) Australian waters that are not in a protection zone and that are not coastal waters.
- A carrier may apply to the ACMA to install an international submarine cable in Australian waters that are not in a protection zone and that are not coastal waters.
- There is a streamlined process for applications for permits to install submarine cables in protection zones. Also, a carrier who installs a submarine cable in a protection zone in accordance with a permit is exempt from certain State and Territory laws.
- It is an offence for a person to install an international submarine cable without a permit in a protection zone, or in Australian waters that are not in a protection zone and that are not coastal waters.
- It is an offence for a person to install a domestic submarine cable without a permit in a protection zone.

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**Division 1** Simplified outline

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- It is also an offence for a person who holds a permit to breach a condition of the permit.

## **Division 2—Protection zone installation permits**

### **51 Application for a protection zone installation permit**

- (1) A carrier may apply to the ACMA for a permit (a *protection zone installation permit*) to:
  - (a) install one or more submarine cables in a protection zone; or
  - (b) install a single international submarine cable in both:
    - (i) a protection zone; and
    - (ii) Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory; or
  - (c) install each of 2 or more international submarine cables in both:
    - (i) a protection zone; and
    - (ii) Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory.
- (2) It is immaterial whether the cable or cables specified in the application are the cable or cables in relation to which the protection zone was declared.

### **52 Form of application etc.**

- (1) An application must be:
  - (a) in writing; and
  - (b) in the form approved in writing by the ACMA.
- (2) The approved form must require the application to set out:
  - (a) the proposed route or routes, in Australian waters, of the submarine cable or cables specified in the application; and
  - (b) information about the ownership and control of the submarine cable or cables specified in the application; and
  - (c) any other relevant information.

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- (3) For the purposes of subclause (2), **control** includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices:
- (a) whether or not having legal or equitable force; and
  - (b) whether or not based on legal or equitable rights; and
  - (c) whether or not capable of being exercised indirectly through one or more interposed companies, partnerships or trusts.

**53 Application to be accompanied by charge**

An application must be accompanied by the charge (if any) imposed on the application by a determination under section 60 of the *Australian Communications and Media Authority Act 2005*.

**54 Withdrawal of application**

This Division does not prevent the withdrawal of an application and the submission of a fresh application.

**54A Notification of change of circumstances**

- (1) If:
- (a) an application is pending; and
  - (b) the applicant becomes aware of a change of circumstances relating to information set out in the application;
- the applicant must:
- (c) notify the change to the ACMA; and
  - (d) do so as soon as practicable.
- (2) After considering the notification, the ACMA must decide whether or not the change should be treated as a material change in circumstances for the purposes of clause 58.

Note: Clause 58 deals with the timing of the ACMA's decision on the application.

- (3) The ACMA must:

- (a) notify the applicant in writing of the ACMA's decision under subclause (2); and
- (b) do so within 2 business days after the day on which the decision is made.

## **55 Further information**

- (1) The ACMA may request the applicant to give the ACMA further information about the application.
- (2) The ACMA may refuse to consider the application until the applicant gives the ACMA the information.

## **55A Consultation**

- (1) Before making a decision on the application for a protection zone installation permit, the ACMA must consult:
  - (a) the Secretary of the Attorney-General's Department; and
  - (aa) the Home Affairs Secretary; and
  - (b) any other persons the ACMA considers relevant.
- (2) Within 2 business days after the day on which the ACMA received the application, the ACMA must give each of the Secretaries mentioned in paragraphs (1)(a) and (aa) a copy of the application.
- (3) Within 15 business days after the day on which a Secretary receives a copy of the application, that Secretary must:
  - (a) give a written notice to the ACMA stating that, while the notice remains in force, the ACMA must not grant the permit; or
  - (b) make a submission to the ACMA; or
  - (c) give a written notice to the ACMA stating that he or she does not require any further consultation about the application.

### *Notice to the ACMA under paragraph (3)(a)*

- (4) The ACMA must not grant the permit while a notice is in force under paragraph (3)(a).

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- (5) Unless sooner revoked, a notice under paragraph (3)(a) remains in force during the period specified in the notice.
- (6) The period specified under subclause (5) must not be longer than 3 months.
- (7) A Secretary who gives a notice under paragraph (3)(a) may, by written notice given to the ACMA, extend, or further extend, the period referred to in subclause (5), so long as the extension, or further extension, does not result in the notice under paragraph (3)(a) being in force for longer than 12 months.
- (8) A Secretary who gives a notice under paragraph (3)(a) may revoke the notice by giving the ACMA a further written notice.
- (9) Within 2 business days after the day on which the ACMA received a notice under paragraph (3)(a) or subclause (7), the ACMA must give the applicant a copy of the notice.

*Submission to the ACMA*

- (10) If a notice under paragraph (3)(a) is in force, the Secretary who gave the notice may make a submission to the ACMA.
- (11) A submission to the ACMA under paragraph (3)(b) or subclause (10) may include:
  - (a) recommendations about the conditions that should be specified in the permit under paragraph 58A(1)(d) or (e) of this Schedule; or
  - (b) such other matters (if any) as the Secretary making the submission considers relevant.

*Notice to the ACMA under paragraph (3)(c)*

- (12) A notice under paragraph (3)(c) cannot be revoked.



## 56 Grant or refusal of permit

### *Grant*

- (1) After considering the application, the ACMA may:
  - (a) if the application is covered by paragraph 51(1)(a) of this Schedule—grant the applicant a protection zone installation permit authorising the installation, in the protection zone, of the submarine cable or cables specified in the application; or
  - (b) if the application is covered by paragraph 51(1)(b) of this Schedule—grant the applicant a protection zone installation permit authorising the installation, in both:
    - (i) the protection zone; and
    - (ii) Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory;  
of the international submarine cable specified in the application; or
  - (c) if the application is covered by paragraph 51(1)(c) of this Schedule—grant the applicant a protection zone installation permit authorising the installation, in both:
    - (i) the protection zone; and
    - (ii) Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory;  
of each of the international submarine cables specified in the application.

### *Refusal*

- (3) After considering the application, the ACMA may refuse to grant a protection zone installation permit.
- (4) If the ACMA refuses to grant the permit, it must notify the applicant in writing of the ACMA's decision and the reasons for the decision.

**57 Matters to which the ACMA must have regard in making a decision about a permit**

In deciding whether to grant a protection zone installation permit, the ACMA must have regard to:

- (a) if the Secretary of the Attorney-General's Department or the Home Affairs Secretary makes a submission to the ACMA under clause 55A—that submission; and
- (b) any other matters that the ACMA considers relevant.

**57A Refusal of permit—security**

- (1) If the Home Affairs Minister, after consulting the Prime Minister and the Minister administering this Act, considers that the grant of a protection zone installation permit to a particular carrier would be prejudicial to security, the Home Affairs Minister may give a written direction to the ACMA not to grant a protection zone installation permit to the carrier.
- (2) The ACMA must comply with a direction under subclause (1).
- (3) While a direction is in force under this clause:
  - (a) the ACMA cannot reconsider a non-compulsory refusal to grant a protection zone installation permit to the carrier; and
  - (b) the Administrative Appeals Tribunal cannot consider an application for review of a non-compulsory refusal to grant a protection zone installation permit to the carrier.
- (4) If an application for a protection zone installation permit is pending at the time when the Home Affairs Minister gives a direction to the ACMA under this clause, then the application lapses.
- (5) In this clause:

***non-compulsory refusal*** means a refusal to grant a protection zone installation permit, other than a refusal that is required by this clause.

## **58 Timing of decision on application**

### *Further information requested*

- (1) If:
- (a) a carrier applies for a protection zone installation permit; and
  - (b) the ACMA requests the applicant to give the ACMA further information under subclause 55(1) in relation to the application;
- the ACMA must take all reasonable steps to ensure that a decision is made on the application within:
- (c) 25 business days; or
  - (d) if the ACMA, by written notice given to the applicant, specifies a greater number of business days (not exceeding 35 business days)—that number of business days;
- after the day on which the applicant gave the ACMA the information.

### *No further information requested*

- (2) If:
- (a) a carrier applies for a protection zone installation permit; and
  - (b) the ACMA does not request the applicant to give the ACMA further information under subclause 55(1) in relation to the application;
- the ACMA must take all reasonable steps to ensure that a decision is made on the application within:
- (c) 25 business days; or
  - (d) if the ACMA, by written notice given to the applicant, specifies a greater number of business days (not exceeding 35 business days)—that number of business days;
- after the day on which the application was made.

### *Extension for change in circumstances relating to application*

- (3) If:
- (a) a carrier applies for a protection zone installation permit; and

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- (b) the carrier notifies the ACMA of a change in circumstances under subclause 54A(1); and
  - (c) the ACMA decides under subclause 54A(2) that the change should not be treated as a material change in circumstances for the purposes of this clause;
- the number of business days referred to in subclause (1) or (2) of this clause is extended by 5 business days.
- (4) If:
- (a) a carrier applies for a protection zone installation permit; and
  - (b) the carrier notifies the ACMA of a change in circumstances under subclause 54A(1); and
  - (c) the ACMA decides under subclause 54A(2) that the change should be treated as a material change in circumstances for the purposes of this clause;
- the number of business days referred to in subclause (1) or (2) of this clause is extended by:
- (d) 25 business days; or
  - (e) if the ACMA, by written notice given to the applicant, specifies a greater number of business days (not exceeding 35 business days)—that number of business days.

*Extension where notice preventing grant of permit is in force*

- (5) If:
- (a) a carrier applies for a protection zone installation permit; and
  - (b) the Secretary of the Attorney-General's Department or the Home Affairs Secretary gives a notice to the ACMA under paragraph 55A(3)(a) of this Schedule in relation to the application;
- the number of business days referred to in subclause (1) or (2) of this clause is extended by one business day for each business day in the period during which the notice remains in force.

## **58A Conditions of permit**

- (1) A protection zone installation permit held by a carrier is subject to the following conditions:
- (a) a condition that so much of the relevant cable or cables as is installed in a protection zone must be installed within:
    - (i) 75 metres of the route or routes specified by the ACMA in the permit; or
    - (ii) if the ACMA specifies another distance in the permit—that distance of the route or routes specified by the ACMA in the permit;
  - (b) if the permit is covered by paragraph 56(1)(b) or (c) of this Schedule—a condition that so much of the relevant cable or cables as is installed in Australian waters that:
    - (i) are not in a protection zone; and
    - (ii) are not coastal waters of a State or the Northern Territory;must be installed within:
    - (iii) 926 metres of the route or routes specified by the ACMA in the permit; or
    - (iv) if the ACMA specifies another distance in the permit—that distance of the route or routes specified by the ACMA in the permit;
  - (c) a condition that the carrier, or a person acting on behalf of the carrier, must not install the relevant cable or cables unless all Commonwealth regulatory approvals have been obtained for the installation;
  - (d) such conditions (if any) in relation to security as the ACMA specifies in the permit;
  - (e) such conditions (if any) in relation to the installation of the relevant cable or cables as the ACMA specifies in the permit.

### *Variation of conditions*

- (2) The ACMA may, by written notice given to the holder of a protection zone installation permit:
- (a) vary a condition covered by paragraph (1)(a) or (b) by:

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- (i) specifying a distance; or
- (ii) varying a distance; or
- (b) vary a condition covered by paragraph (1)(d) or (e).

**59 Duration of permit**

A protection zone installation permit is in force for a period of 18 months from the day the permit is granted.

**60 Surrender of permit**

The holder of a protection zone installation permit may, at any time, surrender the permit by written notice given to the ACMA.

**61 Extension of permit**

- (1) Before a protection zone installation permit expires, the holder of the permit may apply to the ACMA to extend the duration of the permit for a further 180 days.
- (2) The holder must give the ACMA reasons for requesting to extend the duration of the permit.
- (3) If the ACMA refuses the application, the ACMA must give the holder written notice of the ACMA's decision and the reasons for the decision.

**62 Suspension or cancellation of permit**

- (1) The ACMA may suspend or cancel a protection zone installation permit by written notice to the holder of the permit, if the ACMA is satisfied that:
    - (a) the holder has breached a condition to which the permit is subject; or
    - (b) the holder has not complied with a condition of the Code of Practice in force under clause 15 of Schedule 3 that applies to the installation of submarine cables.
  - (2) Before a permit is suspended or cancelled under subclause (1):
-

- (a) the ACMA must give the holder 30 days' written notice of the ACMA's intention to suspend or cancel the permit and the ground or grounds on which the ACMA intends to do so; and
- (b) the ACMA must give the holder an opportunity to submit to the ACMA any matters that the holder wishes the ACMA to take into account in deciding whether to suspend or cancel the permit; and
- (c) the ACMA must take into account any matters submitted by the holder under paragraph (b) and any action taken by the holder to address the ACMA's concerns or to prevent the recurrence of similar circumstances.

### **63 Exemption from State and Territory laws**

- (1) This clause applies to the installation of a submarine cable in accordance with a protection zone installation permit.
- (2) A carrier may install, or cause to be installed, a cable despite a law of a State or Territory about:
  - (a) the assessment of the environmental effects of engaging in the activity; or
  - (b) the protection of places or items of significance to Australia's natural or cultural heritage; or
  - (c) the powers and functions of a local government body; or
  - (d) the supply of fuel or power, including the supply and distribution of extra-low voltage power systems; or
  - (e) a matter specified in the regulations.
- (3) Paragraph (2)(b) does not apply to a law in so far as the law provides for the protection of places or items of significance to the cultural heritage of Aboriginal persons or Torres Strait Islanders.
- (4) Paragraph 2(d) does not apply to a law in so far as the law deals with the supply of electricity at a voltage that exceeds that used for ordinary commercial or domestic requirements.

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- (5) If subclause (2) entitles a person to engage in activities despite particular laws of a State or Territory, nothing in this clause affects the operation of any other law of a State or Territory, so far as that other law is capable of operating concurrently.
- (6) This clause does not affect the liability of a carrier to taxation under a law of a State or Territory.



## **Division 3—Non-protection zone installation permits**

### **64 Application for a permit to install an international submarine cable in Australian waters (otherwise than in a protection zone or coastal waters)**

A carrier may apply to the ACMA for a permit to install one or more international submarine cables in Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory (a *non-protection zone installation permit*).

### **65 Form of application etc.**

- (1) An application must be:
  - (a) in writing; and
  - (b) in the form approved in writing by the ACMA.
- (2) The approved form must require the application to set out:
  - (a) the proposed route or routes, in Australian waters, of the submarine cable or cables specified in the application; and
  - (b) information about the ownership and control of the submarine cable or cables specified in the application; and
  - (c) any other relevant information.
- (3) For the purposes of subclause (2), *control* includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices:
  - (a) whether or not having legal or equitable force; and
  - (b) whether or not based on legal or equitable rights; and
  - (c) whether or not capable of being exercised indirectly through one or more interposed companies, partnerships or trusts.

## **66 Application to be accompanied by charge**

An application must be accompanied by the charge (if any) imposed on the application by a determination under section 60 of the *Australian Communications and Media Authority Act 2005*.

## **67 Withdrawal of application**

This Division does not prevent the withdrawal of an application and the submission of a fresh application.

## **67A Notification of change of circumstances**

- (1) If:
  - (a) an application is pending; and
  - (b) the applicant becomes aware of a change of circumstances relating to information set out in the application;the applicant must:
  - (c) notify the change to the ACMA; and
  - (d) do so as soon as practicable.
- (2) After considering the notification, the ACMA must decide whether or not the change should be treated as a material change in circumstances for the purposes of clause 73.

Note: Clause 73 deals with the timing of the ACMA's decision on the application.
- (3) The ACMA must:
  - (a) notify the applicant in writing of the ACMA's decision under subclause (2); and
  - (b) do so within 2 business days after the day on which the decision is made.

## **68 Further information**

- (1) The ACMA may request the applicant to give the ACMA, within the period specified in the request, further information about the application.

- (2) The ACMA may refuse to consider the application until the applicant gives the ACMA the information.

## **69 Grant or refusal of permit**

### *Grant*

- (1) After considering the application, the ACMA may grant the applicant a non-protection zone installation permit authorising the installation, in Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory, of the submarine cable or cables specified in the application.

### *Refusal*

- (3) After considering the application, the ACMA may refuse to grant a non-protection zone installation permit.
- (4) If the ACMA refuses to grant the permit, it must notify the applicant in writing of the ACMA's decision and the reasons for the decision.

## **70 Consultation**

- (1) Before making a decision on the application for a non-protection zone installation permit, the ACMA must consult:
- (a) the Secretary of the Attorney-General's Department; and
  - (aa) the Home Affairs Secretary; and
  - (b) any other persons the ACMA considers relevant.
- (2) Within 2 business days after the day on which the ACMA received the application, the ACMA must give each of the Secretaries mentioned in paragraphs (1)(a) and (aa) a copy of the application.
- (3) Within 15 business days after the day on which a Secretary receives a copy of the application, that Secretary must:
- (a) give a written notice to the ACMA stating that, while the notice remains in force, the ACMA must not grant the permit; or

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- (b) make a submission to the ACMA; or
- (c) give a written notice to the ACMA stating that he or she does not require any further consultation about the application.

*Notice to the ACMA under paragraph (3)(a)*

- (4) The ACMA must not grant the permit while a notice is in force under paragraph (3)(a).
- (5) Unless sooner revoked, a notice under paragraph (3)(a) remains in force during the period specified in the notice.
- (6) The period specified under subclause (5) must not be longer than 3 months.
- (7) A Secretary who gives a notice under paragraph (3)(a) may, by written notice given to the ACMA, extend, or further extend, the period referred to in subclause (5), so long as the extension, or further extension, does not result in the notice under paragraph (3)(a) being in force for longer than 12 months.
- (8) A Secretary who gives a notice under paragraph (3)(a) may revoke the notice by giving the ACMA a further written notice.
- (9) Within 2 business days after the day on which the ACMA received a notice under paragraph (3)(a) or subclause (7), the ACMA must give the applicant a copy of the notice.

*Submission to the ACMA*

- (10) If a notice under paragraph (3)(a) is in force, the Secretary who gave the notice may make a submission to the ACMA.
- (11) A written submission to the ACMA under paragraph (3)(b) or subclause (10) may include:
  - (a) recommendations about the conditions that should be specified in the permit under paragraph 73A(1)(c) or (d) of this Schedule; or
  - (b) such other matters (if any) as the Secretary making the submission considers relevant.

*Notice to the ACMA under paragraph (3)(c)*

- (12) A notice under paragraph (3)(c) cannot be revoked.

**71 Matters to which the ACMA must have regard in making a decision about a permit**

In deciding whether to grant a non-protection zone installation permit, the ACMA must have regard to:

- (a) the objective of facilitating the supply of efficient, modern and cost-effective carriage services to the public; and
- (aa) if the Secretary of the Attorney-General's Department or the Home Affairs Secretary makes a submission to the ACMA under clause 70—that submission; and
- (c) any relevant technical and economic aspects of the installation; and
- (d) whether the installation involves co-location of the submarine cable or cables to which the application relates with one or more other submarine cables; and
- (e) any other matters that the ACMA considers relevant.

**72A Refusal of permit—security**

- (1) If the Home Affairs Minister, after consulting the Prime Minister and the Minister administering this Act, considers that the grant of a non-protection zone installation permit to a particular carrier would be prejudicial to security, the Home Affairs Minister may give a written direction to the ACMA not to grant a non-protection zone installation permit to the carrier.
- (2) The ACMA must comply with a direction under subclause (1).
- (3) While a direction is in force under this clause:
  - (a) the ACMA cannot reconsider a non-compulsory refusal to grant a non-protection zone installation permit to the carrier; and

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- (b) the Administrative Appeals Tribunal cannot consider an application for review of a non-compulsory refusal to grant a non-protection zone installation permit to the carrier.
- (4) If an application for a non-protection zone installation permit is pending at the time when the Home Affairs Minister gives a direction to the ACMA under this clause, then the application lapses.
- (5) In this clause:
- non-compulsory refusal* means a refusal to grant a non-protection zone installation permit, other than a refusal that is required by this clause.

### **73 Timing of decision on application**

*Further information requested*

- (1) If:
- (a) a carrier applies for a non-protection zone installation permit; and
  - (b) the ACMA requests the applicant to give the ACMA further information under subclause 68(1) in relation to the application;
- the ACMA must take all reasonable steps to ensure that a decision is made on the application within:
- (c) 60 business days; or
  - (d) if the ACMA, by written notice given to the applicant, specifies a greater number of business days (not exceeding 90 business days)—that number of business days;
- after the day on which the applicant gave the ACMA the information.

*No further information requested*

- (2) If:

- (a) a carrier applies for a non-protection zone installation permit;  
and
  - (b) the ACMA does not request the applicant to give the ACMA further information under subclause 68(1) in relation to the application;
- the ACMA must take all reasonable steps to ensure that a decision is made on the application within:
- (c) 60 business days; or
  - (d) if the ACMA, by written notice given to the applicant, specifies a greater number of business days (not exceeding 90 business days)—that number of business days;
- after the day on which the application was made.

*Extension for change in circumstances relating to application*

- (3) If:
  - (a) a carrier applies for a non-protection zone installation permit;  
and
  - (b) the carrier notifies the ACMA of a change in circumstances under subclause 67A(1); and
  - (c) the ACMA decides under subclause 67A(2) that the change should not be treated as a material change in circumstances for the purposes of this clause;the number of business days referred to in subclause (1) or (2) of this clause is extended by 5 business days.
- (4) If:
  - (a) a carrier applies for a non-protection zone installation permit;  
and
  - (b) the carrier notifies the ACMA of a change in circumstances under subclause 67A(1); and
  - (c) the ACMA decides under subclause 67A(2) that the change should be treated as a material change in circumstances for the purposes of this clause;the number of business days referred to in subclause (1) or (2) of this clause is extended by:

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- (d) 60 business days; or
- (e) if the ACMA, by written notice given to the applicant, specifies a greater number of business days (not exceeding 90 business days)—that number of business days.

*Extension where notice preventing grant of permit is in force*

- (5) If:
- (a) a carrier applies for a non-protection zone installation permit; and
  - (b) the Secretary of the Attorney-General's Department or the Home Affairs Secretary gives a notice to the ACMA under paragraph 70(3)(a) of this Schedule in relation to the application;
- the number of business days referred to in subclause (1) or (2) of this clause is extended by one business day for each business day in the period during which the notice remains in force.

**73A Conditions of permit**

- (1) A non-protection zone installation permit held by a carrier is subject to the following conditions:
- (a) a condition that the relevant cable or cables must be installed within:
    - (i) 926 metres of the route or routes specified by the ACMA in the permit; or
    - (ii) if the ACMA specifies another distance in the permit—that distance of the route or routes specified by the ACMA in the permit;
  - (b) a condition that the carrier, or a person acting on behalf of the carrier, must not install the relevant cable or cables unless all Commonwealth regulatory approvals have been obtained for the installation;
  - (c) such conditions (if any) in relation to security as the ACMA specifies in the permit;
  - (d) such conditions (if any) in relation to the installation of the relevant cable or cables as the ACMA specifies in the permit.



*Variation of conditions*

- (2) The ACMA may, by written notice given to the holder of a non-protection zone installation permit:
  - (a) vary a condition covered by paragraph (1)(a) by:
    - (i) specifying a distance; or
    - (ii) varying a distance; or
  - (b) vary a condition covered by paragraph (1)(c) or (d).

**74 Duration of permit**

A non-protection zone installation permit is in force for a period of 18 months from the day the permit is granted.

**75 Surrender of permit**

The holder of a non-protection zone installation permit may, at any time, surrender the permit by written notice given to the ACMA.

**76 Extension of permit**

- (1) Before a non-protection zone installation permit expires, the holder of the permit may apply to the ACMA to extend the duration of the permit for a further 180 days.
- (2) The holder must give the ACMA reasons for requesting to extend the duration of the permit.
- (3) If the ACMA refuses the application, the ACMA must give the holder written notice of the ACMA's decision and the reasons for the decision.

**77 Suspension or cancellation of permit**

- (1) The ACMA may suspend or cancel a non-protection zone installation permit by written notice to the holder of the permit, if the ACMA is satisfied that:

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- (a) the holder has breached a condition to which the permit is subject; or
  - (b) the holder has not complied with a condition of the Code of Practice in force under clause 15 of Schedule 3 that applies to the installation of submarine cables.
- (2) Before a permit is suspended or cancelled under subclause (1):
- (a) the ACMA must give the holder 30 days' written notice of the ACMA's intention to suspend or cancel the permit and the ground or grounds on which the ACMA intends to do so; and
  - (b) the ACMA must give the holder an opportunity to submit to the ACMA any matters that the holder wishes the ACMA to take into account in deciding whether to suspend or cancel the permit; and
  - (c) the ACMA must take into account any matters submitted by the holder under paragraph (b) and any action taken by the holder to address the ACMA's concerns or to prevent the recurrence of similar circumstances.

## **Division 4—Conditions applicable to the installation of submarine cables**

### **78 Application of this Division**

- (1) This Division applies to the installation of an international submarine cable:
- (a) in a protection zone; or
  - (b) in Australian waters, other than coastal waters of a State or Territory;
- by or on behalf of a carrier.

Note: A Code of Practice made under subclause 15(1) of Schedule 3 may impose conditions in addition to the conditions imposed in this Division.

- (2) This Division applies to the installation of a domestic submarine cable in a protection zone by, or on behalf of, a carrier.

Note: A Code of Practice made under subclause 15(1) of Schedule 3 may impose conditions in addition to the conditions imposed in this Division.

### **79 Installation to do as little damage as practicable**

The carrier must ensure that all reasonable steps are taken to ensure that the installation causes as little detriment and inconvenience, and as little damage, as is practicable.

### **80 Management of installation activities**

The carrier must ensure that all reasonable steps are taken:

- (a) to act in accordance with good engineering practice; and
- (b) to protect the safety of persons and property; and
- (c) to protect the environment.

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**Division 4** Conditions applicable to the installation of submarine cables

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**81 Compliance with industry standards**

The carrier must ensure that the installation is done in accordance with any standard that:

- (a) relates to installation; and
- (b) is recognised by the ACMA as a standard for use in the telecommunications industry; and
- (c) is likely to reduce a risk to the safety of the public if the carrier complies with the standard.

**82 Compliance with international agreements**

The carrier must ensure that the installation is done in a manner that is consistent with Australia's obligations under a listed international agreement that is relevant to the installation.

**83 Conditions specified in the regulations**

The carrier must ensure that the installation complies with any conditions that are specified in the regulations.

**83A Attorney-General's consent required for certain enforcement proceedings**

- (1) An application for an injunction under section 564 must not be made without the written consent of the Attorney-General if:
  - (a) the injunction is in relation to a contravention by a carrier of the carrier licence condition set out in Part 1 of Schedule 1 in so far as that condition relates to this Division; and
  - (b) the carrier is a foreign national; and
  - (c) the contravention occurred, is occurring, or is to occur, outside Australia; and
  - (d) the contravention did not involve an Australian ship.
- (2) A proceeding for the recovery of a pecuniary penalty under section 571 must not be instituted without the written consent of the Attorney-General if:

- (a) the proceeding is in respect of a contravention by a carrier of the carrier licence condition set out in Part 1 of Schedule 1 in so far as that condition relates to this Division; and
  - (b) the carrier is a foreign national; and
  - (c) the contravention occurred outside Australia; and
  - (d) the contravention did not involve an Australian ship.
- (3) In deciding whether to consent under subclause (1) or (2), the Attorney-General must have regard to the obligations of Australia under international law, including obligations under any agreement between:
- (a) Australia; and
  - (b) another country or countries.

## Division 5—Offences in relation to installation of submarine cables

### 84 Installing an international submarine cable without a permit

- (1) A person commits an offence if:
- (a) the person installs, or causes to be installed, an international submarine cable; and
  - (b) the cable is installed:
    - (i) in Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory; or
    - (ii) in a protection zone; and
  - (c) the person does not have a permit under this Part authorising the installation of the cable in the place in which it is installed.

Penalty: 200 penalty units.

- (2) Strict liability applies to paragraph (1)(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Subclause (1) does not apply to a person who installs an international submarine cable on behalf of a carrier, if the carrier has a permit authorising the installation of the cable.

Note: The defendant bears an evidential burden in relation to the matters in subclause (3). See subsection 13.3(3) of the *Criminal Code*.

### 84A Installing a domestic submarine cable without a permit

- (1) A person commits an offence if:
- (a) the person installs, or causes to be installed, a domestic submarine cable; and
  - (b) the cable is installed in a protection zone; and

- (c) the person does not have a permit under this Part authorising the installation of the cable in the place in which it is installed.

Penalty: 200 penalty units.

- (2) Strict liability applies to paragraph (1)(b).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (3) Subclause (1) does not apply to a person who installs a domestic submarine cable on behalf of a carrier, if the carrier has a permit authorising the installation of the cable.

Note: The defendant bears an evidential burden in relation to the matters in subclause (3). See subsection 13.3(3) of the *Criminal Code*.

- (4) Subclause (1) does not apply to a domestic submarine cable that a person installed, or began to install, before the commencement of this clause.

Note: The defendant bears an evidential burden in relation to the matters in subclause (4). See subsection 13.3(3) of the *Criminal Code*.

## **85 Breaching conditions of a permit**

- (1) A carrier commits an offence if:

- (a) the carrier holds a permit under this Part authorising the installation of a submarine cable; and
- (b) the carrier, or a person acting on behalf of the carrier, engages in conduct; and
- (c) the conduct breaches a condition of the permit.

Penalty: 100 penalty units.

- (2) A proceeding for an offence committed by a person against subclause (1) must not be commenced without the written consent of the Attorney-General if:

- (a) the person is a foreign national; and
- (b) the offence involved an act or omission outside Australia; and

**Schedule 3A** Protection of submarine cables

**Part 3** Permits to install submarine cables

**Division 5** Offences in relation to installation of submarine cables

Clause 86

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- (c) the offence did not involve an Australian ship.
- (3) In deciding whether to consent under subclause (2), the Attorney-General must have regard to the obligations of Australia under international law, including obligations under any agreement between:
  - (a) Australia; and
  - (b) another country or countries.

**86 Failing to comply with ACMA direction to remove an unlawfully installed international submarine cable**

- (1) The ACMA may direct a carrier to remove an international submarine cable if:
  - (a) the carrier installed the submarine cable, or caused it to be installed, in a protection zone or in Australian waters without a permit under this Part authorising the installation; or
  - (b) the carrier is installing the submarine cable, or causing it to be installed, in a protection zone or in Australian waters without a permit under this Part authorising the installation.
- (2) A carrier who does not comply with a direction under subclause (1) commits an offence.

Penalty: 200 penalty units.

- (3) The ACMA must not give a direction to a carrier under subclause (1) in relation to an international submarine cable that the carrier installed, or began to install, before the commencement of this Schedule.

**86A Failing to comply with ACMA direction to remove an unlawfully installed domestic submarine cable**

- (1) The ACMA may direct a carrier to remove a domestic submarine cable if:



- (a) the carrier installed the submarine cable, or caused it to be installed, in a protection zone without a permit under this Part authorising the installation; or
  - (b) the carrier is installing the submarine cable, or causing it to be installed, in a protection zone without a permit under this Part authorising the installation.
- (2) A carrier who does not comply with a direction under subclause (1) commits an offence.
- Penalty: 200 penalty units.
- (3) The ACMA must not give a direction to a carrier under subclause (1) in relation to a domestic submarine cable that the carrier installed, or began to install, before the commencement of this clause.

## Part 4—Compensation

### 87 Compensation

- (1) If a person suffers financial loss or damage because of anything done by a carrier under this Schedule in relation to:
  - (a) any property owned by the person; or
  - (b) any property in which the person has an interest;there is payable to the person by the carrier such reasonable amount of compensation;
  - (c) as is agreed between them; or
  - (d) failing agreement—as is determined by a court of competent jurisdiction.
- (2) Compensation payable under subclause (1) includes, without limitation, compensation in relation to:
  - (a) damage of a temporary character as well as of a permanent character; and
  - (b) the taking of sand, soil, water and other things.
- (3) In this clause:

*court of competent jurisdiction*, in relation to property, includes the Federal Court.

### 88 Compensation for acquisition of property

- (1) If:
  - (a) either of the following would result in an acquisition of property from a person:
    - (i) anything done by a carrier under, or because of, this Schedule;
    - (ii) the existence of rights conferred on a carrier under, or because of, this Schedule in relation to a submarine cable; and

- (b) the acquisition of property would not be valid, apart from this section, because a particular person had not been compensated;
- the carrier must pay that person:
- (c) a reasonable amount of compensation agreed on between the person and the carrier; or
- (d) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.
- (2) In assessing compensation payable under this clause arising out of an event, the following must be taken into account:
- (a) any compensation obtained by the person as a result of an agreement between the person and the carrier otherwise than under this clause but arising out of the same event;
- (b) any damages or compensation recovered by the person from the carrier, or other remedy given, in a proceeding begun otherwise than under this clause but arising out of the same event.
- (3) This clause does not limit the operation of clause 87.
- (4) In this clause:
- acquisition of property*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

## **Part 5—Miscellaneous**

### **89 Delegation by the Secretary of the Attorney-General's Department**

- (1) The Secretary of the Attorney-General's Department may, by writing, delegate any or all of his or her powers under this Schedule to an SES employee, or acting SES employee, in the Attorney-General's Department.
- (2) A delegate must comply with any directions of the Secretary of the Attorney-General's Department.

### **90 Delegation by the Home Affairs Secretary**

- (1) The Home Affairs Secretary may, by writing, delegate any or all of his or her powers under this Schedule to an SES employee, or acting SES employee, in the Home Affairs Department.
- (2) A delegate must comply with any directions of the Home Affairs Secretary.

## **Schedule 4—Reviewable decisions of the ACMA**

Note: See sections 555 and 556.

### **Part 1—Decisions that may be subject to reconsideration by the ACMA**

#### **1 Reviewable decisions of the ACMA**

The following kinds of decisions are specified for the purposes of section 555:

- (a) a decision under section 56, 58 or 59 to refuse to grant a carrier licence (other than a decision made in compliance with section 56A or 58A);
- (b) a decision under section 69 to:
  - (i) give or vary a direction; or
  - (ii) refuse to revoke a direction;
- (c) a decision under section 72 to cancel a carrier licence;
- (d) a decision of a kind referred to in subsection 73(6) (which deals with remission of late payment penalty);
- (e) a decision under section 81 to refuse to make a nominated carrier declaration;
- (f) a decision under section 83 to revoke a nominated carrier declaration;
- (g) a decision of a kind referred to in subsection 99(5) (which deals with decisions under service provider determinations);
- (h) a decision under section 102 to:
  - (i) give or vary a direction; or
  - (ii) refuse to revoke a direction;
- (i) a decision under section 117 to refuse to register a code;
- (j) a decision under section 121 to:
  - (i) give or vary a direction; or
  - (ii) refuse to revoke a direction;

**Schedule 4** Reviewable decisions of the ACMA

**Part 1** Decisions that may be subject to reconsideration by the ACMA

Clause 1

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- (ja) a decision of a kind referred to in subsection 70(3) (which deals with remission of late payment penalty) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*;
- (k) a decision under section 129 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to refuse to make a declaration;
- (l) a decision under section 130 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to give a direction;
- (ma) a decision under the integrated public number database scheme to refuse to grant a person an authorisation;
- (mb) a decision under the integrated public number database scheme to impose conditions on the grant of an authorisation;
- (mc) a decision under the integrated public number database scheme to vary or revoke an authorisation;
- (md) a decision under the integrated public number database scheme specified in an instrument under section 295Q;
- (n) a decision under section 352 to refuse to make a declaration;
- (o) a decision under section 356 to refuse to make a declaration;
- (p) a decision under section 394 to refuse to issue a connection permit;
- (q) a decision to make a declaration under section 397 (which deals with duration of connection permits);
- (r) a decision under paragraph 398(1)(c) or subsection 398(3) to specify, impose, vary or revoke a condition of a connection permit;
- (s) a decision under section 402 to cancel a connection permit;
- (t) a decision under section 427 to refuse to grant a cabling licence;
- (u) a decision under section 432 to specify, impose, vary or revoke a condition of a cabling licence;
- (v) a decision under section 438 to cancel a cabling licence;
- (w) a decision of a kind referred to in subsection 468(6) (which deals with remission of late payment penalty);

- (x) a decision under subsection 468(10) (which deals with the withdrawal of numbers);
  - (xa) a decision under clause 5 of Schedule 1 to refuse to issue an exemption certificate;
  - (xb) a decision under clause 5 of Schedule 1 to cancel an exemption certificate;
  - (y) a decision under clause 34 of Schedule 3 to cancel a facility installation permit;
  - (za) a decision under clause 56 of Schedule 3A to refuse to grant a protection zone installation permit, where none of the reasons for the decision relate to security (within the meaning of that Schedule);
  - (zaa) a decision under clause 58A of Schedule 3A to:
    - (i) specify a condition in a protection zone installation permit (other than a condition specified under paragraph 58A(1)(d) of Schedule 3A); or
    - (ii) vary a condition of a protection zone installation permit (other than a condition specified under paragraph 58A(1)(d) of Schedule 3A);
  - (zb) a decision under clause 61 of Schedule 3A to refuse to extend the duration of a protection zone installation permit;
  - (zc) a decision under clause 62 of Schedule 3A to suspend or cancel a protection zone installation permit;
  - (zd) a decision under clause 69 of Schedule 3A to refuse to grant a non-protection zone installation permit, where none of the reasons for the decision relate to security (within the meaning of that Schedule);
  - (zda) a decision under clause 73A of Schedule 3A to:
    - (i) specify a condition in a non-protection zone installation permit (other than a condition specified under paragraph 73A(1)(c) of Schedule 3A); or
    - (ii) vary a condition of a non-protection zone installation permit (other than a condition specified under paragraph 73A(1)(c) of Schedule 3A);
  - (ze) a decision under clause 76 of Schedule 3A to refuse to extend the duration of a non-protection zone installation permit;
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**Schedule 4** Reviewable decisions of the ACMA

**Part 1** Decisions that may be subject to reconsideration by the ACMA

Clause 1

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- (zf) a decision under clause 77 of Schedule 3A to suspend or cancel a non-protection zone installation permit.



## **Part 2—Decisions to which section 556 does not apply**

### **2 Decisions to which section 556 does not apply**

The following kinds of decisions are specified for the purposes of subsection 556(1):

- (a) a decision under section 56 or 58 to refuse to grant a carrier licence;
- (b) a decision under section 427 to refuse to grant a cabling licence;
- (c) a decision under subsection 432(3) to impose, vary or revoke a condition of a cabling licence, being a decision on an application made under paragraph 433(1)(b).

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Telecommunications Act 1997	47, 1997	22 Apr 1997	ss. 41–51, 56–85, 98–495, 507–576, 579–588, 590–593 and Schedules 1–4: 1 July 1997 ss. 52–55: 5 June 1997 Remainder: Royal Assent	
Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997	59, 1997	3 May 1997	Schedule 4 (items 1, 2): 1 Jan 1998 ( <i>see Gazette</i> 1997, No. GN49) ( <i>a</i> )	—
Australian National Railways Commission Sale Act 1997	96, 1997	30 June 1997	Schedule 4 (items 18–20): 1 Nov 2000 ( <i>see Gazette</i> 2000, No. S562) ( <i>b</i> )	—
Telecommunications Legislation Amendment Act 1997	200, 1997	16 Dec 1997	Schedule 1 and Schedule 2 (items 1–27): Royal Assent ( <i>c</i> )	Sch. 1 (item 11) and Sch. 2 (item 9)
<b>as amended by</b> Statute Law Revision Act 2002	63, 2002	3 July 2002	Schedule 2 (item 31): 16 Dec 1997 (s 2(1) item 60)	—
Telecommunications Amendment Act 1998	4, 1998	26 Mar 1998	Schedule 1 (item 4): 23 Apr 1998 Remainder: Royal Assent	ss. 4 and 5

Telecommunications Act 1997

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Compilation No. 88

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## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998	45, 1998	17 June 1998	Schedule 13 (item 49): 1 July 1998 ( <i>d</i> )	—
Financial Sector Reform (Consequential Amendments) Act 1998	48, 1998	29 June 1998	Schedule 1 (item 193): 1 July 1998 ( <i>see Gazette</i> 1998, No. S316) ( <i>e</i> )	—
Telecommunications Amendment Act (No. 2) 1998	119, 1998	11 Dec 1998	11 Dec 1998	—
Telecommunications Laws Amendment (Universal Service Cap) Act 1999	42, 1999	11 June 1999	Schedule 1: Royal Assent ( <i>f</i> )	Sch. 1 (item 5)
Telecommunications Legislation Amendment Act 1999	52, 1999	5 July 1999	Schedule 1 (items 1–5): Royal Assent ( <i>g</i> ) Schedule 2: 2 Aug 1999 ( <i>g</i> ) Schedule 3 (items 9–64): 2 Aug 1999 ( <i>g</i> ) Schedule 4 (items 1–16, 21–29): 1 July 1999 ( <i>g</i> )	Sch. 3 (items 77– 82) and Sch. 4 (items 21–29)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Environmental Reform (Consequential Provisions) Act 1999	92, 1999	16 July 1999	Schedule 2 (items 14–21), Schedule 3 (items 56, 57), Schedule 4 (items 74, 75), Schedule 6 (items 5–8) and Schedule 7 (items 21–31): 16 July 2000 ( <i>h</i> )	Sch. 2 (items 19, 21), Sch. 6 (items 6, 8) and Sch. 7 (items 25, 28, 31)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Schedule 1 (items 916, 917): 5 Dec 1999 ( <i>see Gazette</i> 1999, No. S584) ( <i>i</i> )	—
Australian Security Intelligence Organisation Legislation Amendment Act 1999	161, 1999	10 Dec 1999	Schedule 3 (items 58–61): ( <i>j</i> )	—
Broadcasting Services Amendment Act (No. 1) 1999	197, 1999	23 Dec 1999	Schedule 3 (items 12, 13): Royal Assent ( <i>k</i> )	—
Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000	142, 2000	29 Nov 2000	Schedule 3 (items 1–5): 1 July 2000 ( <i>l</i> ) Schedule 4: Royal Assent ( <i>l</i> )	Sch. 4
Telecommunications Legislation Amendment Act 2000	152, 2000	21 Dec 2000	21 Dec 2000	—
Privacy Amendment (Private Sector) Act 2000	155, 2000	21 Dec 2000	Schedule 3: Royal Assent Remainder: 21 Dec 2001	—

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## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Communications and the Arts Legislation Amendment (Application of Criminal Code) Act 2001	5, 2001	20 Mar 2001	s 4 and Sch 1 (items 101–162): 24 May 2001 (s 2(1)(a))	s 4
Communications and the Arts Legislation Amendment Act 2001	46, 2001	5 June 2001	5 June 2001	s. 5
Corporations (Repeals, Consequential and Transitionals) Act 2001	55, 2001	28 June 2001	s 4–14 and Sch 3 (items 511, 512): 15 July 2001 (s 2(1), (3))	s 4–14
Statute Law Revision Act 2002	63, 2002	3 July 2002	Schedule 1 (item 33): 1 July 1999	—
Australian Crime Commission Establishment Act 2002	125, 2002	10 Dec 2002	Schedule 2 (items 188, 189): 1 Jan 2003	—
Telecommunications Competition Act 2002	140, 2002	19 Dec 2002	19 Dec 2002	Sch. 1 (items 6, 15C, 15D, 24)
Australian Heritage Council (Consequential and Transitional Provisions) Act 2003	86, 2003	23 Sept 2003	Schedules 1 and 2: 1 Jan 2004 (see s. 2(1) and <i>Gazette</i> 2003, No. GN47) Remainder: Royal Assent	—
Communications Legislation Amendment Act (No. 3) 2003	108, 2003	24 Oct 2003	Schedule 1 (items 25–48): 21 Nov 2003	Sch. 1 (item 48)
Communications Legislation Amendment Act (No. 1) 2003	114, 2003	27 Nov 2003	Schedule 2: 27 Mar 2003 Remainder: 28 Nov 2003	—



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Spam (Consequential Amendments) Act 2003	130, 2003	12 Dec 2003	Schedule 1 (items 42–87): 10 Apr 2004 ( <i>see</i> s. 2(1)) Remainder: Royal Assent	Sch. 1 (items 40, 41)
Designs (Consequential Amendments) Act 2003	148, 2003	17 Dec 2003	Sch 1 and 2: 17 June 2004 (s 2(1) item 2) Remainder: 17 Dec 2003	—
Communications Legislation Amendment Act (No. 1) 2004	35, 2004	20 Apr 2004	21 Apr 2004	—
US Free Trade Agreement Implementation Act 2004	120, 2004	16 Aug 2004	Schedule 9 (item 192): 1 Jan 2005	—
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Schedule 1 (items 427, 428): Royal Assent	s. 4
Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005	45, 2005	1 Apr 2005	Sch 1 (items 127–160), Sch 2 and Sch 4: 1 July 2005 (s 2(1) items 2, 3, 10)	Sch 4
<b>as amended by</b> Omnibus Repeal Day (Autumn 2014) Act 2014	109, 2014	16 Oct 2014	Sch 2 (items 177–181): 17 Oct 2014 (s 2(1) item 2)	—

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## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Telecommunications and Other Legislation Amendment (Protection of Submarine Cables and Other Measures) Act 2005	104, 2005	23 Aug 2005	Sch 1 (items 2–105): 20 Sept 2005 (s 2(1) items 2, 3) Sch 2: 24 Aug 2005 (s 2(1) item 4)	—
Telecommunications Legislation Amendment (Future Proofing and Other Measures) Act 2005	117, 2005	23 Sept 2005	Schedule 3: 23 Mar 2006	—
Telecommunications Legislation Amendment (Competition and Consumer Issues) Act 2005	119, 2005	23 Sept 2005	Schedules 1, 3, 8, 10 and 13: 24 Sept 2005 Schedule 2: 21 Oct 2005 Schedule 11 (items 1–7): 1 Jan 2006 ( <i>see</i> F2005L04117)	Sch. 1 (item 2), Sch. 2 (item 3) and Sch. 3 (item 4)
Offshore Petroleum (Repeals and Consequential Amendments) Act 2006	17, 2006	29 Mar 2006	Schedule 2 (items 108–111): 1 July 2008 ( <i>see</i> s. 2(1) and F2008L02273)	—
Telecommunications (Interception) Amendment Act 2006	40, 2006	3 May 2006	Schedule 1 (items 24A–24G): 13 June 2006 ( <i>see</i> F2006L01623)	—
Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006	86, 2006	30 June 2006	Schedule 1 (items 73–75): 30 Dec 2006	—
Do Not Call Register (Consequential Amendments) Act 2006	89, 2006	30 June 2006	Schedule 1 (items 42–73): 31 May 2007 ( <i>see</i> s. 2(1) and F2007L01114) Remainder: Royal Assent	—

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Telecommunications Amendment (Integrated Public Number Database) Act 2006	155, 2006	8 Dec 2006	Schedule 1: 15 May 2007 ( <i>see</i> F2007L01311) Remainder: Royal Assent	Sch. 1 (item 12)
Communications Legislation Amendment (Content Services) Act 2007	124, 2007	20 July 2007	Schedule 1 (items 96–99): 20 Jan 2008 Schedule 2 (item 2): 20 July 2008	—
Telecommunications (Interception and Access) Amendment Act 2007	177, 2007	28 Sept 2007	Schedule 1 (items 16–54, 57–68): 1 Nov 2007 ( <i>see</i> F2007L03941)	Sch. 1 (items 57–68)
Telecommunications Legislation Amendment (National Broadband Network) Act 2008	22, 2008	26 May 2008	27 May 2008	—
Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008	117, 2008	21 Nov 2008	Schedule 3 (item 59): 22 Nov 2008	—
Telecommunications Amendment (Integrated Public Number Database) Act 2009	16, 2009	26 Mar 2009	27 Mar 2009	—
Statute Stocktake (Regulatory and Other Laws) Act 2009	111, 2009	16 Nov 2009	Schedule 1 (items 51–54): 17 Nov 2009	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 5 (items 112–122, 137(a), (c)): 1 Mar 2010 (s 2(1) items 37, 38)	—
Do Not Call Register Legislation Amendment Act 2010	46, 2010	18 May 2010	Schedule 1 (items 95–140): 30 May 2010 ( <i>see</i> F2010L01325)	—

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## Endnotes

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Freedom of Information Amendment (Reform) Act 2010	51, 2010	31 May 2010	Sch 5 (items 59–75) and Sch 7: 1 Nov 2010 (s 2(1) item 7)	Sch 7
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Schedule 6 (items 1, 105–138): 1 Jan 2011	—
Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010	140, 2010	15 Dec 2010	Sch 1 (items 1A, 241–244, 251–253): 16 Dec 2010 (s 2(1) items 1A, 8, 11, 12) Sch 1 (items 6–31, 70–113, 199–201, 246–250): 1 Jan 2011 (s 2(1) items 2, 5, 10) Sch 1 (items 41–56): <u>awaiting commencement</u> (s 2(1) item 3) Sch 1 (items 60–64, 64A, 64B, 65): 6 Mar 2012 (s 2(1) item 4) Sch 1 (item 245): 15 Mar 2011 (s 2(1) item 9)	Sch 1 (items 199–201, 244, 250)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Schedule 5 (items 211, 212), Schedule 6 (items 107–115, 137) and Schedule 7 (items 131–134): 19 Apr 2011	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Act 2011	23, 2011	12 Apr 2011	Sch 1 (items 1–24, 84): 13 Apr 2011 (s 2(1) items 2, 3) Sch 1 (items 85–88): 12 Apr 2012 (s 2(1) item 4)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 1114–1136) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch 3 (items 10, 11)
Telecommunications Legislation Amendment (Fibre Deployment) Act 2011	107, 2011	26 Sept 2011	Sch 1 (items 1–15): 27 Sept 2011 Sch 1 (item 16): 27 Sept 2011 (s 2(1) items 2, 3) Remainder: 26 Sept 2011 (s 2(1) item 1)	—
Telecommunications Legislation Amendment (Universal Service Reform) Act 2012	44, 2012	16 Apr 2012	Sch 1 (items 7–55): 1 July 2012 (s 2(1) item 2)	—
Cybercrime Legislation Amendment Act 2012	120, 2012	12 Sept 2012	Sch 1 (item 1) and Sch 2 (items 28–31, 51(1), 52, 54–56): 10 Oct 2012 (s 2(1) item 2)	Sch 2 (items 51(1), 52, 56)
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 1 (item 121): 22 Sept 2012 (s 2(1) item 2)	—
Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012	169, 2012	3 Dec 2012	Sch 2 (items 211–214): 3 Dec 2012 (s 2(1) item 7)	—

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (items 84–96, 136–145) and Sch 6 (items 15–19): 12 Mar 2014 (s 2(1) items 3, 19) Sch 6 (item 1): 12 Dec 2012 (s 2(1) item 16)	Sch 6 (items 1, 15–19)
Statute Law Revision Act 2013	103, 2013	29 June 2013	Sch 3 (items 198–282, 343) and Sch 4 (items 44–47): 29 June 2013 (s 2(1) item 16)	Sch 3 (item 343)
Telecommunications Legislation Amendment (Consumer Protection) Act 2014	3, 2014	28 Feb 2014	Sch 1 (items 8–30): 1 Mar 2014 (s 2(1) item 2) Sch 1 (item 33): 12 Mar 2014 (s 2(1) item 4)	—
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 1 (item 70), Sch 4 (item 55) and Sch 8 (item 42): 24 June 2014 (s 2(1) items 2, 9)	—
Telecommunications Legislation Amendment (Submarine Cable Protection) Act 2014	33, 2014	27 May 2014	Sch 1 (items 4–101): 28 May 2014 (s 2(1) item 2)	Sch 1 (items 89–101)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 12 (items 189, 190) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Omnibus Repeal Day (Autumn 2014) Act 2014	109, 2014	16 Oct 2014	Sch 2 (items 25–44, 105, 146–153, 162–165, 243–245): 17 Oct 2014 (s 2(1) item 2)	Sch 2 (items 39–41 and 162–165)
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 5 (item 7): 25 Mar 2015 (s 2(1) item 10)	—

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### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 1 (items 163, 166–179) and Sch 3 (items 325–336, 348, 349); 5 Mar 2016 (s 2(1) item 2)	Sch 1 (items 166–179) and Sch 3 (items 348, 349)
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 3 (item 1): 5 Mar 2016 (s 2(1) item 8)	—
Enhancing Online Safety for Children (Consequential Amendments) Act 2015	25, 2015	24 Mar 2015	Sch 2 (items 16–27) and Sch 3: 1 July 2015 (s 2(1) items 4, 5, 6)	Sch 3
Telecommunications Legislation Amendment (Deregulation) Act 2015	38, 2015	13 Apr 2015	Sch 1 (items 14–61): 1 July 2015 (s 2(1) item 3) Sch 4 (items 1–34) and Sch 6 (items 1–12): 14 Apr 2015 (s 2(1) item 6)	Sch 6 (items 10–12)
Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015	39, 2015	13 Apr 2015	Sch 1 (items 2–4, 7): 13 Oct 2015 (s 2(1) item 2) Sch 1 (item 8–12): 13 Apr 2015 (s 2(1) items 1, 3)	Sch 1 (items 7–12)



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Customs and Other Legislation Amendment (Australian Border Force) Act 2015	41, 2015	20 May 2015	Sch 5 (items 160, 161) and Sch 9: 1 July 2015 (s 2(1) items 2, 7)	Sch 5 (item 161) and Sch 9
<b>as amended by</b>				
Australian Border Force Amendment (Protected Information) Act 2017	115, 2017	30 Oct 2017	Sch 1 (item 26): 1 July 2015 (s 2(1) item 2)	—
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (items 343, 344): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
<b>as amended by</b>				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2: 24 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 604–620): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 1 (item 16): 10 Dec 2015 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 307–311): 10 Mar 2016 (s 2(1) item 6)	—
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 5 (items 86, 87): 1 July 2016 (s 2(1) item 7)	—
Enhancing Online Safety for Children Amendment Act 2017	51, 2017	22 June 2017	Sch 1 (items 38–48, 51): 23 June 2017 (s 2(1) item 1)	Sch 1 (items 48, 51)

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## Endnotes

### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Telecommunications and Other Legislation Amendment Act 2017	111, 2017	30 Oct 2017	Sch 1 (items 1–29, 35): <u>18 Sept 2018 (s 2(1) item 2)</u>	<u>Sch 1 (item 35)</u>
<b>as amended by</b>				
Home Affairs and Integrity Agencies Legislation Amendment Act 2018	31, 2018	9 May 2018	Sch 2 (item 283): <u>18 Sept 2018 (s 2(1) item 6)</u> Sch 2 (item 284): 11 May 2018 (s 2(1) item 7)	Sch 2 (item 284)
Defence Legislation Amendment (2017 Measures No. 1) Act 2017	117, 2017	30 Oct 2017	Sch 3 (item 16): 31 Oct 2017 (s 2(1) item 8)	—
Intelligence Services Amendment (Establishment of the Australian Signals Directorate) Act 2018	25, 2018	11 Apr 2018	Sch 1 (items 93, 94, 100–108): 1 July 2018 (s 2(1) item 2)	Sch 1 (items 100–108)
Home Affairs and Integrity Agencies Legislation Amendment Act 2018	31, 2018	9 May 2018	Sch 2 (items 188–223, 284): 11 May 2018 (s 2(1) items 3, 7) Sch 2 (items 252–282): <u>18 Sept 2018 (s 2(1) item 6)</u>	Sch 2 (items 223, 284)
Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Act 2018	34, 2018	22 May 2018	Sch 1 (items 213–215): <u>awaiting commencement (s 2(1) item 2)</u>	<u>Sch 1 (item 215)</u>

(a) The *Telecommunications Act 1997* was amended by Schedule 4 (items 1 and 2) only of the *Telecommunications (Transitional Provisions and*

## Endnote 3—Legislation history

*Consequential Amendments) Act 1997*, subsection 2(4) of which provides as follows:

(4) Schedule 4 commences on the commencement of the *Financial Management and Accountability Act 1997*.

(b) The *Telecommunications Act 1997* was amended by Schedule 4 (items 18–20) only of the *Australian National Railways Commission Sale Act 1997*, subsection 2(5) of which provides as follows:

(5) The remaining items of Schedule 3 and Schedule 4 commence on a day to be fixed by Proclamation. The day must not be earlier than the later of the day proclaimed for the purposes of subsection (2) and the day proclaimed for the purposes of subsection (3).

(c) The *Telecommunications Act 1997* was amended by Schedule 1 and Schedule 2 (items 1–27) only of the *Telecommunications Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2), (3) and (4), this Act commences on the day on which it receives the Royal Assent.

(d) The *Telecommunications Act 1997* was amended by Schedule 13 (item 49) only of the *Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) to (10), this Act commences on 1 July 1998.

(e) The *Telecommunications Act 1997* was amended by Schedule 1 (item 193) only of the *Financial Sector Reform (Consequential Amendments) Act 1998*, subsection 2(2) of which provides as follows:

(2) Subject to subsections (3) to (14), Schedules 1, 2 and 3 commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*.

(f) The *Telecommunications Act 1997* was amended by Schedule 1 only of the *Telecommunications Laws Amendment (Universal Service Cap) Act 1999*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(g) The *Telecommunications Act 1997* was amended by the *Telecommunications Legislation Amendment Act 1999*, subsections 2(1)–(4) and (6) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Subject to subsection (3), Schedule 2 commences on 1 January 1999.

## Endnotes

### Endnote 3—Legislation history

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- (3) If the 28th day after the day on which this Act receives the Royal Assent is later than 1 January 1999, Schedule 2 commences on that 28th day.
- (4) Subject to subsection (5), Schedule 3 commences on the commencement of section 1 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.
- (6) Schedule 4 commences on 1 July 1999.
- (h) The *Telecommunications Act 1997* was amended by the *Environmental Reform (Consequential Provisions) Act 1999*, subsection 2(1) of which provides as follows:
  - (1) Subject to this section, this Act commences when the *Environment Protection and Biodiversity Conservation Act 1999* commences.
- (i) The *Telecommunications Act 1997* was amended by Schedule 1 (items 916 and 917) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
  - (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (j) The *Telecommunications Act 1997* was amended by Schedule 3 (items 58–61) only of the *Australian Security Intelligence Organisation Legislation Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
  - (1) This Act (other than Schedule 3) commences on the day on which it receives the Royal Assent.
  - (2) Subject to subsections (3) to (6), Schedule 3 commences immediately after the commencement of the other Schedules to this Act.
- (k) The *Telecommunications Act 1997* was amended by Schedule 3 (items 12 and 13) only of the *Broadcasting Services Amendment Act (No. 1) 1999*, subsection 2(1) of which provides as follows:
  - (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (l) The *Telecommunications Act 1997* was amended by Schedule 3 (items 1–5) only of the *Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000*, subsections 2(1) and (2) of which provide as follows:
  - (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
  - (2) Schedules 1 to 3 (other than items 10, 11 and 13 of Schedule 3) commence, or are taken to have commenced, on 1 July 2000.

## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s. 2.....	am. No. 5, 2001
s. 3.....	am. No. 130, 2003; No. 89, 2006; No. 111, 2009; Nos. 46, 103 and 140, 2010; No. 44, 2012
s. 5.....	am. No. 52, 1999; No. 5, 2001; No. 140, 2002; No. 130, 2003; No. 45, 2005; Nos. 40 and 89, 2006; No. 177, 2007; No. 46, 2010; No 109, 2014; No 38, 2015; <u>No 111, 2017</u>
s. 6.....	am. No. 52, 1999; No. 5, 2001; No. 119, 2005; No. 177, 2007; No 109, 2014
s. 7.....	am No 200, 1997; No 4, 1998; No 52, 1999; No 161, 1999; No 142, 2000; No 125, 2002; No 130, 2003; No 35, 2004; No 45, 2005; No 86, 2006; No 89, 2006; No 155, 2006; No 124, 2007; No 177, 2007; No 22, 2008; No 111, 2009; No 8, 2010; No 46, 2010; No 103, 2010; No 140, 2010; No 5, 2011; No 23, 2011; No 107, 2011; No 44, 2012; No 169, 2012; No 31, 2014; No 62, 2014 No 109, 2014; No 38, 2015; No 39, 2015; <u>No 111, 2017</u> ; No 31, 2018 ( <u>Sch 2 item 252</u> )
s. 7A.....	ad. No. 200, 1997 rep. No. 177, 2007
s. 8.....	am No 59, 2015
s. 10.....	am No 33, 2016
s. 11.....	am. No. 17, 2006; No. 117, 2008; No. 46, 2011
s. 11A.....	ad. No. 5, 2001
s. 15.....	am No 103, 2013
s. 17.....	rep. No. 52, 1999
s. 19.....	am. No. 45, 2005; No. 44, 2012
s. 22.....	am. No. 4, 1998; No. 107, 2011; No 38, 2015
s. 23.....	am. No. 45, 1998; No. 55, 2001; No 103, 2013
<b>Part 2</b>	
<b>Division 2</b>	
s. 27.....	am. No. 55, 2001

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 29 .....	am No 103, 2013
<b>Division 3</b>	
s 30 .....	am. No. 4, 1998
s 31 .....	am No 103, 2013
<b>Div 4</b>	
s 40 .....	am No 103, 2013
<b>Part 3</b>	
<b>Division 1</b>	
s 41 .....	am. No. 45, 2005
<b>Division 2</b>	
s 42 .....	am. No. 5, 2001; No 4, 2016
s 43 .....	am No 4, 2016
s 44 .....	am No 103, 2013
s 45 .....	am. No. 5, 2011
s 46 .....	am. No. 161, 1999; No 25, 2018
s 47 .....	am. No. 96, 1997
s 48 .....	am. No. 197, 1999
s 51 .....	am No 103, 2013
<b>Division 3</b>	
s 52 .....	am. No. 45, 2005
s 53 .....	am. No. 45, 2005
Heading to s. 53A .....	am. No. 177, 2007
s 53A .....	ad. No. 35, 2004
	am. No. 45, 2005; No. 177, 2007
s 55 .....	am. No. 35, 2004; No. 45, 2005
s 56 .....	am. No. 45, 2005
Heading to s. 56A .....	am. No. 177, 2007
s 56A .....	ad. No. 35, 2004
	am. No. 45, 2005; No. 177, 2007
Note to s. 56A(2) .....	am. No. 45, 2005; No. 177, 2007
s 57 .....	am. No. 52, 1999; No. 44, 2012; No 38, 2015

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s. 58 .....	am. No. 45, 2005; No. 44, 2012; No 38, 2015
s. 58A .....	ad. No. 35, 2004 am. No. 45, 2005; No 31, 2018
s. 59 .....	rs. No. 35, 2004 am. No. 45, 2005; No. 177, 2007
s. 60 .....	am. No. 45, 2005
s. 61 .....	am. No. 119, 2005; No. 140, 2010 ( <u>Sch 1 items 41, 42</u> )
s. 61A .....	ad. No. 119, 2005 am. No. 103, 2010 rep. No. 140, 2010
Heading to s. 62 .....	am. No. 103, 2010
s. 62 .....	am. No. 103, 2010
Note to s. 62 .....	am. No. 103, 2010
s. 62A .....	ad. No. 140, 2010
s. 62B .....	ad. No. 140, 2010
s. 62C .....	ad. No. 140, 2010
s. 62D .....	ad. No. 23, 2011
s. 62E .....	ad. No. 23, 2011
s. 63 .....	am No 10, 2015
s. 66 .....	rep. No. 142, 2000
s. 67 .....	am. No. 52, 1999; No. 44, 2012; No 38, 2015
s. 69 .....	am. Nos. 45 and 119, 2005; No 103, 2010; No 140, 2010 ( <u>Sch 1 item 44</u> ); No. 23, 2011; No 126, 2015
s. 69AA .....	ad. No. 140, 2010
s. 69A .....	ad. No. 119, 2005 rep. No. 140, 2010
s. 69B .....	ad. No. 119, 2005 am. No. 103, 2010 rep. No. 140, 2010
s. 70 .....	am. Nos. 45 and 119, 2005; No 103, 2010; No 140, 2010 ( <u>Sch 1 items 47–49</u> ); No. 23, 2011

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## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
Note to s. 70(3) .....	rs. No. 140, 2010
Note to s. 70(4) .....	am. No. 103, 2010
s. 71 .....	am. No. 45, 2005
s. 72 .....	am. No. 45, 2005; No. 44, 2012; No 38, 2015
Note to s. 72(2) .....	am. No. 44, 2012
Subhead. to s. 73(9) .....	am. No. 8, 2005
Subhead to s 73(10).....	rs No 103, 2013
s. 73 .....	am. Nos. 8 and 45, 2005; No 103, 2013
s. 73A .....	ad. No. 35, 2004
	am. No. 45, 2005
s. 74 .....	am. No. 45, 2005
<b>Division 4</b>	
s. 77 .....	am. No. 45, 2005
s. 78 .....	am. No. 52, 1999; No. 45, 2005; No. 44, 2012; No 38, 2015
s. 79 .....	am. No. 45, 2005
s. 80 .....	am. No. 45, 2005
s. 81 .....	am. No. 52, 1999; No. 45, 2005; No. 44, 2012; No 38, 2015
s. 81A .....	ad. No. 4, 1998
	am. No. 52, 1999; No. 44, 2012; No 38, 2015
s. 82 .....	am. No. 45, 2005
s. 83 .....	am. No. 52, 1999; No. 45, 2005; No. 44, 2012; No 38, 2015
<b>Division 5</b>	
s. 84 .....	am. No. 45, 2005
<b>Part 4</b>	
<b>Division 3</b>	
s 87 .....	am No 46, 2011; No 103, 2013; No 126, 2015
s 88 .....	am No 103, 2013
s. 90 .....	am. No. 5, 2011
s. 91 .....	am. No. 161, 1999; No 25, 2018
s. 92 .....	am. No. 96, 1997
s. 93 .....	am. No. 197, 1999



## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 95 .....	am No 46, 2011; No 103, 2013; No 126, 2015
s 96 .....	am No 46, 2011; No 103, 2013; No 126, 2015
<b>Division 5</b>	
s 98 .....	am. Nos. 103 and 140, 2010; No. 23, 2011
Note to s. 98(2) .....	am. No. 103, 2010
s 99 .....	am. No. 45, 2005; No 103, 2013
s 100 .....	am No 103, 2013
s 102 .....	am. No. 45 and 119, 2005; No. 103 and 140, 2010; No. 23, 2011; No 126, 2015
s 103 .....	am. No. 45, 2005; Nos. 103 and 140, 2010; No. 23, 2011
Note to s. 103(3) .....	am. No. 103, 2010
<b>Part 5</b>	
s 104 .....	am. No. 200, 1997; No. 45, 2005; No. 140, 2010 ( <u>Sch 1 item 50</u> )
Heading to s. 105 .....	am. No. 200, 1997
s 105 .....	am No 200, 1997; No 52, 1999; No 142, 2000; No 45, 2005; No 111, 2009; No 44, 2012; No 31, 2014; No 38, 2015; No 39, 2015; <u>No 111, 2017</u>
s 105A .....	ad. No. 200, 1997 am. No. 45, 2005
s 105B .....	ad <u>No 140, 2010</u>
s 105C .....	ad. No. 140, 2010
<b>Part 6</b>	
<b>Division 1</b>	
s 106 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 46, 2010; No 38, 2015
<b>Division 2</b>	
s 108A .....	ad. No. 130, 2003 am No 31, 2014
s 108B .....	ad. No. 130, 2003
s 109 .....	am. No. 130, 2003
s 109A .....	ad. No. 130, 2003 rep No 38, 2015

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s. 109B .....	ad. No. 89, 2006
s. 109C .....	ad. No. 46, 2010
s. 110 .....	am. No. 130, 2003; No. 45, 2005; No. 23, 2011
s. 110A .....	ad. No. 130, 2003 rep No 38, 2015 am. No. 45, 2005
s. 110B .....	ad. No. 89, 2006
s. 110C .....	ad. No. 46, 2010
s. 111A .....	ad. No. 130, 2003 rep No 38, 2015
s. 111AA .....	ad. No. 89, 2006
s. 111AB.....	ad. No. 46, 2010
s. 111B .....	ad. No. 130, 2003
<b>Division 3</b>	
s. 112 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; Nos. 46 and 140, 2010; No 38, 2015
s. 113 .....	am. No. 130, 2003; No. 89, 2006; Nos. 8 and 46, 2010; No. 23, 2011; No 38, 2015
s. 115 .....	am. No. 130, 2003; No. 120, 2004; No. 23, 2011
s. 116A .....	ad. No. 155, 2000 am No 197, 2012
<b>Division 4</b>	
s. 117 .....	am. No. 155, 2000; No. 130, 2003; No. 45, 2005; No. 89, 2006; Nos. 46 and 51, 2010; No 197, 2012; No 3, 2014; No 38, 2015
Note to s. 117(4) .....	ad. No. 155, 2000
Heading to s. 118.....	am. No. 45, 2005
s. 118 .....	am. No. 155, 2000; No. 130, 2003; No. 45, 2005; No. 89, 2006; Nos. 46 and 51, 2010; No. 23, 2011; No 197, 2012; No 38, 2015
Note to s. 118(1) .....	ad. No. 155, 2000 am. No. 45, 2005; No. 51, 2010; No 197, 2012
Heading to s. 119.....	am. No. 130, 2003; No. 89, 2006; No. 46, 2010

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s. 119 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 46, 2010; No 38, 2015
s 119A .....	ad No 3, 2014 am No 3, 2014; No 38, 2015
s 119B .....	ad No 3, 2014
s. 120 .....	am. No. 155, 2000; No. 45, 2005; No 3, 2014
s. 121 .....	am. No. 155, 2000; No. 130, 2003; Nos. 45 and 119, 2005; No. 89, 2006; Nos. 46 and 51, 2010; No 197, 2012; No 38, 2015; No 126, 2015
s. 122 .....	am. No. 155, 2000; No. 130, 2003; Nos. 45 and 119, 2005; No. 89, 2006; Nos. 46 and 51, 2010; No 197, 2012; No 38, 2015
s. 122A .....	ad. No. 155, 2000 am. No. 45, 2005
<b>Division 5</b>	
Heading to s. 123 .....	am. No. 45, 2005
s. 123 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 46, 2010; No. 136, 2012; No 103, 2013; No 38, 2015
Heading to s. 124 .....	am. No. 45, 2005
s. 124 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 46, 2010; No 103, 2013; No 38, 2015
Heading to s. 125 .....	am. No. 45, 2005
s. 125 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 46, 2010; No 103, 2013; No 38, 2015
s. 125AA .....	ad. No. 140, 2010 am. No. 23, 2011
s. 125A .....	ad. No. 89, 2006
s. 125B .....	ad. No. 46, 2010
s. 126 .....	am. No. 45, 2005
s 127 .....	am No 45, 2005 rep No 5, 2015
s. 128 .....	am. No. 130, 2003; No. 89, 2006; No. 46, 2010; No 38, 2015

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s. 129 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 46, 2010; No 38, 2015
s. 130 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 46, 2010; No 103, 2013; No 38, 2015
Note to s. 130 .....	ad. No. 155, 2000 am. No. 45, 2005; No. 51, 2010; No 197, 2012
s. 131 .....	am. No. 45, 2005; No 103, 2013
s. 132 .....	am. No. 45, 2005
s. 133 .....	am. No. 45, 2005; No. 89, 2006; No. 46, 2010
Heading to s. 134 .....	am. No. 51, 2010
s. 134 .....	am. No. 155, 2000; No. 45, 2005; No. 51, 2010; No 197, 2012
s. 135 .....	am. No. 45, 2005
s. 135A .....	ad. No. 89, 2006 am. No. 46, 2010
<b>Division 6</b>	
Heading to s. 136 .....	am. No. 45, 2005
s. 136 .....	am. No. 155, 2000; No. 45, 2005; No 3, 2014
<b>Div 6A</b>	
hdg to Div 6A of Pt 6 .....	am No 3, 2014
Div. 6A of Part 6 .....	ad. No. 117, 2005
hdg to s 136A .....	am No 3, 2014
s. 136A .....	ad. No. 117, 2005 am No 3, 2014
s. 136B .....	ad. No. 117, 2005 am No 3, 2014; No 126, 2015
s. 136C .....	ad. No. 117, 2005 am No 3, 2014; No 126, 2015
s. 136D .....	ad. No. 117, 2005
s. 136E .....	ad. No. 117, 2005 am No 3, 2014; No 126, 2015

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 7</b>	
s. 137 .....	rep. No. 52, 1999 ad. No. 130, 2003 am. No. 8, 2010
s. 138 .....	rep. No. 52, 1999 ad. No. 130, 2003
Heading to s. 139 .....	am. No. 46, 2010
s. 139 .....	rep. No. 52, 1999 ad. No. 89, 2006 am. No. 46, 2010
<b>Part 7</b>	
Part 7 .....	rep. No. 52, 1999 ad. No. 23, 2011
s. 140 .....	rep. No. 52, 1999 ad. No. 23, 2011
s. 141 .....	rep. No. 52, 1999 ad. No. 23, 2011
s. 141A .....	ad. No. 23, 2011
s. 141B .....	ad. No. 23, 2011
s. 141C .....	ad. No. 23, 2011
s. 141D .....	ad. No. 23, 2011
s. 141E .....	ad. No. 23, 2011
s. 141F .....	ad. No. 23, 2011
s. 141G .....	ad. No. 23, 2011
Part 7A .....	ad. No. 4, 1998 rep. No. 52, 1999
<b>Part 8</b>	
Part 8 .....	rep. No. 52, 1999 ad. No. 23, 2011
<b>Division 1</b>	
s. 142 .....	rep. No. 52, 1999

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<b>Provision affected</b>	<b>How affected</b>
	ad. No. 23, 2011
s. 142A .....	ad. No. 23, 2011
<b>Division 2</b>	
s. 143 .....	rep. No. 4, 1998
	ad. No. 23, 2011
s. 144 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 145 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 146 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 147 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 148 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 149 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 150 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 151 .....	rep. No. 52, 1999
	ad. No. 23, 2011
<b>Division 3</b>	
s. 152 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 153 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 154 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 155 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 156 .....	rep. No. 52, 1999

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	ad. No. 23, 2011
s. 157 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 158 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 159 .....	rep. No. 52, 1999
	ad. No. 23, 2011
s. 160 .....	rep. No. 52, 1999
	ad. No. 23, 2011
ss. 161–182.....	rep. No. 52, 1999
s. 183 .....	am. No. 42, 1999
	rep. No. 52, 1999
s. 184 .....	rep. No. 52, 1999
ss. 185, 186.....	am. No. 42, 1999
	rep. No. 52, 1999
ss. 187–210.....	rep. No. 52, 1999
ss. 211, 212.....	rs. No. 59, 1997
	rep. No. 52, 1999
ss. 213–218.....	rep. No. 52, 1999
s. 219 .....	am. No. 48, 1998
	rep. No. 52, 1999
ss. 220, 221.....	rep. No. 52, 1999
ss. 221A–221I.....	ad. No. 4, 1998
	rep. No. 52, 1999
ss. 222–231.....	rep. No. 52, 1999
Part 9 .....	rep. No. 52, 1999
ss. 232–243.....	rep. No. 52, 1999
Part 10 .....	rep. No. 52, 1999
s. 244 .....	rep. No. 52, 1999
s. 245 .....	am. No. 200, 1997
	rep. No. 52, 1999

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<b>Provision affected</b>	<b>How affected</b>
s. 246 .....	am. No. 52, 1999 rep. No. 52, 1999
ss. 247–251 .....	rep. No. 52, 1999
Part 11 .....	rep. No. 52, 1999
ss. 252–263 .....	rep. No. 52, 1999
Part 12 .....	rep. No. 52, 1999
ss. 264–269 .....	rep. No. 52, 1999
<b>Part 13</b>	
<b>Division 1</b>	
s. 275A .....	ad. No. 124, 2007
s. 275B .....	ad. No. 16, 2009 am No 31, 2018
s. 275C .....	ad. No. 16, 2009
s. 275D .....	ad. No. 16, 2009 am No 31, 2018
s. 275E .....	ad. No. 16, 2009
<b>Division 2</b>	
s. 276 .....	am. No. 5, 2001; No. 177, 2007; No 4, 2016
s. 277 .....	am. No. 5, 2001; No. 177, 2007; No 4, 2016
s. 278 .....	am. No. 5, 2001; No. 177, 2007; No 4, 2016
<b>Division 3</b>	
<b>Subdivision A</b>	
s 280 .....	am No 86, 2006; No 177, 2007; No 39, 2015
s 281 .....	am No 39, 2015
s. 282 .....	am. No. 125, 2002; No. 35, 2004; No. 45, 2005; No. 86, 2006 rep. No. 177, 2007
s. 283 .....	am. No. 161, 1999 rep. No. 177, 2007
s 284 .....	am No 45, 2005; No 44, 2012; No 25, 2015; No 38, 2015; No 51, 2017
s. 285 .....	am. No. 155, 2006; No. 169, 2012



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<b>Provision affected</b>	<b>How affected</b>
s. 285A .....	ad. No. 16, 2009
s. 291 .....	am. No. 124, 2007
s. 291A .....	ad. No. 16, 2009
s. 294 .....	am. No. 177, 2007
<b>Subdivision B</b>	
s. 295 .....	am. No. 177, 2007
<b>Division 3A</b>	
Div. 3A of Part 13 .....	ad. No. 155, 2006
<b>Subdivision A</b>	
s. 295A .....	ad. No. 155, 2006
s. 295B .....	ad. No. 155, 2006
s. 295C .....	ad. No. 155, 2006
s. 295D .....	ad. No. 155, 2006
s. 295E .....	ad. No. 155, 2006
s. 295F .....	ad. No. 155, 2006
s. 295G .....	ad. No. 155, 2006
s. 295H .....	ad. No. 155, 2006
s. 295J .....	ad. No. 155, 2006
s. 295K .....	ad. No. 155, 2006
s. 295L .....	ad. No. 155, 2006
s. 295M .....	ad. No. 155, 2006
	am. No. 51, 2010
<b>Subdivision B</b>	
s. 295N .....	ad. No. 155, 2006
s. 295P .....	ad. No. 155, 2006
s. 295Q .....	ad. No. 155, 2006
<b>Subdivision C</b>	
s. 295R .....	ad. No. 155, 2006
s. 295S .....	ad. No. 155, 2006
s. 295T .....	ad. No. 155, 2006
<b>Subdivision D</b>	

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<b>Provision affected</b>	<b>How affected</b>
s. 295U .....	ad. No. 155, 2006 am No 62, 2014
<b>Division 3B</b>	
Div. 3B of Part 13.....	ad. No. 16, 2009
s. 295V .....	ad. No. 16, 2009
s. 295W .....	ad. No. 16, 2009
s. 295X .....	ad. No. 16, 2009
s. 295Y .....	ad. No. 16, 2009 am No 31, 2018
s. 295Z.....	ad. No. 16, 2009
s. 295ZA.....	ad. No. 16, 2009
s. 295ZB.....	ad. No. 16, 2009 am No 31, 2018
Heading to s. 295ZC.....	am. No. 51, 2010
s. 295ZC.....	ad. No. 16, 2009 am. No. 51, 2010
s. 295ZD.....	ad. No. 16, 2009 am No 31, 2018
s. 295ZE .....	ad. No. 16, 2009
<b>Division 4</b>	
s. 298 .....	rep. No. 177, 2007
s 299 .....	am No 45, 2005; No 44, 2012; No 25, 2015; No 38, 2015; No 51, 2017
s. 299A .....	ad. No. 155, 2006
s. 302A .....	ad. No. 16, 2009
s. 303 .....	am. No. 5, 2001; No 4, 2016
s. 303A .....	ad. No. 155, 2000
<b>Division 4A</b>	
Div. 4A of Part 13 .....	ad. No. 155, 2000
hdg to s 303B.....	rs No 197, 2012
s. 303B .....	ad. No. 155, 2000

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<b>Provision affected</b>	<b>How affected</b>
	am No 197, 2012
s. 303C .....	ad. No. 155, 2000
	am No 197, 2012
<b>Division 5</b>	
s. 305 .....	rs. No. 177, 2007
	am. No. 120, 2012
Heading to s. 306.....	am. No. 177, 2007
s. 306 .....	am. No. 5, 2001; No. 177, 2007; No. 16, 2009; No. 120, 2012; No 4, 2016
s. 306A .....	ad. No. 177, 2007
	am. No. 120, 2012
s. 307 .....	am. No. 5, 2001; No. 177, 2007; No 4, 2016
Heading to s. 308.....	am. No. 45, 2005
s. 308 .....	am. No. 45, 2005; No. 177, 2007
Heading to s. 309.....	am. No. 51, 2010
s. 309 .....	am. No. 177, 2007; No. 51, 2010
<b>Part 14</b>	
<b>Division 1</b>	
Division 1 heading.....	ad <u>No 111, 2017</u>
s. 311 .....	am. No. 45, 2005; <u>No 111, 2017</u> ; <u>No 31, 2018</u>
<b>Division 2</b>	
Division 2 heading.....	ad <u>No 111, 2017</u>
s. 312 .....	am. No. 45, 2005
s. 313 .....	am. No. 200, 1997; No. 35, 2004; No. 45, 2005; No. 40, 2006; No. 177, 2007; No. 120, 2012; <u>No 111, 2017</u> ; <u>No 34, 2018</u>
s. 314 .....	am No 200, 1997; No 45, 2005; No 177, 2007; No 39, 2015
<b>Division 3</b>	
Division 3 .....	ad <u>No 111, 2017</u>
<b>Subdivision A</b>	
s. 314A .....	ad. No. 200, 1997
	am. No. 45, 2005

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<b>Provision affected</b>	<b>How affected</b>
	rep. No. 177, 2007
	ad <a href="#">No 111, 2017</a>
s 314B .....	ad <a href="#">No 111, 2017</a>
<b>Subdivision B</b>	
s 314C .....	ad <a href="#">No 111, 2017</a>
s 314D .....	ad <a href="#">No 111, 2017</a>
s 314E.....	ad <a href="#">No 111, 2017</a>
<b>Division 4</b>	
Division 4 heading.....	ad <a href="#">No 111, 2017</a>
s. 315 .....	am. No. 46, 2001
<b>Division 5</b>	
Division 5 heading.....	am <a href="#">No 31, 2018</a>
Division 5 .....	ad <a href="#">No 111, 2017</a>
s 315A .....	ad <a href="#">No 111, 2017</a>
	am <a href="#">No 31, 2018</a>
s 315B .....	ad <a href="#">No 111, 2017</a>
	am <a href="#">No 31, 2018</a>
<b>Division 6</b>	
Division 6 heading.....	am <a href="#">No 31, 2018</a>
Division 6 .....	ad <a href="#">No 111, 2017</a>
s 315C .....	ad <a href="#">No 111, 2017</a>
	am <a href="#">No 31, 2018</a>
s 315D .....	ad <a href="#">No 111, 2017</a>
s 315E.....	ad <a href="#">No 111, 2017</a>
	am <a href="#">No 31, 2018</a>
s 315F.....	ad <a href="#">No 111, 2017</a>
	am <a href="#">No 31, 2018</a>
s 315G .....	ad <a href="#">No 111, 2017</a>
	am <a href="#">No 31, 2018</a>
<b>Division 7</b>	
Division 7 .....	ad <a href="#">No 111, 2017</a>

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<b>Provision affected</b>	<b>How affected</b>
s 315H .....	ad <u>No 111, 2017</u>
<b>Division 8</b>	
Division 8 .....	ad <u>No 111, 2017</u>
s 315J .....	ad <u>No 111, 2017</u> am <u>No 31, 2018</u>
<b>Division 8A</b>	
Division 8A .....	ad <u>No 111, 2017</u>
s 315K .....	ad <u>No 111, 2017</u> am <u>No 31, 2018</u>
<b>Division 9</b>	
Division 9 heading .....	ad <u>No 111, 2017</u>
Part 15 .....	rs. No. 200, 1997 rep. No. 177, 2007
s. 317 .....	rs. No. 200, 1997 am. No. 45, 2005 rep. No. 177, 2007
ss. 318–323 .....	rs. No. 200, 1997 rep. No. 177, 2007
s. 324 .....	rs. No. 200, 1997 am. No. 35, 2004; No. 40, 2006 rep. No. 177, 2007
s. 325 .....	rs. No. 200, 1997 rep. No. 177, 2007
s. 326 .....	rs. No. 200, 1997 am. No. 35, 2004 rep. No. 177, 2007
Heading to s. 327 .....	am. No. 45, 2005 rep. No. 177, 2007
s. 327 .....	rs. No. 200, 1997 am. No. 45, 2005 rep. No. 177, 2007

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<b>Provision affected</b>	<b>How affected</b>
s. 328 .....	rs. No. 200, 1997 rep. No. 177, 2007
s. 329 .....	rs. No. 200, 1997 am. No. 35, 2004; No. 45, 2005 rep. No. 177, 2007
s. 330 .....	rs. No. 200, 1997; No. 35, 2004 am. No. 45, 2005 rep. No. 177, 2007
s. 331 .....	rs. No. 200, 1997 am. No. 35, 2004; No. 45, 2005 rep. No. 177, 2007
s. 332 .....	rs. No. 200, 1997 am. No. 45, 2005 rep. No. 177, 2007
s. 332A .....	ad. No. 200, 1997 am. No. 45, 2005 rep. No. 177, 2007
s. 332B .....	ad. No. 200, 1997 rep. No. 177, 2007
ss. 332C, 332D .....	ad. No. 200, 1997 am. No. 45, 2005 rep. No. 177, 2007
s. 332E .....	ad. No. 200, 1997 rep. No. 177, 2007
s. 332F .....	ad. No. 200, 1997 am. No. 45, 2005 rep. No. 177, 2007
Heading to s. 332G .....	am. No. 45, 2005 rep. No. 177, 2007
ss. 332G, 332H .....	ad. No. 200, 1997 am. No. 45, 2005

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<b>Provision affected</b>	<b>How affected</b>
	rep. No. 177, 2007
ss. 332J, 332K .....	ad. No. 200, 1997
	rep. No. 177, 2007
Note to s. 332K.....	am. No. 40, 2006
	rep. No. 177, 2007
ss. 332L, 332M.....	ad. No. 200, 1997
	rep. No. 177, 2007
s. 332N .....	ad. No. 200, 1997
	am. No. 45, 2005
	rep. No. 177, 2007
s. 332P .....	ad. No. 200, 1997
	am. No. 45, 2005
	rep. No. 177, 2007
Heading to s. 332Q.....	am. No. 45, 2005
	rep. No. 177, 2007
s. 332Q .....	ad. No. 200, 1997
	am. No. 45, 2005
	rep. No. 177, 2007
s. 332R .....	ad. No. 200, 1997
	rep. No. 177, 2007
<b>Part 16</b>	
<b>Division 1</b>	
s. 334 .....	am. No. 5, 2011
<b>Division 2</b>	
s. 335 .....	am. No. 45, 2005; No. 5, 2011
<b>Division 3</b>	
Heading to s. 338.....	am. No. 45, 2005
s. 338 .....	am. No. 45, 2005; No. 5, 2011
s. 339 .....	am. No. 45, 2005
s. 341 .....	am. No. 45, 2005
s. 342 .....	am. No. 45, 2005

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<b>Provision affected</b>	<b>How affected</b>
s. 343 .....	am. No. 45, 2005
<b>Division 4</b>	
s. 346A .....	ad. No. 46, 2001
<b>Division 5</b>	
s. 347 .....	am. No. 146, 1999; No. 5, 2011
<b>Part 17</b>	
s. 348 .....	am. No. 140, 2002; No. 45, 2005; No 38, 2015
s. 349 .....	am. No. 140, 2002; No. 45, 2005; No 103, 2013; No 38, 2015
Note to s. 349(2) .....	ad. No. 140, 2002
s. 350 .....	am. No. 200, 1997
s. 350A .....	ad. No. 140, 2002
	am. No. 103, 2010
Note to s. 350A(5) .....	am. No. 103, 2010
s. 352 .....	am. No. 140, 2002; No. 45, 2005; No 38, 2015
s. 353 .....	am. No. 45, 2005
<b>Part 18</b>	
s. 355 .....	am. No. 45, 2005; No 103, 2013
s. 356 .....	am. No. 45, 2005
Part 19 .....	rep No 10, 2014
s 357 .....	rep No 109, 2014
s 358 .....	rep No 109, 2014
s 359 .....	rep No 109, 2014
s 360 .....	rep No 109, 2014
s 361 .....	rep No 109, 2014
s. 362 .....	am. No. 52, 1999
	rep No 109, 2014
s 363 .....	rep No 109, 2014
<b>Part 20</b>	
<b>Division 3</b>	
s. 367 .....	am. No. 45, 2005; No. 103, 2010; No 103, 2013
s. 371 .....	am. No. 45, 2005



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<b>Provision affected</b>	<b>How affected</b>
<b>Part 20A</b>	
Part 20A .....	ad. No. 107, 2011
<b>Division 1</b>	
s. 372A .....	ad. No. 107, 2011
<b>Division 2</b>	
s. 372B .....	ad. No. 107, 2011 am No 126, 2015
s. 372C .....	ad. No. 107, 2011 am No 126, 2015
s. 372D .....	ad. No. 107, 2011
<b>Division 3</b>	
<b>Subdivision A</b>	
s. 372E .....	ad. No. 107, 2011
s. 372F .....	ad. No. 107, 2011
<b>Subdivision B</b>	
s. 372G .....	ad. No. 107, 2011
s. 372H .....	ad. No. 107, 2011
<b>Subdivision C</b>	
s. 372J .....	ad. No. 107, 2011
s. 372JA .....	ad. No. 107, 2011
<b>Subdivision D</b>	
s. 372K .....	ad. No. 107, 2011 am No 126, 2015
<b>Division 4</b>	
s. 372L .....	ad. No. 107, 2011
s. 372M .....	ad. No. 107, 2011
s. 372N .....	ad. No. 107, 2011 am No 126, 2015
s. 372NA .....	ad. No. 107, 2011
<b>Division 5</b>	
s. 372P .....	ad. No. 107, 2011

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 6</b>	
s. 372Q .....	ad. No. 107, 2011
s. 372R .....	ad. No. 107, 2011
s. 372S .....	ad. No. 107, 2011
s. 372T .....	ad. No. 107, 2011
s. 372U .....	ad. No. 107, 2011
s. 372V .....	ad. No. 107, 2011
s. 372W .....	ad. No. 107, 2011
s. 372X .....	ad. No. 107, 2011
s. 372Y .....	ad. No. 107, 2011
s. 372Z .....	ad. No. 107, 2011
s. 372ZA .....	ad. No. 107, 2011
s. 372ZB .....	ad. No. 107, 2011
s. 372ZC .....	ad. No. 107, 2011 rep. No. 107, 2011
s. 372ZD .....	ad. No. 107, 2011
s. 372ZE .....	ad. No. 107, 2011 rep. No. 107, 2011
<b>Part 21</b>	
<b>Division 1</b>	
s. 373 .....	am. No. 45, 2005; No. 23, 2011
<b>Division 3</b>	
s. 376 .....	am. No. 45, 2005; No. 107, 2011; No 10, 2015
s. 376A .....	ad. No. 107, 2011
s. 377 .....	am. No. 63, 2002; No. 45, 2005; No. 46, 2011
s. 378 .....	am. No. 63, 2002; No. 45, 2005; No. 46, 2011
s. 379 .....	am. No. 45, 2005
<b>Division 4</b>	
s. 380 .....	am. No. 45, 2005; No 10, 2015
s. 381 .....	am. No. 63, 2002; No. 35, 2004; No. 45, 2005; No. 46, 2011
s. 382 .....	am. No. 63, 2002; No. 35, 2004; No. 45, 2005; No. 46, 2011

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 5</b>	
s. 384 .....	am. No. 45, 2005; No. 103, 2010; No. 23, 2011; No 10, 2015
s. 385 .....	am. No. 63, 2002; No. 45, 2005; No. 46, 2011
s. 386 .....	am. No. 63, 2002; No. 45, 2005; No. 46, 2011
s. 387 .....	am. No. 45, 2005
s. 389 .....	am. No. 103, 2010
<b>Division 5A</b>	
Div. 5A of Part 21 .....	ad. No. 23, 2011
s. 389A .....	ad. No. 23, 2011
s. 389B .....	ad. No. 23, 2011
<b>Division 6</b>	
<b>Subdivision A</b>	
s. 390 .....	am. No. 45, 2005
s. 391 .....	am. No. 45, 2005
s. 392 .....	am. No. 45, 2005
s. 393 .....	am. No. 45, 2005
s. 394 .....	am. No. 45, 2005
s. 395 .....	am. No. 52, 1999
s. 396 .....	am. No. 45, 2005
s. 397 .....	am. No. 45, 2005
s. 398 .....	am. No. 45, 2005; No 103, 2013
s. 399 .....	rs. No. 5, 2001 am No 4, 2016
Note to s. 399(1)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 399(1) .....	ad. No. 108, 2003
s. 400 .....	am. No. 45, 2005
s. 401 .....	am. No. 45, 2005
s. 402 .....	am. No. 45, 2005
s. 403 .....	am. No. 45, 2005
<b>Subdivision B</b>	

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<b>Provision affected</b>	<b>How affected</b>
s. 404 .....	am. No. 45, 2005; No 103, 2013
s. 405 .....	am. No. 63, 2002; No. 45, 2005; No. 46, 2011
<b>Division 7</b>	
s. 406A .....	ad. No. 200, 1997
s. 407 .....	am. No. 200, 1997; No. 45, 2005; No 103, 2013
s. 408 .....	am. No. 200, 1997; No. 45, 2005
s. 409 .....	am. No. 45, 2005
s. 410 .....	am. No. 45, 2005
s. 411 .....	am. No. 5, 2001; No 4, 2016
Note to s. 411(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 411(2) .....	ad. No. 108, 2003
s. 412 .....	am. No. 5, 2001; No 4, 2016
s. 413 .....	am. No. 200, 1997; No. 5, 2001; No 4, 2016
Note to s. 413(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 413(2) .....	ad. No. 108, 2003
s. 414 .....	am. No. 5, 2001; No 4, 2016
Note to s. 414(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 414(2) .....	ad. No. 108, 2003
s. 415 .....	am. No. 5, 2001; No. 45, 2005; No 4, 2016
Note to s. 415(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 415(2) .....	ad. No. 108, 2003
s. 416 .....	am. No. 5, 2001; No 4, 2016
Note to s. 416(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 416(2) .....	ad. No. 108, 2003
<b>Division 8</b>	
s. 417 .....	am. No. 5, 2001; No. 148, 2003; No. 45, 2005; No 103, 2013; No 4, 2016

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<b>Provision affected</b>	<b>How affected</b>
Note to s. 417(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 417(2) .....	ad. No. 108, 2003
<b>Division 9</b>	
s. 419 .....	am. No. 45, 2005; No 10, 2015
s. 420 .....	am. No. 5, 2001; No 4, 2016
Note to s. 420(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 420(2) .....	ad. No. 108, 2003
s. 421 .....	am. No. 5, 2001; No. 45, 2005; No 103, 2013; No 4, 2016
Note to s. 421(4)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 421(4) .....	ad. No. 108, 2003
s. 422 .....	am. No. 63, 2002; No. 45, 2005; No. 46, 2011
s. 423 .....	am. No. 45, 2005
s. 424 .....	am. No. 45, 2005
s. 425 .....	am. No. 45, 2005
s. 426 .....	am. No. 45, 2005
s. 427 .....	am. No. 45, 2005
s. 428 .....	am. No. 45, 2005
s. 429 .....	am. No. 45, 2005
s. 430 .....	am. No. 52, 1999
s. 432 .....	am. No. 45, 2005; No 103, 2013
s. 433 .....	am. No. 45, 2005
s. 434 .....	rs. No. 5, 2001 am No 4, 2016
Note to s. 434(1)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 434(1) .....	ad. No. 108, 2003
Note to s. 434(2)	
Renumbered Note 1 .....	No. 108, 2003
Note 2 to s. 434(2) .....	ad. No. 108, 2003

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<b>Provision affected</b>	<b>How affected</b>
s. 435 .....	am. No. 45, 2005
s. 436 .....	am. No. 45, 2005
s. 437 .....	am. No. 45, 2005
s. 438 .....	am. No. 45, 2005
Heading to s. 439 .....	am. No. 45, 2005
s. 439 .....	am. No. 45, 2005; No 103, 2013
s. 440 .....	am. No. 45, 2005; No. 107, 2011
s. 441 .....	am. No. 45, 2005
s. 442 .....	am. No. 45, 2005
<b>Division 10</b>	
s. 446 .....	am. No. 45, 2005
s. 447 .....	am. No. 45, 2005
<b>Division 11</b>	
s. 450 .....	am. No. 45, 2005; No 109, 2014; No 10, 2015
s. 451 .....	am. No. 45, 2005 rep No 109, 2014
s. 452 .....	am. No. 5, 2001; No 4, 2016
<b>Division 13</b>	
Div. 13 of Part 21 .....	ad. No. 108, 2003
s. 453A .....	ad. No. 108, 2003
<b>Part 22</b>	
<b>Division 1</b>	
s. 454 .....	am. No. 45, 2005
<b>Division 2</b>	
<b>Subdivision A</b>	
s. 455 .....	am. No. 52, 1999; No. 45, 2005; No 103, 2013
s. 457 .....	am. No. 45, 2005
s. 458 .....	am. No. 200, 1997; No. 45, 2005; No. 103, 2010
Heading to s. 459 .....	am. No. 45, 2005
s. 459 .....	am. No. 45, 2005
s. 460 .....	am. Nos. 45 and 119, 2005; No 109, 2014; No 126, 2015

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<b>Provision affected</b>	<b>How affected</b>
s. 461 .....	am. No. 45, 2005
s. 462 .....	am No 103, 2013
<b>Subdivision B</b>	
s. 463 .....	am. No. 45, 2005; No 109, 2014
s. 464 .....	am. No. 45, 2005; No 109, 2014
<b>Subdivision C</b>	
s. 465 .....	am. No. 45, 2005
Note to s. 465(1) .....	am. No. 45, 2005
s. 466 .....	am. No. 45, 2005
s. 467 .....	am. No. 45, 2005
Subhead. to s. 468(9) .....	am. No. 8, 2005
Subhead to s 468(11) .....	rs No 103, 2013
s. 468 .....	am. Nos. 8 and 45, 2005; No 103, 2013
s. 469 .....	am. No. 45, 2005
s. 471 .....	am. No. 5, 2011
s. 472 .....	am No 103, 2013
<b>Division 3</b>	
s. 474 .....	am. No. 152, 2000; No. 45, 2005
Heading to s. 475 .....	am. No. 45, 2005
s. 475 .....	am. No. 152, 2000; No. 5, 2001; No. 45, 2005; No 103, 2013; No 4, 2016
s. 476 .....	am. No. 152, 2000; No. 5, 2001; No. 45, 2005; No 103, 2013; No 4, 2016
Heading to s. 477 .....	am. No. 45, 2005
s. 477 .....	am. No. 45, 2005
<b>Part 23</b>	
s. 480 .....	am. No. 52, 1999 rep No 109, 2014
s. 480A .....	ad. No. 52, 1999 am. No. 45, 2005; No 103, 2013 rep No 109, 2014

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<b>Provision affected</b>	<b>How affected</b>
Heading to s. 481 .....	am. No. 45, 2005 rep No 109, 2014
s. 481 .....	am. No. 45, 2005 rep No 109, 2014
Heading to s. 483 .....	am. No. 103, 2010
s. 483 .....	am. No. 103, 2010
<b>Part 24A</b>	
Part 24A .....	ad. No. 104, 2005
s. 484A .....	ad. No. 104, 2005
<b>Part 25</b>	
<b>Division 1</b>	
s. 485 .....	am. No. 45, 2005
<b>Division 2</b>	
Heading to Div. 2 of Part 25 .....	am. No. 45, 2005
s. 486 .....	am. No. 45, 2005
s. 487 .....	am. No. 45, 2005
s. 488 .....	am. No. 45, 2005
s. 489 .....	am. No. 45, 2005
s. 490 .....	am. No. 45, 2005
s. 491 .....	am. No. 45, 2005
s. 492 .....	am. No. 52, 1999; No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 493 .....	am. No. 5, 2001; No. 45, 2005; No 4, 2016
s. 494 .....	am. No. 5, 2001; No. 45, 2005; No 4, 2016
s. 495 .....	am. No. 45, 2005
<b>Division 3</b>	
s. 502 .....	am. No. 52, 1999; No. 130, 2003; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 503 .....	am. No. 5, 2001; No 4, 2016
s. 504 .....	am. No. 5, 2001; No 4, 2016
s. 505A .....	ad. No. 140, 2010



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<b>Provision affected</b>	<b>How affected</b>
s. 505B .....	ad. No. 140, 2010
s. 506 .....	am. No. 103, 2010
<b>Part 26</b>	
s. 507 .....	am. No. 45, 2005
s. 508 .....	am. No. 52, 1999; No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 44, 2012; No 38, 2015
Heading to s. 509 .....	am. No. 45, 2005
s. 509 .....	am. No. 45, 2005; No. 89, 2006; No. 46, 2010
Heading to s. 510 .....	am. No. 45, 2005
s. 510 .....	am. No. 52, 1999; No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 511 .....	am. No. 45, 2005
s. 512 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 513 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 514 .....	am. No. 45, 2005
s. 515 .....	am. No. 45, 2005
Heading to s. 515A .....	am. No. 51, 2010
s. 515A .....	ad. No. 89, 2006 am. Nos. 46 and 51, 2010
s. 516 .....	am. No. 45, 2005
s. 517 .....	am. No. 45, 2005
s. 518 .....	am. No. 130, 2003; No. 45, 2005; No. 89, 2006
s. 519 .....	am. No. 45, 2005
<b>Part 27</b>	
Heading to Part 27 .....	am. No. 45, 2005
<b>Division 1</b>	
s. 520 .....	am. No. 45, 2005
<b>Division 2</b>	
s. 521 .....	am. No. 5, 2001; No. 45, 2005
s. 522 .....	am. No. 5, 2001; No. 45, 2005; No 4, 2016

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<b>Provision affected</b>	<b>How affected</b>
s. 523 .....	am. No. 45, 2005
s. 524 .....	am. No. 5, 2001
s. 525 .....	am. No. 5, 2001
s. 526 .....	rep. No. 5, 2001
s. 527 .....	am. No. 45, 2005
Heading to s. 528 .....	am. No. 45, 2005
s. 528 .....	am. No. 45, 2005
<b>Division 3</b>	
Heading to s. 529 .....	am. No. 45, 2005
s. 529 .....	am. No. 52, 1999; No. 45, 2005; No. 140, 2010
Note to s. 529(4) .....	am. No. 45, 2005
s. 531 .....	am. No. 5, 2001; No 4, 2016
Part 27A .....	ad. No. 22, 2008 rep No 109, 2014
Division 1 of Part 27A.....	ad. No. 22, 2008 rep No 109, 2014
s. 531A .....	ad. No. 22, 2008 rep No 109, 2014
s. 531B .....	ad. No. 22, 2008 rep No 109, 2014
s. 531C .....	ad. No. 22, 2008 am. No. 8, 2010 rep No 109, 2014
Note to s. 531C(1) .....	am. No. 46, 2011 rep No 109, 2014
s. 531D .....	ad. No. 22, 2008 am. No. 8, 2010 rep No 109, 2014
s. 531E.....	ad. No. 22, 2008 rep No 109, 2014
Division 2 of Part 27A.....	ad. No. 22, 2008

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rep No 109, 2014
s. 531F .....	ad. No. 22, 2008
	(1) exp 27 May 2009 ( <i>see</i> s 531F(3))
	(2) exp 27 May 2009 ( <i>see</i> s 531F(3))
	rep No 109, 2014
Division 3 of Part 27A.....	ad. No. 22, 2008
	rep No 109, 2014
s. 531G .....	ad. No. 22, 2008
	(2)(e) exp 27 May 2009 ( <i>see</i> s 531G(3))
	(3A)(e) exp 27 May 2009 ( <i>see</i> s 531G(3B))
	rep No 109, 2014
s. 531H .....	ad. No. 22, 2008
	rep No 109, 2014
s. 531J.....	ad. No. 22, 2008
	rep No 109, 2014
s. 531K .....	ad. No. 22, 2008
	rep No 109, 2014
s. 531L.....	ad. No. 22, 2008
	rep No 109, 2014
s. 531M.....	ad. No. 22, 2008
	rep No 109, 2014
Note 1 to s. 531M.....	am. No. 46, 2011
	rep No 109, 2014
s. 531N .....	ad. No. 22, 2008
	rep No 109, 2014
Note to s. 531N(4).....	am. No. 46, 2011
	rep No 109, 2014
s. 531P.....	ad. No. 22, 2008
	rep No 109, 2014
s. 531Q .....	ad. No. 22, 2008
	rep No 109, 2014

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 28</b>	
<b>Division 1</b>	
Heading to Div. 1 of Part 28 .....	rs. No. 130, 2003
s. 532 .....	am. No. 130, 2003
s. 532A .....	ad. No. 130, 2003
<b>Division 2</b>	
s. 533 .....	am. No. 45, 2005
s. 534 .....	am. No. 5, 2001; No. 45, 2005
<b>Division 3</b>	
Heading to Div. 3 of Part 28 .....	rs. No. 130, 2003
s. 535 .....	am. No. 5, 2001; No. 130, 2003
s. 537 .....	am. No. 130, 2003
<b>Division 4</b>	
Heading to Div. 4 of Part 28 .....	rs. No. 130, 2003
s. 541A .....	ad. No. 130, 2003
Heading to s. 542 .....	am. No. 130, 2003
s. 542 .....	am. No. 5, 2001; No. 130, 2003
Heading to s. 544 .....	am. No. 130, 2003
s. 544 .....	am. No. 5, 2001; No. 130, 2003
s. 545 .....	am. No. 5, 2001
s. 546 .....	am. No. 52, 1999; No. 130, 2003; No. 45, 2005
<b>Division 5A</b>	
Div. 5A of Part 28 .....	ad. No. 130, 2003
s. 547A .....	ad. No. 130, 2003
s. 547B .....	ad. No. 130, 2003
s. 547C .....	ad. No. 130, 2003
s. 547D .....	ad. No. 130, 2003
s. 547E .....	ad. No. 130, 2003
s. 547F .....	ad. No. 130, 2003
s. 547G .....	ad. No. 130, 2003
s. 547H .....	ad. No. 130, 2003

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 5B</b>	
Div. 5B of Part 28.....	ad. No. 130, 2003
s. 547J.....	ad. No. 130, 2003 am No 4, 2016
<b>Division 6</b>	
s. 548.....	am. No. 5, 2001
s. 549.....	am. No. 5, 2001; No. 130, 2003; No 4, 2016
s. 550.....	am. No. 130, 2003
<b>Division 7</b>	
s. 551.....	am. No. 52, 1999; No. 5, 2001; No. 44, 2012; No 38, 2015
s. 552.....	am. No. 45, 2005
<b>Division 8</b>	
s. 553.....	am. No. 52, 1999; No. 5, 2001
<b>Part 29</b>	
s. 554.....	am. No. 45, 2005
Heading to s. 555.....	am. No. 45, 2005
s. 555.....	am. No. 45, 2005
s. 556.....	am. No. 45, 2005
s. 557.....	am. No. 45, 2005
s. 558.....	am. No. 45, 2005
Heading to s. 559.....	am. No. 45, 2005
s. 559.....	am. No. 45, 2005
s. 560.....	am. No. 45, 2005
s. 562.....	am. No. 45, 2005
<b>Part 30</b>	
s. 563.....	am. No. 52, 1999; No. 44, 2012; No 38, 2015
s. 564.....	am. No. 52, 1999; No. 45, 2005; No 103 2010; No 140, 2010 ( <a href="#">Sch 1 items 52, 53</a> ); No. 23, 2011; No. 44, 2012; No 38, 2015; <a href="#">No 111, 2017</a> ; <a href="#">No 31, 2018</a>
<b>Part 31</b>	
s. 570.....	am. No. 52, 1999; No. 89, 2006; No. 44, 2012; No 38, 2015

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<b>Provision affected</b>	<b>How affected</b>
s. 571 .....	am. No. 52, 1999; No. 45, 2005; No 103, 2010; 140, 2010 ( <u>Sch 1 items 54, 55</u> ); No. 23, 2011; <u>No 111, 2017</u> ; <u>No 31, 2018</u>
<b>Part 31A</b>	
Part 31A .....	ad. No. 119, 2005
s. 572A .....	ad. No. 119, 2005 am <u>No 111, 2017</u> ; <u>No 31, 2018</u>
s. 572B .....	ad. No. 119, 2005 am. No. 89, 2006; No. 8, 2010; No. 44, 2012; No 38, 2015; <u>No 111, 2017</u> ; <u>No 31, 2018</u>
s. 572C .....	ad. No. 119, 2005 am <u>No 111, 2017</u> ; <u>No 31, 2018</u>
<b>Part 31B</b>	
Part 31B.....	ad. No. 140, 2010
s. 572D .....	ad. No. 140, 2010
s. 572E.....	ad. No. 140, 2010 am. No. 23, 2011; No. 44, 2012; No 38, 2015
s. 572F .....	ad. No. 140, 2010
s. 572G .....	ad. No. 140, 2010
s. 572H .....	ad. No. 140, 2010
s. 572J.....	ad. No. 140, 2010
s. 572K .....	ad. No. 140, 2010
s. 572L.....	ad. No. 140, 2010
s. 572M.....	ad. No. 140, 2010 am No 126, 2015
s. 572N .....	ad. No. 140, 2010
<b>Part 32</b>	
s. 574 .....	am. No. 5, 2001
s. 574A .....	ad. No. 52, 1999 am. No. 130, 2003; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 576 .....	am. No. 5, 2001
<b>Part 33</b>	

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<b>Provision affected</b>	<b>How affected</b>
Part 33 .....	rep. No. 5, 2001 ad. No. 140, 2010
<b>Division 1</b>	
s. 577 .....	am. No. 52, 1999 rep. No. 5, 2001 ad. No. 140, 2010
<b>Division 2</b>	
<b>Subdivision A</b>	
s. 577A .....	ad. No. 140, 2010
s. 577AA .....	ad. No. 140, 2010
s. 577AB .....	ad. No. 140, 2010
s. 577AC .....	ad. No. 140, 2010
s. 577AD .....	ad. No. 140, 2010
s. 577B .....	ad. No. 140, 2010
s. 577BA .....	ad. No. 140, 2010 am. No. 23, 2011
<b>Subdivision B</b>	
s. 577BB .....	ad. No. 140, 2010
s. 577BC .....	ad. No. 140, 2010 am. No. 23, 2011
s. 577BD .....	ad. No. 140, 2010
s. 577BDA .....	ad. No. 140, 2010
s. 577BDB .....	ad. No. 140, 2010
s. 577BDC .....	ad. No. 140, 2010
s. 577BE .....	ad. No. 140, 2010
s. 577BF .....	ad. No. 140, 2010
<b>Division 3</b>	
s. 577C .....	ad. No. 140, 2010
s. 577CA .....	ad. No. 140, 2010
s. 577CB .....	ad. No. 140, 2010
s. 577CC .....	ad. No. 140, 2010

## Endnotes

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<b>Provision affected</b>	<b>How affected</b>
s. 577CD.....	ad. No. 140, 2010
s. 577D.....	ad. No. 140, 2010
<b>Division 4</b>	
s. 577E.....	ad. No. 140, 2010
s. 577EA.....	ad. No. 140, 2010
s. 577EB.....	ad. No. 140, 2010
s. 577EC.....	ad. No. 140, 2010
s. 577ED.....	ad. No. 140, 2010
s. 577F.....	ad. No. 140, 2010
<b>Division 5</b>	
s. 577G.....	ad. No. 140, 2010
<b>Division 6</b>	
s. 577GA.....	ad. No. 140, 2010
s. 577H.....	ad. No. 140, 2010
s. 577J.....	ad. No. 140, 2010
s. 577K.....	ad. No. 140, 2010
s. 577L.....	ad. No. 140, 2010
<b>Division 7</b>	
s. 577M.....	ad. No. 140, 2010
s. 577N.....	ad. No. 140, 2010
s. 577P.....	ad. No. 140, 2010
s. 577Q.....	ad. No. 140, 2010
s. 578.....	am. No. 52, 1999 rep. No. 5, 2001
<b>Part 34</b>	
Part 34 heading.....	rs. No. 35, 2004 am. No. 45, 2005 rs No 25, 2015
s. 579.....	am No 45, 2005; No 25, 2015; No 51, 2017
s. 580.....	am. No. 45, 2005



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<b>Provision affected</b>	<b>How affected</b>
s 581 .....	am No 35, 2004; No 45, 2005; No 25, 2015; No 51, 2017; <u>No 111, 2017</u> ; No 31, 2018
<b>Part 35</b>	
s. 582 .....	am. No. 52, 1999; No. 130, 2003; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 583 .....	am. No. 52, 1999; No. 44, 2012; No 38, 2015
s. 585 .....	am. No. 52, 1999; No. 130, 2003; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 586 .....	am. No. 52, 1999; No. 130, 2003; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 587 .....	am. No. 52, 1999; No. 130, 2003; No. 45, 2005; No. 89, 2006; No. 44, 2012; No 38, 2015
s. 588 .....	am. No. 52, 1999; No. 44, 2012; No 38, 2015
s. 589 .....	am. No. 140, 2002; No. 130, 2003; No. 89, 2006; No. 103, 2010; No. 44, 2012; No 10, 2015; No 38, 2015
s. 590 .....	am. No. 52, 1999
s. 591 .....	am. No. 52, 1999; No. 130, 2003; No. 89, 2006
s. 592 .....	am. No. 52, 1999; No. 130, 2003; No. 89, 2006; No. 44, 2012; No 38, 2015; No 59, 2015
<b>Schedule 1</b>	
<b>Part 1</b>	
c. 1 .....	am. No. 52, 1999; No. 177, 2007; No. 44, 2012; No 38, 2015
Part 2 .....	rep. No. 119, 2005
cc. 2, 3 .....	rep. No. 119, 2005
c. 4 .....	am. No. 200, 1997; No. 45, 2005 rep. No. 119, 2005
c. 5 .....	am. No. 140, 2002; No. 45, 2005 rep. No. 119, 2005
cc. 6, 7 .....	rep. No. 119, 2005
cc. 8, 9 .....	am. No. 200, 1997 rep. No. 119, 2005
c. 10 .....	rep. No. 119, 2005

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<b>Provision affected</b>	<b>How affected</b>
c. 11.....	rs. No. 200, 1997 rep. No. 119, 2005
cc. 12–15.....	rep. No. 119, 2005
<b>Part 3</b>	
c. 17.....	am. Nos. 103 and 140, 2010
c. 18.....	am. No. 140, 2010
c. 19.....	am No 103, 2013
<b>Part 4</b>	
c. 21.....	am. No. 140, 2002
c. 22.....	am. No. 140, 2002
c. 23.....	am. No. 140, 2002
c. 24.....	am. No. 140, 2002
c. 27A.....	ad. No. 52, 1999 am No 103, 2013
c. 28.....	am No 103, 2013
c. 29A.....	ad. No. 52, 1999 am No 103, 2013
<b>Part 5</b>	
c. 31.....	am. No. 140, 2010; No. 46, 2011
c. 33.....	am. No. 45, 2005; No. 140, 2010
c. 34.....	am. No. 45, 2005; No. 140, 2010
c. 35.....	am. No. 45, 2005; No. 140, 2010
c. 36.....	am. No. 140, 2010
c. 37.....	am No 103, 2013
<b>Part 7</b>	
Part 7.....	ad. No. 119, 2005
c. 44A.....	ad. No. 119, 2005
c. 45.....	ad. No. 119, 2005 am. No. 103, 2010; No. 23, 2011
c. 46.....	ad. No. 119, 2005
c. 47.....	ad. No. 119, 2005

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 103, 2010; No 126, 2015
Part 8 .....	ad. No. 119, 2005
	rep. No. 140, 2010
cc. 48, 49 .....	ad. No. 119, 2005
	rep. No. 140, 2010
c. 50 .....	ad. No. 119, 2005
	am. No. 103, 2010
	rep. No. 140, 2010
c. 50A .....	ad. No. 119, 2005
	am. No. 103, 2010
	rep. No. 140, 2010
cc. 50B, 50C .....	ad. No. 119, 2005
	rep. No. 140, 2010
c. 51 .....	ad. No. 119, 2005
	am. No. 8, 2010
	rep. No. 140, 2010
c. 52 .....	ad. No. 119, 2005
	rep. No. 140, 2010
c. 53 .....	ad. No. 119, 2005
	am. No. 8, 2010
	rep. No. 140, 2010
cc. 54–56 .....	ad. No. 119, 2005
	rep. No. 140, 2010
c. 56A .....	ad. No. 119, 2005
	rep. No. 140, 2010
cc. 57, 58 .....	ad. No. 119, 2005
	am. No. 8, 2010
	rep. No. 140, 2010
cc. 59–65 .....	ad. No. 119, 2005
	rep. No. 140, 2010
c. 66 .....	ad. No. 119, 2005

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 8, 2010
	rep. No. 140, 2010
<b>Part 9</b>	
Part 9 .....	ad. No. 140, 2010
<b>Division 1</b>	
c. 68.....	ad. No. 140, 2010
c. 69.....	ad. No. 140, 2010
c. 70.....	ad. No. 140, 2010
c. 71.....	ad. No. 140, 2010
c. 72.....	ad. No. 140, 2010
<b>Division 2</b>	
c. 73.....	ad. No. 140, 2010
c. 74.....	ad. No. 140, 2010
c. 75.....	ad. No. 140, 2010
c. 76.....	ad. No. 140, 2010
c. 77.....	ad. No. 140, 2010
c. 78.....	ad. No. 140, 2010
c. 79.....	ad. No. 140, 2010
c. 80.....	ad. No. 140, 2010
c. 81.....	ad. No. 140, 2010
c. 82.....	ad. No. 140, 2010
<b>Part 10</b>	
Part 10 .....	ad. No. 140, 2010
<b>Division 1</b>	
c. 83.....	ad. No. 140, 2010
<b>Division 2</b>	
c. 84.....	ad. No. 140, 2010
c. 85.....	ad. No. 140, 2010
<b>Division 3</b>	
c. 86.....	ad. No. 140, 2010
c. 87.....	ad. No. 140, 2010

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
c. 88.....	ad. No. 140, 2010
<b>Schedule 2</b>	
<b>Part 1</b>	
c. 1.....	am. No. 52, 1999; No. 177, 2007; No. 44, 2012; No 38, 2015
<b>Part 5</b>	
c. 13.....	am. No. 52, 1999; No. 45, 2005; No 103, 2013
c. 14.....	am. No. 45, 2005
c. 15.....	am. No. 155, 2000; No. 45, 2005; No 197, 2012
<b>Part 6</b>	
Part 6.....	ad. No. 140, 2010
c. 16.....	ad. No. 140, 2010
c. 17.....	ad. No. 140, 2010
c. 18.....	ad. No. 140, 2010
c. 19.....	ad. No. 140, 2010
c. 20.....	ad. No. 140, 2010
<b>Schedule 3</b>	
<b>Part 1</b>	
<b>Division 1</b>	
c. 2.....	am. No. 92, 1999; No. 104, 2005; Nos. 5 and 46, 2011
<b>Division 2</b>	
c. 5.....	am. No. 200, 1997
<b>Division 3</b>	
c. 6.....	am. No. 104, 2005; No 46, 2011; No 103, 2013; No 126, 2015
<b>Division 5</b>	
c. 12.....	am. No. 45, 2005
c. 15.....	am. No. 104, 2005; No 103, 2013
c. 17.....	am. No. 200, 1997; No. 92, 1999
c. 18.....	am. No. 200, 1997
c. 19.....	am. No. 200, 1997
<b>Division 6</b>	
c. 21.....	am. No. 45, 2005

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<b>Provision affected</b>	<b>How affected</b>
c. 22.....	am. No. 45, 2005
c. 23.....	am. No. 45, 2005
c. 25.....	am. No. 45, 2005
Note to c. 25(2).....	am. No. 45, 2005
c. 26.....	am. No. 45, 2005
c. 27.....	am. No. 200, 1997; No. 92, 1999; Nos. 86 and 114, 2003; No. 45, 2005; No. 103, 2010; No. 44, 2012; No 109, 2014; No 38, 2015
Note to c. 27(8).....	am. No. 46, 2011
c. 28.....	am. No. 92, 1999; No. 86, 2003; No. 45, 2005
c. 29.....	am. No. 45, 2005
c. 30.....	am. No. 52, 1999
c. 31.....	am. No. 45, 2005
c. 33.....	am. No. 45, 2005
c. 34.....	am. No. 45, 2005
c. 35.....	am. No. 45, 2005
<b>Division 8</b>	
c. 40.....	rep. No. 114, 2003
c. 41.....	am. No. 45, 2005
c. 44.....	am No 46, 2011; No 103, 2013; No 126, 2015
c. 46.....	am No 52, 1999; No 45, 2005; No 46, 2011; No 103, 2013; No 126, 2015
c. 48.....	am. No. 45, 2005
c. 49.....	rep No 103, 2013
c. 50.....	am. No. 45, 2005
c. 51.....	am. No. 45, 2005
c. 55.....	am. No. 119, 1998; No. 92, 1999; No. 45, 2005 rep No 109, 2014
<b>Part 2</b>	
cc. 56–59.....	rep. No. 45, 2005
<b>Part 3</b>	
Part 3.....	ad. No. 104, 2005

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<b>Provision affected</b>	<b>How affected</b>
c. 62.....	ad. No. 104, 2005
c. 63.....	ad. No. 104, 2005
<b>Schedule 3A</b>	
Schedule 3A .....	ad. No. 104, 2005
<b>Part 1</b>	
c. 1.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c. 2.....	ad. No. 104, 2005 am. No. 104, 2005; No. 46, 2011; No 33, 2014
c. 2A.....	ad No 33, 2014
c. 2B.....	ad No 33, 2014
<b>Part 2</b>	
<b>Division 1</b>	
c. 3.....	ad. No. 104, 2005 am. No. 104, 2005
<b>Division 2</b>	
<b>Subdivision A</b>	
Heading to c. 4.....	am. No. 104, 2005
c. 4.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
Note to c. 4(2).....	am. No. 104, 2005
Heading to c. 5.....	am. No. 104, 2005
c. 5.....	ad. No. 104, 2005 am. No. 104, 2005
Subheads. to c. 6(1), (2).....	am. No. 104, 2005
c. 6.....	ad. No. 104, 2005 am. No. 104, 2005
Subhead to c. 7(2).....	rs No 33, 2014
c. 7.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c. 8.....	ad. No. 104, 2005

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<b>Provision affected</b>	<b>How affected</b>
c. 9.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c. 10.....	ad. No. 104, 2005 am No 33, 2014
c. 11.....	ad. No. 104, 2005 am No 33, 2014
c. 12.....	ad. No. 104, 2005 am. No. 104, 2005
c. 13.....	ad. No. 104, 2005 am. No. 104, 2005
c. 14.....	ad. No. 104, 2005 am. No. 104, 2005
<b>Subdivision B</b>	
Heading to c. 15.....	am. No. 104, 2005
c. 15.....	ad. No. 104, 2005 am. No. 104, 2005
Heading to c. 16.....	am. No. 104, 2005
c. 16.....	ad. No. 104, 2005 am. No. 104, 2005
Heading to c. 17.....	am. No. 104, 2005 rs No 33, 2014
c. 17.....	ad. No. 104, 2005 am. No. 104, 2005; No. 8, 2010 rs No 33, 2014
c 17A.....	ad No 33, 2014
c. 18.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c. 19.....	ad. No. 104, 2005 am. No. 104, 2005
Heading to c. 20.....	am. No. 104, 2005
c. 20.....	ad. No. 104, 2005

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am. No. 104, 2005
c. 21.....	ad. No. 104, 2005
	am. No. 104, 2005; No 33, 2014
c. 22.....	ad. No. 104, 2005
	am. No. 104, 2005
<b>Division 3</b>	
<b>Subdivision A</b>	
Heading to c. 23.....	am. No. 104, 2005
c. 23.....	ad. No. 104, 2005
	am. No. 104, 2005
Notes to c. 23(1), (2).....	am. No. 104, 2005
Heading to c. 24.....	am. No. 104, 2005
c. 24.....	ad. No. 104, 2005
	am. No. 104, 2005
Heading to c. 25.....	am. No. 104, 2005
c. 25.....	ad. No. 104, 2005
	am. No. 104, 2005
Subheads. to c. 26(1), (2).....	am. No. 104, 2005
c. 26.....	ad. No. 104, 2005
	am. No. 104, 2005
c. 27.....	ad. No. 104, 2005
	am. No. 104, 2005
c. 28.....	ad. No. 104, 2005
	am. No. 104, 2005
c. 29.....	ad. No. 104, 2005
<b>Subdivision B</b>	
Heading to c. 30.....	am. No. 104, 2005
c. 30.....	ad. No. 104, 2005
	am. No. 104, 2005
Heading to c. 31.....	am. No. 104, 2005
c. 31.....	ad. No. 104, 2005

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 104, 2005
Heading to c. 32.....	am. No. 104, 2005
	rs No 33, 2014
c. 32.....	ad. No. 104, 2005
	am. No. 104, 2005; No. 8, 2010
	rs No 33, 2014
c 32A.....	ad No 33, 2014
c. 33.....	ad. No. 104, 2005
	am. No. 104, 2005
Heading to c. 34.....	am. No. 104, 2005
c. 34.....	ad. No. 104, 2005
	am. No. 104, 2005
c. 35.....	ad. No. 104, 2005
	am. No. 104, 2005
<b>Division 4</b>	
<b>Subdivision A</b>	
c. 36.....	ad. No. 104, 2005
	am No 33, 2014
Note to c 36(2).....	am No 33, 2014
c. 37.....	ad. No. 104, 2005
	am No 33, 2014
Note to c 37(2).....	am No 33, 2014
c. 38.....	ad. No. 104, 2005
	am No 33, 2014
c. 39.....	ad. No. 104, 2005
Note to c 39(2).....	am No 33, 2014
<b>Subdivision B</b>	
c. 40.....	ad. No. 104, 2005
c. 41.....	ad. No. 104, 2005
c. 42.....	ad. No. 104, 2005
c. 43.....	ad. No. 104, 2005

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<b>Provision affected</b>	<b>How affected</b>
c. 44.....	ad. No. 104, 2005
Note to c 44(2).....	am No 33, 2014
<b>Subdivision C</b>	
Sdiv C of Div 4 of Pt 2 .....	ad No 33, 2014
c 44A .....	ad No 33, 2014
<b>Division 5</b>	
c. 45.....	ad. No. 104, 2005
c. 46.....	ad. No. 104, 2005
c. 47.....	ad. No. 104, 2005
	am. No. 104, 2005; No 33, 2014; No 41, 2015; No. 117, 2017
c. 48.....	ad. No. 104, 2005
	am. No. 104, 2005
c. 49.....	ad. No. 104, 2005
	am. No. 104, 2005
<b>Part 3</b>	
<b>Division 1</b>	
c. 50.....	ad. No. 104, 2005
	am. No. 104, 2005; No 33, 2014
<b>Division 2</b>	
c. 51.....	ad. No. 104, 2005
	am. No. 104, 2005
	rs No 33, 2014
c. 52.....	ad. No. 104, 2005
	am. No. 104, 2005; No 33, 2014
c. 53.....	ad. No. 104, 2005
	am. No. 104, 2005
c. 54.....	ad. No. 104, 2005
c 54A.....	ad No 33, 2014
c. 55.....	ad. No. 104, 2005
	am. No. 104, 2005
c 55A.....	ad No 33, 2014

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<b>Provision affected</b>	<b>How affected</b>
	am No 31, 2018
c. 56.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c. 57.....	ad. No. 104, 2005 am. No. 104, 2005 rs No 33, 2014 am No 31, 2018
c 57A.....	ad No 33, 2014 am No 31, 2018
c. 58.....	ad. No. 104, 2005 am. No. 104, 2005 rs No 33, 2014 am No 31, 2018
c 58A.....	ad No 33, 2014
c. 59.....	ad. No. 104, 2005
c. 60.....	ad. No. 104, 2005 am. No. 104, 2005
c. 61.....	ad. No. 104, 2005 am. No. 104, 2005
c. 62.....	ad. No. 104, 2005 am. No. 104, 2005
c. 63.....	ad. No. 104, 2005
<b>Division 3</b>	
c. 64.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c. 65.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c. 66.....	ad. No. 104, 2005 am. No. 104, 2005
c. 67.....	ad. No. 104, 2005
c 67A.....	ad No 33, 2014

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<b>Provision affected</b>	<b>How affected</b>
c. 68.....	ad. No. 104, 2005 am. No. 104, 2005
c. 69.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
Heading to c. 70.....	am. No. 104, 2005
c. 70.....	ad. No. 104, 2005 am. No. 104, 2005 rs No 33, 2014 am No 31, 2018
Heading to c. 71.....	am. No. 104, 2005 rs No 33, 2014
c. 71.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014; No 31, 2018
c. 72.....	ad. No. 104, 2005 am. No. 104, 2005 rep No 33, 2014
c 72A.....	ad No 33, 2014 am No 31, 2018
c. 73.....	ad. No. 104, 2005 am. No. 104, 2005 rs No 33, 2014 am No 31, 2018
c 73A.....	ad No 33, 2014
c. 74.....	ad. No. 104, 2005
c. 75.....	ad. No. 104, 2005 am. No. 104, 2005
c. 76.....	ad. No. 104, 2005 am. No. 104, 2005
c. 77.....	ad. No. 104, 2005 am. No. 104, 2005

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<b>Provision affected</b>	<b>How affected</b>
c. 78.....	ad. No. 104, 2005 am No 33, 2014
c. 70.....	ad. No. 104, 2005
c. 80.....	ad. No. 104, 2005
c. 81.....	ad. No. 104, 2005 am. No. 104, 2005
c. 82.....	ad. No. 104, 2005
c. 83.....	ad. No. 104, 2005
c 83A.....	ad No 33, 2014
<b>Division 5</b>	
hdg to c 84.....	rs No 33, 2014
c. 84.....	ad. No. 104, 2005 am No 33, 2014
c 84A.....	ad No 33, 2014
c. 85.....	ad. No. 104, 2005 am No 33, 2014
Heading to c. 86.....	am. No. 104, 2005 rs No 33, 2014
c. 86.....	ad. No. 104, 2005 am. No. 104, 2005; No 33, 2014
c 86A.....	ad No 33, 2014
<b>Part 4</b>	
c. 87.....	ad. No. 104, 2005
c. 88.....	ad. No. 104, 2005
<b>Part 5</b>	
c. 89.....	ad. No. 104, 2005 am. No. 104, 2005 rs No 33, 2014
c 90.....	ad No 31, 2018
<b>Schedule 4</b>	
Schedule 4 heading.....	am No 45, 2005

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Provision affected	How affected
<b>Part 1</b>	
Part 1 heading.....	am No 45, 2005
c. 1.....	am. No. 52, 1999; No. 142, 2000; No. 140, 2002; No. 35, 2004; No 45, 2005; No. 104, 2005; No. 155, 2006; No. 44, 2012; No 33 and 109, 2014; No 38, 2015; No 145, 2015