



# **Telecommunications (Consumer Protection and Service Standards) Act 1999**

**No. 50, 1999**

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## About this compilation

### This compilation

This is a compilation of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* that shows the text of the law as amended and in force on 1 June 2024 (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 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 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 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# An Act about telecommunications, and for related purposes

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

### 2 Commencement

This Act commences on the 28th day after the day on which it receives the Royal Assent.

### 3 Objects and regulatory policy

The following provisions of the *Telecommunications Act 1997* apply to this Act in a corresponding way to the way in which they apply to that Act:

- (a) section 3 (objects);
- (b) section 4 (regulatory policy).

### 4 Simplified outline

The following is a simplified outline of this Act:

- A universal service regime is established. The main object of the universal service regime is to ensure that all people in Australia, wherever they reside or carry on business, should have reasonable access, on an equitable basis, to:
  - (a) standard telephone services; and
  - (b) payphones.

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- The universal service regime established by this Act is to be phased out and replaced by alternative contractual arrangements.
- The Secretary is responsible for entering into contracts, and making grants, to support the provision of public interest telecommunications services.
- Public interest telecommunication services include:
  - (a) standard telephone services; and
  - (b) payphones; and
  - (c) emergency call services; and
  - (d) the National Relay Service.
- The ACMA will assess and collect the levy imposed on carriers by the *Telecommunications (Industry Levy) Act 2012*.
- The proceeds of the levy will be used to:
  - (a) pay contractors and grant recipients; and
  - (b) pay eligible administrative costs.
- The Secretary is responsible for entering into contracts, and making grants, relating to:
  - (a) fixed wireless broadband; and
  - (b) satellite broadband.
- The ACMA will assess and collect the charge imposed on carriers by the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.
- The proceeds of the charge will be used to:
  - (a) pay contractors and grant recipients; and
  - (b) offset designated administrative costs.
- Local calls are to be charged for on an untimed basis.

- The ACMA may make performance standards to be complied with by carriage service providers in relation to customer service.
- Certain carriers and carriage service providers must enter into the Telecommunications Industry Ombudsman scheme.
- The ACMA may impose requirements on carriers, carriage service providers and certain other persons in relation to emergency call services.
- Designated Telstra successor companies are subject to price control arrangements.

## 5 Definitions

- (1) Unless the contrary intention appears, expressions used in this Act and in the *Telecommunications Act 1997* have the same meaning in this Act as they have in that Act.

- (2) In this Act:

***Appropriation Act*** means an Act appropriating money for expenditure out of the Consolidated Revenue Fund in relation to a particular financial year.

***data call*** has the meaning generally accepted within the telecommunications industry.

***eligible administrative costs*** of the Commonwealth means:

- (a) remuneration, and other employment-related costs and expenses, in respect of APS employees whose duties relate to the performance of the Secretary's functions, or the exercise of the Secretary's powers, under Division 3 of Part 2; or
- (b) any other costs, expenses and other obligations incurred by the Commonwealth in connection with the performance of the Secretary's functions, or the exercise of the Secretary's powers, under Division 3 of Part 2;

but does not include:

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- (c) amounts incurred under contracts made under section 14; and
- (d) amounts incurred by way of grants made under section 14.

**eligible levy period** means:

- (a) the 2014-15 financial year; or
- (b) a later financial year.

**eligible revenue** for an eligible levy period has the meaning given by section 45.

**eligible revenue period** means:

- (a) the 2013-14 financial year; or
- (b) a later financial year.

**eligible revenue return** means a return under section 43.

**engage in conduct** means:

- (a) do an act; or
- (b) omit to perform an act.

**levy** means levy imposed by section 4C of the *Telecommunications (Industry Levy) Act 2012*.

**levy amount** has the meaning given by section 50.

**levy contribution factor** has the meaning given by section 49.

**national broadband network** has the same meaning as in the *National Broadband Network Companies Act 2011*.

**National Relay Service** means a service that provides persons who:

- (a) are deaf; or
- (b) have a hearing and/or speech impairment;

with access to a standard telephone service on terms, and in circumstances, that are comparable to those on which other Australians have access to a standard telephone service.

**NBN Co** has the same meaning as in the *National Broadband Network Companies Act 2011*.



**overall levy target amount** has the meaning given by section 41.

**participating person** for an eligible revenue period has the meaning given by section 44.

**payphone carriage service** means a carriage service supplied by means of a payphone.

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

**primary universal service provider** has the meaning given by section 12A.

**Public Interest Telecommunications Services Special Account** means the Public Interest Telecommunications Services Special Account established by section 37.

**RTIRC** means the Regional Telecommunications Independent Review Committee established by section 158R.

**RTIRC Chair** means the Chair of the Regional Telecommunications Independent Review Committee.

**RTIRC member** means a member of the Regional Telecommunications Independent Review Committee, and includes the RTIRC Chair.

**Secretary** means the Secretary of the Department.

**service obligation** has the meaning given by section 9B.

**SMS relay service** means a service that allows users of the National Relay Service to communicate using SMS.

Note: **SMS** is short for short message service.

**standard telephone service** has the meaning given by section 6.

**Telecommunications Industry Ombudsman** means the Telecommunications Industry Ombudsman appointed under the Telecommunications Industry Ombudsman scheme.

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**Telecommunications Industry Ombudsman scheme** means the scheme referred to in section 128.

**this Act** includes the regulations.

**universal service obligation** has the meaning given by section 9.

**universal service provider** means a primary universal service provider.

**video relay service** means a service that allows persons who:

- (a) are deaf: or
  - (b) have a hearing and/or speech impairment;
- to communicate with other persons using video as well as voice.

### 6 Standard telephone service

- (1) A reference in a particular provision of this Act to a **standard telephone service** is a reference to a carriage service for each of the following purposes:

- (a) the purpose of voice telephony;
- (b) if:
  - (i) voice telephony is not practical for a particular end-user with a disability (for example, because the user is deaf or has a hearing and/or speech impairment); and
  - (ii) another form of communication that is equivalent to voice telephony (for example, communication by means of a device that enables text-based communication) would be required to be supplied to the end-user in order to comply with the *Disability Discrimination Act 1992*;

the purpose of that form of communication;

- (c) a purpose declared by the regulations to be a designated purpose for the purposes of that provision;

where:

- (d) the service passes the connectivity test set out in subsection (2); and

- (e) to the extent that the service is for the purpose referred to in paragraph (a)—the service has the characteristics (if any) declared by the regulations to be the designated characteristics in relation to that service for the purposes of that provision; and
  - (f) to the extent that the service is for the purpose referred to in paragraph (b)—the service has the characteristics (if any) declared by the regulations to be the designated characteristics in relation to that service for the purposes of that provision; and
  - (g) to the extent that the service is for a particular purpose referred to in paragraph (c)—the service has the characteristics (if any) declared by the regulations to be the designated characteristics in relation to that service for the purposes of that provision.
- (2) A service passes the connectivity test if an end-user supplied with the service for a purpose mentioned in paragraph (1)(a), (b) or (c) is ordinarily able to communicate, by means of the service, with each other end-user who is supplied with the same service for the same purpose, whether or not the end-users are connected to the same telecommunications network.
- (3) The following are examples of purposes that could be declared by regulations made for the purposes of paragraph (1)(c):
- (a) the purpose of the carriage of data;
  - (b) the purpose of tone signalling.
- (4) In making a recommendation to the Governor-General at a particular time about the making of regulations for the purposes of paragraph (1)(c), the Minister must have regard to the following matters:
- (a) whether a carriage service for the purpose proposed to be declared by the regulations can be supplied using the same infrastructure as is, at that time, being used by universal service providers, contractors or grant recipients to supply a standard telephone service for the purpose referred to in paragraph (1)(a);

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- (b) such other matters (if any) as the Minister considers relevant.
- (5) This section does not prevent a characteristic declared by regulations made for the purposes of paragraph (1)(e), (f) or (g) from being a performance characteristic.
- (6) In this section:  
*this Act* includes the *Telecommunications Act 1997*.

**7 Application of this Act**

The following provisions of the *Telecommunications Act 1997* apply to this Act in a corresponding way to the way in which they apply to that Act:

- (a) section 8 (Crown to be bound);
- (b) section 9 (extra-territorial application);
- (c) section 10 (extension to external Territories);
- (d) section 11 (extension to offshore areas);
- (e) section 12 (Act subject to Radiocommunications Act);
- (f) section 13 (continuity of partnerships).

**7A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* (except for Part 2.5) applies to all offences against this Act.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For criminal liability of corporations under this Act, see sections 574A and 575 of the *Telecommunications Act 1997*.

## **Part 2—Public interest telecommunications services**

### **Division 1—Introduction**

#### **8 Simplified outline of this Part**

- This Part establishes a universal service regime.
- The main object of the universal service regime is to ensure that all people in Australia, wherever they reside or carry on business, should have reasonable access, on an equitable basis, to:
  - (a) standard telephone services; and
  - (b) payphones.
- The universal service regime is to be phased out and replaced by alternative contractual arrangements.
- The Secretary is responsible for entering into contracts, and making grants, to support the provision of public interest telecommunications services.
- Public interest telecommunication services include:
  - (a) standard telephone services; and
  - (b) payphones; and
  - (c) emergency call services; and
  - (d) the National Relay Service.
- The Secretary will monitor the performance of contractors and grant recipients.
- The ACMA will assess and collect the levy imposed on carriers by the *Telecommunications (Industry Levy) Act 2012*.

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- The proceeds of the levy will be used to:
  - (a) pay contractors and grant recipients; and
  - (b) pay eligible administrative costs.

## 8A Definitions

In this Part:

*contractor* has the meaning given by section 14.

*general Australian service area* means the service area consisting of Australia.

*grant recipient* has the meaning given by section 14.

*service area* has the meaning given by section 8C.

## 8BA Special meaning of *standard telephone service*

- (1) A reference in this Part to a *standard telephone service* is a reference to a *standard telephone service* (within the meaning of section 6) that has the characteristics (if any) specified in a determination under subsection (2).
- (2) The Minister may, by legislative instrument, determine specified characteristics for the purposes of subsection (1).

## 8C Meaning of *service area*

For the purposes of this Part, a *service area* is:

- (a) a geographical area within Australia; or
- (b) any area of land; or

(c) any premises or part of premises;  
regardless of size.

## **8J Declaration about alternative contractual arrangements relating to standard telephone services**

### *Initial declaration*

- (1) During the period of 24 months that began at the commencement of this section, the Minister must make either of the following declarations:
- (a) a declaration that, in his or her opinion, there are satisfactory alternative contractual arrangements relating to standard telephone services;
  - (b) a declaration that the 24-month period starting immediately after the declaration is made is the ***declaration deferral period*** for the purposes of this section.
- (2) If:
- (a) a declaration is made under paragraph (1)(a) or (b); and
  - (b) the declaration is not in force as at the later of the following times:
    - (i) the end of the period of 26 months that began at the commencement of this section;
    - (ii) the start of the day immediately after the last day on which a resolution referred to in subsection 42(1) of the *Legislation Act 2003* disallowing the declaration could be passed;

the 24-month period starting immediately after the declaration was made is the ***declaration deferral period*** for the purposes of this section.

### *Subsequent declarations*

- (3) Before the end of the declaration deferral period, the Minister must make either of the following declarations:

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- (a) a declaration that, in his or her opinion, there are satisfactory alternative contractual arrangements relating to standard telephone services;
- (b) a declaration that, in his or her opinion, there are not satisfactory alternative contractual arrangements relating to standard telephone services.

*Criteria for making declaration*

- (4) The Minister must not make a declaration under paragraph (1)(a) or (3)(a) unless:
  - (a) Telstra has entered into a contract under section 14; and
  - (b) the contract was entered into for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(a); and
  - (c) the contract is in force; and
  - (d) neither party to the contract has given notice of termination of the contract; and
  - (e) the Minister is satisfied that Telstra is likely to substantially comply with the contract, having regard to:
    - (i) Telstra's record of compliance with its obligations under the contract; and
    - (ii) the nature of Telstra's obligations under the contract; and
    - (iii) Telstra's record of compliance with its obligations under this Part, to the extent that the obligations relate to the service obligation mentioned in paragraph 9(1)(a); and
    - (iv) Telstra's record of compliance with its obligations under Part 5; and
    - (v) such other matters (if any) as the Minister considers relevant; and
  - (f) the Minister has obtained advice from:
    - (i) the ACMA; and
    - (ii) the Secretary;about the making of the declaration.



- (5) Subparagraphs (4)(e)(iii) and (iv) do not apply to an act, omission, matter or thing that occurs before the commencement of this section.
- (6) Subsection (4) does not limit the matters to which the Minister may have regard in making a declaration under this section.

*Declarations*

- (7) A declaration under this section cannot be varied or revoked.
- (8) A declaration under this section is a legislative instrument.

**8K Declaration about alternative contractual arrangements relating to payphones**

*Initial declaration*

- (1) During the period of 24 months that began at the commencement of this section, the Minister must make either of the following declarations:
  - (a) a declaration that, in his or her opinion, there are satisfactory alternative contractual arrangements relating to payphones;
  - (b) a declaration that the 24-month period starting immediately after the declaration is made is the ***declaration deferral period*** for the purposes of this section.
- (2) If:
  - (a) a declaration is made under paragraph (1)(a) or (b); and
  - (b) the declaration is not in force as at the later of the following times:
    - (i) the end of the period of 26 months that began at the commencement of this section;
    - (ii) the start of the day immediately after the last day on which a resolution referred to in subsection 42(1) of the *Legislation Act 2003* disallowing the declaration could be passed;

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the 24-month period starting immediately after the declaration was made is the *declaration deferral period* for the purposes of this section.

*Subsequent declarations*

- (3) Before the end of the declaration deferral period, the Minister must make either of the following declarations:
- (a) a declaration that, in his or her opinion, there are satisfactory alternative contractual arrangements relating to payphones;
  - (b) a declaration that, in his or her opinion, there are not satisfactory alternative contractual arrangements relating to payphones.

*Criteria for making declaration*

- (4) The Minister must not make a declaration under paragraph (1)(a) or (3)(a) unless:
- (a) Telstra has entered into a contract under section 14; and
  - (b) the contract was entered into for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(b); and
  - (c) the contract is in force; and
  - (d) neither party to the contract has given notice of termination of the contract; and
  - (e) the Minister is satisfied that Telstra is likely to substantially comply with the contract, having regard to:
    - (i) Telstra's record of compliance with its obligations under the contract; and
    - (ii) the nature of Telstra's obligations under the contract; and
    - (iii) Telstra's record of compliance with its obligations under this Part, to the extent that the obligations relate to the service obligation mentioned in paragraph 9(1)(b); and
    - (iv) such other matters (if any) as the Minister considers relevant; and

- (f) the Minister has obtained advice from:
  - (i) the ACMA; and
  - (ii) the Secretary;about the making of the declaration.
- (5) Subparagraph (4)(e)(iii) does not apply to an act, omission, matter or thing that occurs before the commencement of this section.
- (6) Subsection (4) does not limit the matters to which the Minister may have regard in making a declaration under this section.

*Declarations*

- (7) A declaration under this section cannot be varied or revoked.
- (8) A declaration under this section is a legislative instrument.

## Division 2—Universal service obligation

### Subdivision A—What is the universal service obligation?

#### 9 Universal service obligation

(1) For the purposes of this Act, the *universal service obligation* is the obligation:

- (a) to ensure that standard telephone services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business; and
- (b) to ensure that payphones are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business.

(2) The obligation mentioned in paragraph (1)(a) includes the obligation to supply standard telephone services to people in Australia on request.

(2A) The obligation mentioned in paragraph (1)(b) includes the obligation to supply, install and maintain payphones in Australia.

(2AAA) If:

- (a) the Minister makes a declaration under section 8J that, in the Minister's opinion, there are satisfactory alternative contractual arrangements relating to standard telephone services; and
- (b) neither House of the Parliament passes a resolution under section 42 of the *Legislation Act 2003* disallowing the declaration;

an obligation does not arise under paragraph (1)(a) or subsection (2) of this section after the last day on which such a resolution could have been passed by a House of the Parliament.

(2AA) If:

- (a) the Minister makes a declaration under section 8K that, in the Minister's opinion, there are satisfactory alternative contractual arrangements relating to payphones; and
  - (b) neither House of the Parliament passes a resolution under section 42 of the *Legislation Act 2003* disallowing the declaration;
- an obligation does not arise under paragraph (1)(b) or subsection (2A) of this section after the last day on which such a resolution could have been passed by a House of the Parliament.
- (2C) An obligation does not arise under paragraph (1)(a) or subsection (2) in relation to the supply of a standard telephone service to a person on request unless the request complies with the requirements (if any) set out in a determination under subsection (2D).
  - (2D) The Minister may, by legislative instrument, determine requirements for the purposes of subsection (2C).
  - (2E) An obligation does not arise under paragraph (1)(a) or subsection (2) in relation to the supply of a standard telephone service in the circumstances (if any) specified in a determination under subsection (3).
  - (3) The Minister may, by legislative instrument, determine circumstances for the purposes of subsection (2E).
  - (4) An obligation does not arise under paragraph (1)(a) or subsection (2) in relation to particular equipment, goods or services the supply of which is treated under section 9E as the supply of a standard telephone service if the customer concerned requests not to be supplied with the equipment, goods or services.
  - (6) To avoid doubt, an obligation arising under paragraph (1)(a) or subsection (2) in relation to customer equipment requires the customer concerned to be given the option of hiring the equipment.

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**9B What is a *service obligation*?**

- (1) Unless the Minister makes a determination under subsection (2), each of the following is a ***service obligation***:
  - (a) the obligation referred to in paragraph 9(1)(a) (dealing with the standard telephone services);
  - (b) the obligation referred to in paragraph 9(1)(b) (dealing with payphones).
- (2) The Minister may, by legislative instrument, determine the ***service obligations*** by dividing the universal service obligation in another way.
- (3) The determination must also specify, in respect of each service obligation, what must be supplied or done in order to fulfil the service obligation.

**9C Payphones**

For the purposes of this Part, a ***payphone*** is a fixed telephone that:

- (a) is a means by which a standard telephone service is supplied; and
- (b) when in normal working order, cannot be used to make a telephone call (other than a free call or a call made with operator assistance) unless, as payment for the call, or to enable payment for the call to be collected:
  - (i) money, or a token, card or other object, has been put into a device that forms part of, is attached to, or is located near, the telephone; or
  - (ii) an identification number, or a code or other information (in numerical or any other form) has been input into a device that forms part of, is attached to, or is located near, the telephone; or
  - (iii) a prescribed act has been done.

## 9E Supply of standard telephone services

- (1) A reference in this Part to the *supply* of a standard telephone service includes a reference to the supply of:
- (a) if the regulations prescribe customer equipment for the purposes of this paragraph—whichever of the following is applicable:
    - (i) that customer equipment;
    - (ii) if other customer equipment is supplied, instead of the first-mentioned customer equipment, in order to comply with the *Disability Discrimination Act 1992*—that other customer equipment; and
  - (b) if paragraph (a) does not apply—whichever of the following is applicable:
    - (i) a telephone handset that does not have switching functions;
    - (ii) if other customer equipment is supplied, instead of such a handset, in order to comply with the *Disability Discrimination Act 1992*—that other customer equipment; and
  - (c) other goods of a kind specified in the regulations; and
  - (d) services of a kind specified in the regulations;
- where the equipment, goods or services, as the case may be, are for use in connection with the standard telephone service.
- (2) A reference in this Part to the *supply* of a standard telephone service includes a reference to the supply, to a person with a disability, of:
- (a) customer equipment of a kind specified in the regulations; and
  - (b) other goods of a kind specified in the regulations; and
  - (c) services of a kind specified in the regulations;
- where the equipment, goods or services, as the case may be, are for use in connection with the standard telephone service.
- (3) For the purposes of this section, *supply*, in relation to customer equipment or other goods, includes supply by way of hire.

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- (4) For the purposes of this section, *disability* has the same meaning as in the *Disability Discrimination Act 1992*.

**Subdivision B—Primary universal service provider**

**12A Determination of primary universal service providers**

- (1) The Minister may determine in writing that a specified carrier or carriage service provider is the *primary universal service provider* for a service area in respect of a service obligation.
- (2) The Minister may determine under subsection (1):
- (a) different primary universal service providers in respect of different service obligations for the same service area; and
  - (b) the same person as the primary universal service provider for one or more service areas in respect of one or more service obligations.
- (2A) The Minister may determine, in writing, that each of 2 or more specified persons is a *primary universal service provider* in respect of a service obligation.
- (2B) The Minister must not specify a person in a determination under subsection (2A) unless the person is a carrier or carriage service provider.
- (2C) The Minister may determine under subsection (2A):
- (a) different primary universal service providers in respect of different service obligations; and
  - (b) the same person as a primary universal service provider in respect of one or more service obligations.
- (2D) The Minister must not make a determination under subsection (1) in respect of a service obligation if a determination in respect of that service obligation is in force under subsection (2A).
- (2E) The Minister must not make a determination under subsection (2A) in respect of a service obligation if a determination in respect of that service obligation is in force under subsection (1).



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- (3) In exercising the Minister's powers under this section in relation to a service obligation, the Minister must ensure that at all times each point in Australia is within a service area for which there is at least one primary universal service provider in respect of that service obligation.
- (4) In deciding whether to make a determination that a person is a primary universal service provider, the Minister is limited to considering factors that are relevant to achieving the objects of this Act.
- (5) The Minister must give to the person and to the ACMA a copy of the determination.
- (6) A determination under this section is a legislative instrument.

Note: A determination that the Minister is taken to have made under this section because of section 12D is not a legislative instrument (see subsection 12D(2)).

**12B Effect of determination**

- (1) A determination under section 12A takes effect on the day specified in the determination.
- (2) If such a determination is expressed to cease to have effect at a specified time, the determination ceases to have effect at that time.
- (3) A variation or revocation of a determination under section 12A takes effect on the day specified for the purpose in the instrument of variation or revocation.
- (4) If the Minister revokes a determination under section 12A, the Minister may determine in writing arrangements to deal with any issues of a transitional nature that may arise as a result of the revocation.

**12C Obligations of primary universal service providers**

- (1) If there is only one primary universal service provider for a service area in respect of a service obligation, that service obligation, so

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far as it relates to that area, is imposed on that primary universal service provider.

- (2) If there are 2 or more primary universal service providers for a service area in respect of a service obligation:
  - (a) that obligation, so far as it relates to that area, is imposed on each of those primary universal service providers, but may be discharged by any of those primary universal service providers; and
  - (b) if the service obligation, so far as it relates to that area, is complied with by any of those primary universal service providers—the obligation, so far as it relates to that area, is taken to have been complied with by the other primary universal service provider or providers.

**12D When Telstra Limited is taken to be a primary universal service provider**

- (1) The Minister is taken to have made a determination under subsection 12A(1) that Telstra Limited is the primary universal service provider for so much of the general Australian service area as is not a special determined area in relation to that service obligation in respect of that service obligation.
- (2) Despite subsection 12A(6), the determination that the Minister is taken to have made is not a legislative instrument.
- (3) Subsection (1) does not apply to Telstra Limited unless Telstra Limited is a carrier or carriage service provider.
- (4) The following provisions have effect:
  - (a) subsection (1) does not prevent the Minister from making a determination under subsection 12A(1) that a person (other than Telstra Limited) is the primary universal service provider for a service area in respect of a service obligation;
  - (b) if such a determination is in force—that area is a *special determined area* in relation to that service obligation.
- (5) The following provisions have effect:

- (a) subsection (1) does not prevent the Minister from making a determination under subsection 12A(2A) that each of 2 or more persons is a primary universal service provider for a service area in respect of a service obligation;
  - (b) if such a determination is in force—that area is a *special determined area* in relation to that service obligation.
- (6) The following provisions have effect:
- (a) subsection (1) does not prevent the Minister from making a determination under subsection 12A(1) that a person (other than Telstra Limited) is the primary universal service provider for the general Australian service area in respect of a service obligation;
  - (b) if such a determination is in force—subsection (1) does not apply to that service obligation.
- (7) The following provisions have effect:
- (a) subsection (1) does not prevent the Minister from making a determination under subsection 12A(2A) that each of 2 or more persons is a primary universal service provider for the general Australian service area in respect of a service obligation;
  - (b) if such a determination is in force—subsection (1) does not apply to that service obligation.

## **12E Former universal service provider may be required to provide information to current universal service provider**

### *Scope*

- (1) This section applies if:
- (a) the Minister determines under section 12A that a carrier or carriage service provider (the *current provider*) is a primary universal service provider for a service area in respect of a service obligation; and
  - (b) another person, who is or was a universal service provider for the service area in respect of the obligation, is determined to be a former provider under subsection (4).

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- (2) This section also applies if:
- (a) either:
    - (i) the Minister revokes or varies a determination under section 12A so that a person (the *former provider*) ceases to be a universal service provider for a service area in respect of a service obligation; or
    - (ii) a person (the *former provider*) otherwise ceases to be a universal service provider for a service area in respect of a service obligation; and
  - (b) another person (the *current provider*), who was also a universal service provider in respect of the service obligation, continues to be a universal service provider for the service area in respect of that obligation:
    - (i) if subparagraph (a)(i) applies—after the revocation or variation; or
    - (ii) if subparagraph (a)(ii) applies—after the cessation.
- (3) Subsections (1) and (2) can apply before the determination, revocation or variation under section 12A takes effect.

*Former provider*

- (4) The Minister may determine in writing that a person is a former provider for the purposes of this section.

*Requirement to give information*

- (5) The current provider may, by written notice given to the former provider, require the former provider to give to the current provider specified information of the kind referred to in subsection (6). A notice of this kind cannot be given more than 6 months after:
- (a) if subsection (1) applies—the later of the following days:
    - (i) the day on which the current provider became a universal service provider;
    - (ii) the day on which the determination under section 12A was made in respect of the current provider; or

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- (b) if subsection (2) applies—the day on which the former provider ceases to be a universal service provider.
- (6) The information that may be required to be given must be information that will assist the current provider in doing something that the current provider is or will be required or permitted to do by or under a provision of this Part. The notice must identify the doing of that thing as the purpose for which the information is required.
- Note 1: If, for example, information about service location and customer contact details will assist the current provider in fulfilling its obligation under section 12C, the former provider may be required to provide that kind of information.
- Note 2: See also subsection (8), which allows the Minister to determine that a specified kind of information is information referred to in this subsection.
- (7) If a requirement made by a notice under subsection (5) is reasonable, the former provider must comply with the requirement as soon as practicable after receiving the notice. However, if the requirement is unreasonable, the former provider does not have to comply with it.
- (8) The Minister may, by legislative instrument, make a determination to the effect that, either generally or in a particular case, information of a kind specified in the determination is taken to be information that will assist a person in doing a specified thing that the person is or will be required or permitted to do by or under a provision of this Part.
- (9) If a former provider has been given notice of a requirement under subsection (5), the ACMA may, in writing, direct the former provider to comply with the requirement or with specified aspects of the requirement. The former provider must comply with the direction.
- (10) In deciding whether to give a direction under subsection (9), the ACMA must consider whether the requirement under subsection (5) is reasonable.

## Subdivision C—USO standards and rules

### 12EB Performance standards—standard telephone service

#### *Determination*

- (1) The Minister may make a written determination setting out standards to be complied with by a primary universal service provider in relation to any or all of the following matters:
  - (a) the terms and conditions of the supply of a standard telephone service to a customer, other than price-related terms and conditions;
  - (b) the reliability of a standard telephone service supplied to a customer;
  - (c) the supply of a temporary standard telephone service to a customer;
  - (d) the maximum period within which a primary universal service provider must supply a standard telephone service following the making of a request by a prospective customer;
  - (e) the maximum period within which a primary universal service provider must rectify a fault or service difficulty relating to a standard telephone service following the making of a report by a customer about the fault or service difficulty;
  - (f) any other matter concerning the supply, or proposed supply, of a standard telephone service to a customer or prospective customer.
- (2) A determination under subsection (1) may be of general application or may be limited as provided in the determination.
- (3) Subsection (2) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

#### *Compliance*

- (4) A primary universal service provider must comply with a standard in force under subsection (1).

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*Service supplied in fulfilment of the universal service obligation*

- (6) This section does not apply to a standard telephone service unless the service is supplied, or proposed to be supplied, in fulfilment of the universal service obligation.

*Determination is a legislative instrument*

- (7) A determination under subsection (1) is a legislative instrument.

**12EC Performance benchmarks—standard telephone service**

*Determination*

- (1) The Minister may make a written determination setting out standards to be complied with by a primary universal service provider in relation to any or all of the following matters:
- (a) the terms and conditions of the supply of a standard telephone service to a customer, other than price-related terms and conditions;
  - (b) the reliability of a standard telephone service supplied to a customer;
  - (c) the supply of a temporary standard telephone service to a customer;
  - (d) the maximum period within which a primary universal service provider must supply a standard telephone service following the making of a request by a prospective customer;
  - (e) the maximum period within which a primary universal service provider must rectify a fault or service difficulty relating to a standard telephone service following the making of a report by a customer about the fault or service difficulty;
  - (f) any other matter concerning the supply, or proposed supply, of a standard telephone service to a customer or prospective customer.
- (2) A determination under subsection (1) may be of general application or may be limited as provided in the instrument.

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- (3) Subsection (2) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

*Determination is a legislative instrument*

- (5) A determination under subsection (1) is a legislative instrument.

*Performance benchmarks*

- (6) The Minister may, by legislative instrument, set minimum benchmarks in relation to compliance by a primary universal service provider with a standard in force under subsection (1).
- (7) An instrument under subsection (6) may be of general application or may be limited as provided in the instrument.
- (8) Subsection (7) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

*Provider must meet or exceed minimum benchmarks*

- (9) A primary universal service provider must meet or exceed a minimum benchmark set by an instrument under subsection (6).

*Clause 1 of Schedule 1 to the Telecommunications Act 1997 does not apply to a breach of a standard*

- (10) Clause 1 of Schedule 1 to the *Telecommunications Act 1997* does not apply to a contravention of a standard in force under subsection (1).

Note: Clause 1 of Schedule 1 to the *Telecommunications Act 1997* requires carriers to comply with this Act.

*Clause 1 of Schedule 2 to the Telecommunications Act 1997 does not apply to a breach of a standard*

- (11) Clause 1 of Schedule 2 to the *Telecommunications Act 1997* does not apply to a contravention of a standard in force under subsection (1).



Note: Clause 1 of Schedule 2 to the *Telecommunications Act 1997* requires carriage service providers to comply with this Act.

## **12ED Performance standards—payphones**

### *Determination*

- (1) The Minister may make a written determination setting out standards to be complied with by a primary universal service provider in relation to any or all of the following matters:
  - (a) the characteristics of a payphone carriage service;
  - (b) the supply, installation or maintenance of a payphone;
  - (c) the supply of a payphone carriage service;
  - (d) the reliability of a payphone;
  - (e) the reliability of a payphone carriage service;
  - (f) the maximum period within which a primary universal service provider must rectify a fault or service difficulty relating to a payphone following the making of a report about a fault or service difficulty;
  - (g) the maximum period within which a primary universal service provider must rectify a fault or service difficulty relating to a payphone carriage service following the making of a report about a fault or service difficulty;
  - (h) the handling of requests for the removal of a payphone;
  - (i) any other matter concerning:
    - (i) the supply, installation or maintenance of a payphone;  
or
    - (ii) the supply of a payphone carriage service.
- (2) A determination under subsection (1) may be of general application or may be limited as provided in the determination.
- (3) Subsection (2) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

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*Compliance*

- (4) A primary universal service provider must comply with a determination under subsection (1).

*Determination is a legislative instrument*

- (6) A determination under subsection (1) is a legislative instrument.

**12EE Performance benchmarks—payphones**

*Determination*

- (1) The Minister may make a written determination setting out standards to be complied with by a primary universal service provider in relation to any or all of the following matters:
- (a) the characteristics of a payphone carriage service;
  - (b) the supply, installation or maintenance of a payphone;
  - (c) the supply of a payphone carriage service;
  - (d) the reliability of a payphone;
  - (e) the reliability of a payphone carriage service;
  - (f) the maximum period within which a primary universal service provider must rectify a fault or service difficulty relating to a payphone following the making of a report about a fault or service difficulty;
  - (g) the maximum period within which a primary universal service provider must rectify a fault or service difficulty relating to a payphone carriage service following the making of a report about a fault or service difficulty;
  - (h) the handling of requests for the removal of a payphone;
  - (i) any other matter concerning:
    - (i) the supply, installation or maintenance of a payphone;  
or
    - (ii) the supply of a payphone carriage service.
- (2) A determination under subsection (1) may be of general application or may be limited as provided in the determination.

- (3) Subsection (2) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

*Determination is a legislative instrument*

- (5) A determination under subsection (1) is a legislative instrument.

*Performance benchmarks*

- (6) The Minister may, by legislative instrument, set minimum benchmarks in relation to compliance by a primary universal service provider with a standard in force under subsection (1).
- (7) An instrument under subsection (6) may be of general application or may be limited as provided in the instrument.
- (8) Subsection (7) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

*Provider must meet or exceed minimum benchmarks*

- (9) A primary universal service provider must meet or exceed a minimum benchmark set by an instrument under subsection (6).

*Clause 1 of Schedule 1 to the Telecommunications Act 1997 does not apply to a breach of a standard*

- (10) Clause 1 of Schedule 1 to the *Telecommunications Act 1997* does not apply to a contravention of a standard in force under subsection (1).

Note: Clause 1 of Schedule 1 to the *Telecommunications Act 1997* requires carriers to comply with this Act.

*Clause 1 of Schedule 2 to the Telecommunications Act 1997 does not apply to a breach of a standard*

- (11) Clause 1 of Schedule 2 to the *Telecommunications Act 1997* does not apply to a contravention of a standard in force under subsection (1).

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Note: Clause 1 of Schedule 2 to the *Telecommunications Act 1997* requires carriage service providers to comply with this Act.

**12EF Rules about the location of payphones**

- (1) The Minister may make a determination setting out rules to be complied with by a primary universal service provider in relation to the places or areas in which payphones are to be located.

*Compliance*

- (2) A primary universal service provider must comply with a determination under subsection (1).
- (3) If a primary universal service provider complies with a determination under subsection (1), the provider is taken to have complied with an obligation under paragraph 9(1)(b) or subsection 9(2A), to the extent to which the obligation relates to the location of payphones.

*Determination is a legislative instrument*

- (5) A determination under subsection (1) is a legislative instrument.

**12EG Rules about the process for public consultation on the location or removal of payphones**

- (1) The Minister may make a determination setting out rules to be complied with by a primary universal service provider in relation to the process for public consultation on the location or removal of payphones.
- (2) The Minister must ensure that a determination under subsection (1) provides that, if:
  - (a) a primary universal service provider makes a decision to remove a payphone from a particular location; and
  - (b) that payphone is the only payphone at that location;then:

- (c) the provider must undertake a process for public consultation on the removal of that payphone; and
- (d) if, in accordance with that process, a person makes a submission to the provider—the provider must notify the person, in writing, of the outcome of that process.

*Compliance*

- (3) A primary universal service provider must comply with a determination under subsection (1).

*Determination is a legislative instrument*

- (5) A determination under subsection (1) is a legislative instrument.

**12EH Rules about the process for resolution of complaints about the location or removal of payphones**

- (1) The Minister may make a determination setting out rules to be complied with by a primary universal service provider in relation to the process for resolution of complaints about the location or removal of payphones.

*Compliance*

- (2) A primary universal service provider must comply with a determination under subsection (1).

*Determination is a legislative instrument*

- (4) A determination under subsection (1) is a legislative instrument.

**12EI Directions by the ACMA about the removal of payphones**

*Scope*

- (1) This section applies if:
  - (a) a primary universal service provider has made a decision to remove a payphone from a particular location; and

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- (b) a person notifies the ACMA, in writing, that the person objects to the removal; and
- (c) the ACMA is satisfied that:
  - (i) the removal would breach, or has breached, a determination under subsection 12EF(1); or
  - (ii) the provider has breached a determination under subsection 12EG(1) in relation to the removal.

*Direction*

- (2) If the payphone has not been removed, the ACMA may, by written notice given to the provider, direct the provider not to remove the payphone from that location.
- (3) If the payphone has been removed, the ACMA may, by written notice given to the provider, direct the provider:
  - (a) to supply and install a payphone at that location; and
  - (b) to do so within the period specified in the notice.
- (4) A period specified under paragraph (3)(b) must not be shorter than 30 days after the notice is given.
- (5) A direction under subsection (2) or (3) must not be inconsistent with a determination under subsection 12EF(1).

*Compliance*

- (6) A primary universal service provider must comply with a direction under subsection (2) or (3).

*Direction is not a legislative instrument*

- (7) A direction under subsection (2) or (3) is not a legislative instrument.

## **Division 3—Public interest telecommunications service contracts and grants**

### **Subdivision A—Policy objectives**

#### **13 Policy objectives**

- (1) The policy objectives of this Division are:
- (a) that standard telephone services are to:
    - (i) be reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business; and
    - (ii) be supplied to people in Australia on request; and
  - (b) that payphones are to:
    - (i) be reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business; and
    - (ii) be supplied, installed and maintained in Australia; and
  - (c) that end-users of standard telephone services in Australia are to have access, free of charge, to an emergency call service; and
  - (d) that the National Relay Service is to be reasonably accessible to all persons in Australia who:
    - (i) are deaf; or
    - (ii) have a hearing and/or speech impairment;wherever they reside or carry on business; and
  - (e) that there are to be such:
    - (i) customer information programs; and
    - (ii) customer cabling installation programs; and
    - (iii) carriage service development programs; and
    - (iv) other measures (if any) as are specified in the regulations;as are necessary to support the continuity of supply of carriage services during the transition to the national broadband network; and

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- (f) that all persons in Australia outside a standard zone are to have access to untimed voice calls on a basis that is comparable to the access provided to persons in standard zones for voice calls made:
    - (i) using a standard telephone service; or
    - (ii) using a payphone; and
  - (g) that all persons in Australia outside a standard zone are to have access to untimed data calls on a basis that is comparable to the access provided to persons in standard zones for data calls made to an internet service provider using a data network access number; and
  - (h) that an SMS relay service is reasonably accessible to all persons in Australia who:
    - (i) are deaf; or
    - (ii) have a hearing and/or speech impairment; and
  - (i) that a video relay service is reasonably accessible to all persons in Australia who communicate in Auslan; and
  - (j) that a software application is reasonably available to assist all users of the National Relay Service in communication with emergency call services; and
  - (k) the objectives (if any) specified in the regulations, where those objectives relate to the supply of carriage services.
- (2) For the purposes of paragraphs (1)(f) and (g), *standard zone* has the meaning given by section 108.

## Subdivision B—Contracts and grants

### 14 Contracts and grants

- (1) The Secretary may, on behalf of the Commonwealth:
- (a) enter into a contract; or
  - (b) make a grant of financial assistance;
- for a purpose relating to the achievement of any or all of the policy objectives of this Division.

Note 1: For the policy objectives, see subsection 13(1).



Note 2: For transitional provisions, see section 22.

- (2) For the purposes of this Part, if the Secretary enters into a contract with a person under subsection (1), the person is a ***contractor***.
- (3) For the purposes of this Part, if the Secretary makes a grant of financial assistance to a person under subsection (1), the person is a ***grant recipient***.

## **15 Terms and conditions of grants**

### *Scope*

- (1) This section applies to a grant of financial assistance made under section 14.

### *Terms and conditions*

- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the grant recipient.
- (3) An agreement under subsection (2) is to be entered into by the Secretary on behalf of the Commonwealth.
- (4) Subsection (2) does not apply to a condition under section 16.

## **16 Condition about compliance with Ministerial determination**

### *Condition*

- (1) It is a condition of:
  - (a) a contract entered into under section 14; or
  - (b) a grant made under section 14;that the contractor or grant recipient, as the case may be, must comply with a determination under subsection (2) in so far as the determination applies to the contract or grant, as the case may be.

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*Determination*

- (2) The Minister may, by legislative instrument, make a determination that sets out either or both of the following:
- (a) standards or rules that must be complied with by contractors or grant recipients, as the case may be, in relation to contracts entered into, or grants made, under section 14;
  - (b) minimum benchmarks that must be met or exceeded by contractors or grant recipients, as the case may be, in relation to contracts entered into, or grants made, under section 14.

*Application of determinations*

- (3) A determination under subsection (2) may be of general application or may be limited as provided in the determination.
- (4) Subsection (3) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

*Other terms and conditions*

- (5) This section does not, by implication, limit:
- (a) the terms and conditions that may be included in a contract entered into under section 14; or
  - (b) the terms and conditions that may be included in an agreement under section 15.

*Determination prevails over inconsistent contract or agreement*

- (6) A term or condition:
- (a) of a contract entered into under section 14; or
  - (b) set out in an agreement under section 15;
- has no effect to the extent to which it is inconsistent with a determination under subsection (2) that applies to the contract or to the grant to which the agreement relates, as the case may be.
- (7) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it overrides a term or condition:
- (a) of a contract entered into under section 14; and

- (b) that gives the contractor a right to adjustment of payment for a change in the services, facilities or customer equipment to be supplied by the contractor in accordance with the contract.
- (8) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it specifies the price, or a method of ascertaining the price, for any of the services, facilities or customer equipment to be supplied by a contractor in accordance with a section 14 contract.
- (9) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it overrides a term or condition:
  - (a) set out in an agreement under section 15; and
  - (b) that gives the grant recipient a right to adjustment of payment for a change in the services, facilities or customer equipment to be supplied by the grant recipient in accordance with the terms and conditions of the grant.
- (10) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it specifies the price, or a method of ascertaining the price, for any of the services, facilities or customer equipment to be supplied by the grant recipient of a section 14 grant in accordance with the terms and conditions of the grant.

### **17 Exemption of designated transitional contracts from Ministerial determination**

If:

- (a) a contract is in force as at the commencement of this section; and
- (b) the contract was entered into before 1 July 2012; and
- (c) the contract was a designated transitional contract within the meaning of the repealed *Telecommunications Universal Service Management Agency Act 2012*;

the contract is exempt from a determination under subsection 16(2) of this Act.

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**18 Secretary has powers etc. of the Commonwealth**

- (1) The Secretary, on behalf of the Commonwealth, has all the rights, responsibilities, duties and powers of the Commonwealth in relation to the Commonwealth's capacity as:
  - (a) a party to a contract entered into under section 14; or
  - (b) the grantor of a grant made under section 14.
- (2) Without limiting subsection (1):
  - (a) an amount payable by the Commonwealth under a section 14 contract is to be paid by the Secretary on behalf of the Commonwealth; and
  - (b) an amount payable to the Commonwealth under a section 14 contract is to be paid to the Secretary on behalf of the Commonwealth; and
  - (c) a section 14 grant is to be paid by the Secretary on behalf of the Commonwealth; and
  - (d) an amount payable to the Commonwealth by way of the repayment of the whole or a part of a section 14 grant is to be paid to the Secretary on behalf of the Commonwealth; and
  - (e) the Secretary may institute an action or proceeding on behalf of the Commonwealth in relation to a matter that concerns:
    - (i) a section 14 contract; or
    - (ii) a section 14 grant.

**19 Conferral of powers on the Secretary**

The Secretary may exercise a power conferred on the Secretary by:

- (a) a contract entered into under section 14; or
- (b) an agreement under section 14.

**20 Monitoring of performance**

- (1) The Secretary must monitor, and report each financial year to the Minister on, all significant matters relating to:
    - (a) the performance of contractors; and
    - (b) the performance of grant recipients.
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- (2) A report under subsection (1) for a financial year must set out details of the following matters:
- (a) the adequacy of each contractor's compliance, during that year, with the terms and conditions of a section 14 contract;
  - (b) the adequacy of each grant recipient's compliance, during that year, with the terms and conditions of a section 14 grant;
  - (c) any notice of breach by a contractor of a section 14 contract, where the notice was given during that year;
  - (d) any notice of breach by a grant recipient of a term or condition of a section 14 grant, where the notice was given during that year;
  - (e) any remedial action taken by the Secretary during that year in response to a breach of a section 14 contract;
  - (f) any remedial action taken by the Secretary during that year in response to a breach of the terms or conditions of a section 14 grant;
  - (g) the result of any such remedial action.
- (3) Subsection (2) does not limit subsection (1).
- (4) A report under subsection (1) for a financial year must be included in the annual report prepared by the Secretary and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the financial year.

## 21 Executive power of the Commonwealth

This Division does not, by implication, limit the executive power of the Commonwealth.

### 21A Directions—facilitation of Telstra USO Performance Agreement

- (1) If:
- (a) a designated Telstra successor company (the *first designated Telstra successor company*) is a party to the section 14

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contract known as the Telstra USO Performance Agreement;  
and

- (b) the Minister is satisfied that the first designated Telstra successor company has failed, is failing, or is likely to fail, to fulfil its obligations under the Telstra USO Performance Agreement;

the Minister may give:

- (c) Telstra Limited; or  
(d) another designated Telstra successor company; or  
(e) a body corporate that is a related body corporate (within the meaning of the *Corporations Act 2001*) of the first designated Telstra successor company;

a written direction:

- (f) to do a specified act or thing; or  
(g) not to do a specified act or thing.

- (2) The Minister must not give a direction to a body corporate under subsection (1) to do an act or thing unless:
- (a) the Minister is satisfied that the act or thing will facilitate the first designated Telstra successor company fulfilling its obligations under the Telstra USO Performance Agreement;  
and
- (b) the Minister is satisfied that the body corporate:
- (i) has the capability (including the technical, operational and organisational capability) to comply with the direction; or
- (ii) could reasonably acquire the capability (including the technical, operational and organisational capability) to comply with the direction; and
- (c) the body corporate:
- (i) is a constitutional corporation; or
- (ii) carries on a telecommunications business covered by paragraph 581L(1)(a), (b) or (c).
- (3) The Minister must not give a direction to a body corporate under subsection (1) not to do an act or thing unless:

- (a) the Minister is satisfied that not doing the act or thing will facilitate the first designated Telstra successor company fulfilling its obligations under the Telstra USO Performance Agreement; and
- (b) the Minister is satisfied that the body corporate:
  - (i) has the capability (including the technical, operational and organisational capability) to comply with the direction; or
  - (ii) could reasonably acquire the capability (including the technical, operational and organisational capability) to comply with the direction; and
- (c) the body corporate:
  - (i) is a constitutional corporation; or
  - (ii) carries on a telecommunications business covered by paragraph 581L(1)(a), (b) or (c) of the *Telecommunications Act 1997*.

*Compliance with requirement*

- (4) A body corporate must comply with a direction under subsection (1).

*Civil penalty*

- (5) Subsection (4) is a civil penalty provision.

Note: Part 31 provides for pecuniary penalties for breaches of civil penalty provisions.

*Consultation*

- (6) Before giving or varying a direction under subsection (1), the Minister must:
  - (a) make a copy of the draft direction or variation available on the Minister's website; and
  - (b) publish a notice on the Minister's website:
    - (i) stating that the Minister has prepared the draft; and

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- (ii) inviting interested persons to give written comments about the draft to the Minister within the period specified in the notice.
- (7) Subject to subsection (8), the period specified in the notice must run for at least 30 days after the publication of the notice.
- (8) The period specified in the notice may be shorter than 30 days if the Minister is satisfied that the shorter period is necessary due to urgent circumstances.
- (9) If interested persons have given comments in accordance with a notice under subsection (6), the Minister must have due regard to those comments in giving or varying the direction.

**22 Transitional—pre-commencement contracts**

- (1) If:
  - (a) a contract is in force as at the commencement of this section; and
  - (b) the contract was entered into before 1 July 2012; and
  - (c) under section 22, 23, 24, 25 or 26 of the repealed *Telecommunications Universal Service Management Agency Act 2012*, that Act had effect as if the contract had been entered into under section 13 of that Act for a purpose relating to the achievement of a particular policy objective; this Act, and any other law of the Commonwealth, has effect as if the contract had been entered into by the Secretary under section 14 of this Act for a purpose relating to the achievement of the corresponding policy objective.
- (2) If:
  - (a) a contract is in force as at the commencement of this section; and
  - (b) the contract was entered into on or after 1 July 2012; and
  - (c) the contract was entered into under section 13 of the repealed *Telecommunications Universal Service Management Agency*



*Act 2012* for a purpose relating to the achievement of a particular policy objective;

this Act, and any other law of the Commonwealth, has effect as if the contract had been entered into by the Secretary under section 14 of this Act for a purpose relating to the achievement of the corresponding policy objective.

- (3) For the purposes of this section, **contract** includes a part of a contract.

### **Subdivision C—Relevant contracts entered into by designated Telstra successor companies**

#### **22A Relevant contract**

For the purposes of this Subdivision, **relevant contract** means a contract or agreement that is entered into:

- (a) by a designated Telstra successor company; and
- (b) for a purpose relating to either or both of the following:
  - (i) the achievement of any or all of the policy objectives of this Division;
  - (ii) the transfer of one or more assets that were used in connection with the fulfilment of obligations imposed on the designated Telstra successor company by the section 14 contract known as the Telstra USO Performance Agreement.

#### **22AA Transfer of asset**

For the purposes of this Subdivision, a transfer of an asset occurs if:

- (a) the legal ownership of the asset is transferred in whole or in part; or
- (b) the beneficial ownership of the asset is transferred in whole or in part (whether by way of a declaration of trust or in any other way); or
- (c) if the asset is the subject of a lease—the lease is transferred.

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**22B Authorised officer**

- (1) For the purposes of this Subdivision, *authorised officer* means an SES employee, or an acting SES employee, who holds, or performs the duties of, a position designated under subsection (2).

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) The Minister may, by notifiable instrument, designate one or more specified positions in the Department for the purposes of subsection (1).

**22C Notification of relevant contracts**

- (1) Within 7 days after a designated Telstra successor company enters into:

- (a) a relevant contract; or
- (b) a variation of a relevant contract;

the company must give:

- (c) an authorised officer; or
- (d) if there is no authorised officer—the Minister;

a written statement that sets out the following information:

- (e) the names of the parties to the contract or variation, as the case requires;
- (f) the nature of the contract or variation, as the case requires;
- (g) the date the contract or variation, as the case requires, was entered into;
- (h) the date when the contract or variation, as the case requires, came, or is to come, into effect;
- (i) if the contract or variation (as the case requires) deals with the transfer of an asset—the name of the transferee;
- (j) such other information (if any) relating to the contract or variation, as the case requires, as is specified under subsection (2).

- (2) The Minister may, by legislative instrument, specify information for the purposes of paragraph (1)(j).

*Civil penalty*

- (3) Subsection (1) is a civil penalty provision.

Note: Part 31 provides for pecuniary penalties for breaches of civil penalty provisions.

**22CA Notification of proposed contracts**

- (1) If:

- (a) a designated Telstra successor company proposes to enter into a relevant contract; and
- (b) the contract is to be entered into for a purpose relating to the transfer of one or more assets that were used in connection with the fulfilment of obligations imposed on the company by the section 14 contract known as the Telstra USO Performance Agreement;

the company must, at least 30 days before entering into the contract, give:

- (c) an authorised officer; or
- (d) if there is no authorised officer—the Minister;

a written statement that sets out the following information:

- (e) the names of the parties to the contract;
- (f) the nature of the contract;
- (g) the date the contract is to be entered into;
- (h) the date when the contract is to come into effect;
- (i) the name of the transferee of the assets;
- (j) such other information (if any) relating to the contract as is specified under subsection (2).

- (2) The Minister may, by legislative instrument, specify information for the purposes of paragraph (1)(j).

- (3) Subsection (1) is a civil penalty provision.

Note: Part 31 provides for pecuniary penalties for breaches of civil penalty provisions.

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**22D Copies of relevant contracts—requirement imposed by Ministerial notice**

*Requirement to give copy of proposed contract or variation*

- (1) If a designated Telstra successor company proposes to enter into:
- (a) a relevant contract; or
  - (b) a variation of a relevant contract;
- the Minister or an authorised officer may, by written notice given to the company, require the company to:
- (c) give:
    - (i) an authorised officer; or
    - (ii) if there is no authorised officer—the Minister;a copy of the proposed contract or variation, as the case requires; and
  - (d) do so within 7 days after the notice is given.

*Requirement to give copy of contract or variation*

- (2) If a designated Telstra successor company has entered into:
- (a) a relevant contract; or
  - (b) a variation of a relevant contract;
- the Minister or an authorised officer may, by written notice given to the company, require the company to:
- (c) give:
    - (i) an authorised officer; or
    - (ii) if there is no authorised officer—the Minister;a copy of the contract or variation, as the case requires; and
  - (d) do so within 7 days after the notice is given.

*Compliance with requirement*

- (3) A designated Telstra successor company must comply with a requirement under subsection (1) or (2).

*Civil penalty*

- (4) Subsection (3) is a civil penalty provision.

Note: Part 31 provides for pecuniary penalties for breaches of civil penalty provisions.

**22E Copies of relevant contracts—requirement imposed by rules**

- (1) The Minister may, by legislative instrument, make rules that impose the following requirements to be complied with by a designated Telstra successor company that has entered into a relevant contract in a specified class of relevant contracts:
- (a) the requirement that, within 7 days after such a contract is entered into, the company must give:
    - (i) an authorised officer; or
    - (ii) if there is no authorised officer—the Minister;  
a copy of the contract;
  - (b) the requirement that, within 7 days after the company enters into a variation of such a contract, the company must give:
    - (i) an authorised officer; or
    - (ii) if there is no authorised officer—the Minister;  
a copy of the variation.

*Compliance with requirement*

- (2) A designated Telstra successor company must comply with a requirement imposed by rules made under subsection (1).

*Civil penalty*

- (3) Subsection (2) is a civil penalty provision.

Note: Part 31 provides for pecuniary penalties for breaches of civil penalty provisions.

## **Division 4—Disclosure of information**

### **Subdivision A—Access to information or documents held by a carriage service provider**

#### **23 Access to information or documents held by a carriage service provider**

##### *Scope*

- (1) This section applies to a carriage service provider if the Secretary believes on reasonable grounds that the carriage service provider has information or a document that is relevant to the achievement of the policy objective set out in paragraph 13(1)(e).

##### *Requirement*

- (2) The Secretary may, by written notice given to the carriage service provider, require the carriage service provider:
  - (a) to give to the Secretary, within the period and in the manner and form specified in the notice, any such information; or
  - (b) to produce to the Secretary, within the period and in the manner specified in the notice, any such documents; or
  - (c) to make copies of any such documents and to produce to the Secretary, within the period and in the manner specified in the notice, those copies.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

##### *Compliance*

- (4) A carriage service provider must comply with a requirement under subsection (2) to the extent that the carriage service provider is capable of doing so.
- (5) A carriage service provider commits an offence if:

- (a) the Secretary has given a notice to the carriage service provider under subsection (2); and
- (b) the carriage service provider engages in conduct; and
- (c) the carriage service provider's conduct contravenes a requirement in the notice.

Penalty for contravention of this subsection: 50 penalty units.

## **24 Copying documents—compensation**

A carriage service provider is entitled to be paid by the Commonwealth reasonable compensation for complying with a requirement covered by paragraph 23(2)(c).

## **25 Copies of documents**

- (1) The Secretary may:
  - (a) inspect a document or copy produced under subsection 23(2); and
  - (b) make and retain copies of, or take and retain extracts from, such a document.
- (2) The Secretary may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 23(2)(c).

## **26 Secretary may retain documents**

- (1) The Secretary may take, and retain for as long as is necessary, possession of a document produced under subsection 23(2).
- (2) The carriage service provider otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Secretary to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

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- (4) Until a certified copy is supplied, the Secretary must, at such times and places as the Secretary thinks appropriate, permit the carriage service provider otherwise entitled to possession of the document, or a person authorised by that carriage service provider, to inspect and make copies of, or take extracts from, the document.

### 27 Law relating to legal professional privilege not affected

This Subdivision does not affect the law relating to legal professional privilege.

### 28 Disclosure of information

#### *Scope*

- (1) This section applies to information that:
- (a) was obtained by the Secretary under section 23; or
  - (b) is contained in a document, or a copy of a document, that was produced to the Secretary under section 23.

#### *Disclosure*

- (2) The Secretary may disclose the information to a carriage service provider if the disclosure is for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(e).

### 29 Consent to customer contact

#### *Scope*

- (1) This section applies to a carriage service provider if:
- (a) the Secretary believes on reasonable grounds that, if the carriage service provider were to consent to another person (the **third person**) contacting:
    - (i) the carriage service provider's customers; or
    - (ii) customers included in a particular class of the carriage service provider's customers;



for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(e), that consent would be likely to facilitate the achievement of the policy objective set out in paragraph 13(1)(e); and

- (b) the carriage service provider is not a contractor in relation to a section 14 contract entered into for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(e); and
- (c) the carriage service provider is not a grant recipient in relation to a section 14 grant made for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(e).

*Requirement*

- (2) The Secretary may, by written notice given to the carriage service provider, require the carriage service provider:
  - (a) to consent to the third person contacting:
    - (i) if subparagraph (1)(a)(i) applies—the carriage service provider’s customers; or
    - (ii) if subparagraph (1)(a)(ii) applies—customers included in a specified class of the carriage service provider’s customers;for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(e); and
  - (b) to do so within the period and in the manner specified in the notice.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

*Compliance*

- (4) A carriage service provider must comply with a requirement under subsection (2).
- (5) A carriage service provider commits an offence if:

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- (a) the Secretary has given a notice to the carriage service provider under subsection (2); and
- (b) the carriage service provider engages in conduct; and
- (c) the carriage service provider's conduct contravenes a requirement in the notice.

Penalty for contravention of this subsection: 50 penalty units.

**Subdivision B—Access to information or documents held by an NBN corporation**

**30 Access to information or documents held by an NBN corporation**

*Scope*

- (1) This section applies to an NBN corporation if the Minister believes on reasonable grounds that the NBN corporation has information or a document that is relevant to the exercise of any of the Secretary's powers under Division 3.

*Requirement*

- (2) The Minister may, by written notice given to the NBN corporation, require the NBN corporation:
  - (a) to give to the Secretary, within the period and in the manner and form specified in the notice, any such information; or
  - (b) to produce to the Secretary, within the period and in the manner specified in the notice, any such documents; or
  - (c) to make copies of any such documents and to produce to the Secretary, within the period and in the manner specified in the notice, those copies.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

*Compliance*

- (4) An NBN corporation must comply with a requirement under subsection (2) to the extent that the NBN corporation is capable of doing so.
- (5) An NBN corporation commits an offence if:
  - (a) the Minister has given a notice to the NBN corporation under subsection (2); and
  - (b) the NBN corporation engages in conduct; and
  - (c) the NBN corporation's conduct contravenes a requirement in the notice.

Penalty for contravention of this subsection: 50 penalty units.

### **31 Copying documents—compensation**

An NBN corporation is entitled to be paid by the Commonwealth reasonable compensation for complying with a requirement covered by paragraph 30(2)(c).

### **32 Copies of documents**

- (1) The Secretary may:
  - (a) inspect a document or copy produced under subsection 30(2); and
  - (b) make and retain copies of, or take and retain extracts from, such a document.
- (2) The Secretary may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 30(2)(c).

### **33 Secretary may retain documents**

- (1) The Secretary may take, and retain for as long as is necessary, possession of a document produced under subsection 30(2).

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- (2) The NBN corporation otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Secretary to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Secretary must, at such times and places as the Secretary thinks appropriate, permit the NBN corporation otherwise entitled to possession of the document, or a person authorised by that NBN corporation, to inspect and make copies of, or take extracts from, the document.

### 34 Law relating to legal professional privilege not affected

This Subdivision does not affect the law relating to legal professional privilege.

### 35 Severability

- (1) Without limiting its effect apart from this section, this Subdivision also has effect as provided by this section.

#### *Corporations power*

- (2) This Subdivision also has the effect it would have if:
  - (a) subsection (3) had not been enacted; and
  - (b) each reference in this Subdivision to an NBN corporation were, by express provision, confined to an NBN corporation that is a constitutional corporation.

#### *Communications power*

- (3) This Subdivision also has the effect it would have if:
  - (a) subsection (2) had not been enacted; and
  - (b) each reference in this Subdivision to an NBN corporation were, by express provision, confined to an NBN corporation that:
    - (i) carries on; or

- (ii) proposes to carry on; or
  - (iii) has the object of carrying on;
- a business that consists of or includes the supply of a carriage service.

### **Subdivision C—Disclosure of information to certain bodies or persons**

#### **36 Disclosure of information to certain bodies or persons**

- (1) The Secretary may disclose information to any of the following bodies or persons:
  - (a) the ACMA;
  - (b) the ACCC;
  - (c) the Telecommunications Industry Ombudsman;
  - (d) the Regional Telecommunications Independent Review Committee;if:
  - (e) the information was obtained under, or for the purposes of, this Division; and
  - (f) the Secretary is satisfied that the information will enable or assist the body or person to perform or exercise any of the functions or powers of the body or person.
- (2) The Secretary may, by writing, impose conditions to be complied with in relation to information disclosed under subsection (1).
- (3) An instrument made under subsection (2) that imposes conditions relating to one particular disclosure identified in the instrument is not a legislative instrument.
- (4) Otherwise, an instrument made under subsection (2) is a legislative instrument.

## Division 5—Public Interest Telecommunications Services Special Account

### 37 Public Interest Telecommunications Services Special Account

- (1) The Public Interest Telecommunications Services Special Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.
- (3) The Account is to be administered by the Secretary.

### 38 Credits to the Account

There must be credited to the Public Interest Telecommunications Services Special Account:

- (a) an amount equal to an amount paid to the Commonwealth by way of levy; and
- (b) an amount equal to an amount paid to the Commonwealth under a section 14 contract; and
- (c) an amount equal to an amount paid to the Commonwealth by way of damages or compensation for a breach of a section 14 contract; and
- (d) an amount equal to an amount paid to the Commonwealth by way of the repayment of the whole or a part of a section 14 grant.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

### 39 Purposes of the Account

The purposes of Public Interest Telecommunications Services Special Account are as follows:

- (a) to pay amounts payable by the Commonwealth under a contract entered into under section 14;
- (b) to make grants under section 14;
- (c) to pay the eligible administrative costs of the Commonwealth;
- (d) to make distributions in accordance with section 40;
- (e) to pay refunds under section 62.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

#### **40 Distribution of remaining balance of the Account**

- (1) The Secretary, on behalf of the Commonwealth, may distribute to persons who are or were participating persons any balance standing to the credit of the Public Interest Telecommunications Services Special Account that remains after all payments payable by the Commonwealth, in respect of debits from the Account for an eligible levy period, have been paid.
- (2) The Minister may, by legislative instrument, determine rules for making those distributions.
- (3) The Secretary must comply with any rules determined under subsection (2).

## Division 6—Assessment, collection and recovery of levy

### Subdivision A—Overall levy target amount

#### 41 Overall levy target amount

##### *General rule*

- (1) For the purposes of this Act, the **overall levy target amount** for an eligible levy period (other than the first eligible levy period) is the sum of:
- (a) the total amount paid by the Secretary on behalf of the Commonwealth during the period under contracts made under section 14; and
  - (b) the total amount paid by the Secretary on behalf of the Commonwealth during the period by way of grants made under section 14; and
  - (c) the total amount of the eligible administrative costs of the Commonwealth incurred during the period;
- reduced by the total of the amounts appropriated by Appropriation Acts for the purposes of:
- (d) making payments under section 14 contracts during the period; and
  - (e) making section 14 grants during the period; and
  - (f) the eligible administrative costs of the Commonwealth in relation to the period.

Note 1: The first eligible levy period is the 2014-15 financial year (see section 5).

Note 2: See also subsections 61(3) and (4) (set-off).

##### *First eligible levy period*

- (2) For the purposes of this Act, the **overall levy target amount** for the first eligible levy period is the amount that would have been the overall levy target amount (within the meaning of section 88 of the repealed *Telecommunications Universal Service Management*



*Agency Act 2012*) for the eligible levy period (within the meaning of that section) that began on 1 July 2014 if the 2014-15 financial year were treated as an eligible levy period for the purposes of that section.

## **42 Statement of overall levy target amount**

### *Overall levy target amount*

- (1) After the end of an eligible levy period, the Secretary must prepare a written statement setting out the overall levy target amount for the period.

### *Components of overall levy target amount—general rule*

- (2) After the end of an eligible levy period (other than the first eligible levy period), the Secretary must prepare a written statement setting out the total amount paid by the Secretary on behalf of the Commonwealth during the period under contracts made under section 14.

Note 1: The first eligible levy period is the 2014-15 financial year (see section 5).

Note 2: See also subsection 61(3) (set-off).

- (3) After the end of an eligible levy period (other than the first eligible levy period), the Secretary must prepare a written statement setting out the total amount paid by the Secretary on behalf of the Commonwealth during the period by way of grants made under section 14.

Note 1: The first eligible levy period is the 2014-15 financial year (see section 5).

Note 2: See also subsection 61(4) (set-off).

- (4) After the end of an eligible levy period (other than the first eligible levy period), the Secretary must prepare a written statement setting out:
  - (a) the total amount of the eligible administrative costs of the Commonwealth incurred during the period; and

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- (b) a breakdown of the amount referred to in paragraph (a) into categories specified in the regulations.

Note: The first eligible levy period is the 2014-15 financial year (see section 5).

*Components of overall levy target amount—first eligible levy period*

- (5) After the end of the first eligible levy period, the Secretary must prepare a written statement setting out the total amount paid by the Telecommunications Universal Service Management Agency on behalf of the Commonwealth during the period under contracts made under section 13 of the repealed *Telecommunications Universal Service Management Agency Act 2012*.

Note: The first eligible levy period is the 2014-15 financial year (see section 5).

- (6) After the end of the first eligible levy period, the Secretary must prepare a written statement setting out the total amount paid by the Telecommunications Universal Service Management Agency on behalf of the Commonwealth during the period by way of grants made under section 13 of the repealed *Telecommunications Universal Service Management Agency Act 2012*.

Note: The first eligible levy period is the 2014-15 financial year (see section 5).

- (7) After the end of the first eligible levy period, the Secretary must prepare a written statement setting out:

- (a) the total amount of the Telecommunications Universal Service Management Agency's administrative costs (within the meaning of the repealed *Telecommunications Universal Service Management Agency Act 2012*) incurred during the period; and
- (b) a breakdown of the amount referred to in paragraph (a) into categories specified in the regulations.

Note: The first eligible levy period is the 2014-15 financial year (see section 5).

*Timing*

- (8) The Secretary must take all reasonable steps to ensure that a statement under this section is prepared within 4 months after the end of the eligible levy period to which the statement relates.

*Other matters*

- (9) The Secretary must give a copy of a statement under this section to the ACMA.
- (10) As soon as practicable after the Secretary gives the ACMA a copy of a statement under this section, the ACMA must cause the copy to be published on the ACMA's website.
- (11) A statement under this section is not a legislative instrument.

**Subdivision B—Eligible revenue of participating persons**

**43 Participating person must lodge return of eligible revenue**

- (1) A participating person for an eligible revenue period (other than the first eligible revenue period) must:
- (a) give the ACMA a written return of the person's eligible revenue for that period; and
  - (b) do so within the period specified in an instrument in force under subsection (5).
- (2) The return must be in a form approved in writing by the ACMA.
- (3) The approved form may require verification, by a statutory declaration, of statements made in the return.
- (4) The return must set out:
- (a) the eligible revenue for the eligible revenue period of the participating person; and
  - (b) details of how the eligible revenue was worked out; and
  - (c) such other information (if any) as the approved form of return requires.

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- (5) The ACMA may, by legislative instrument, specify a period for the purposes of paragraph (1)(b). The period must begin at or after the end of the eligible revenue period.

Note: See also section 69 (offence of failing to lodge eligible revenue return).

### 44 Participating person

- (1) For the purposes of this Act, a person is a **participating person** for an eligible revenue period if:
- (a) the person was a carrier at any time during the eligible revenue period; or
  - (b) both:
    - (i) the Minister makes a written determination that carriage service providers are participating persons for the eligible revenue period; and
    - (ii) the person was a carriage service provider at any time during the eligible revenue period; or
  - (c) at any time during the eligible revenue period, the person was in a class of persons specified in the regulations.
- (2) However, a person is not a **participating person** for an eligible revenue period if the person is of a kind, determined in writing by the Minister for the purposes of this subsection, to be exempt from this section.
- (3) A determination under subsection (1) or (2) is a legislative instrument.

### 45 Eligible revenue

#### *General rule*

- (1) For the purposes of this Act, **eligible revenue** of a person for an eligible revenue period (other than the first eligible revenue period) is the amount ascertained in accordance with a written determination made by the ACMA for the purposes of this subsection.

- (2) Subsection (1) has effect subject to subsection (3).
- (3) The **eligible revenue** of a participating person for an eligible revenue period (other than the first eligible revenue period):
  - (a) is taken to be zero if the person's eligible revenue is less than the amount (the **threshold amount**) determined in writing by the Minister for the purposes of this subsection; or
  - (b) in any other case—must be reduced by the threshold amount.
- (4) To avoid doubt, a determination under subsection (1) may, in providing how to work out the eligible revenue of a person, refer to revenue of other persons.
- (5) A determination under subsection (1) must not provide that:
  - (a) an amount payable under a contract entered into under section 14; or
  - (b) a grant under section 14;is included in a person's eligible revenue.
- (6) A determination under subsection (1) or (3) is a legislative instrument.

*First eligible revenue period*

- (7) For the purposes of this Act, **eligible revenue** of a person for the first eligible revenue period is the person's eligible revenue (within the meaning of the repealed *Telecommunications Universal Service Management Agency Act 2012*) for the eligible revenue period (within the meaning of that Act) that began on 1 July 2013.

Note: The first eligible revenue period is the 2013-14 financial year (see section 5).

## **46 ACMA may inquire into correctness of return**

The ACMA may make whatever inquiries it thinks necessary or desirable in order to determine whether or not a participating person's eligible revenue return for an eligible revenue period correctly states the person's eligible revenue for that period.

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**47 ACMA to assess eligible revenue**

- (1) The ACMA must make a written assessment of each participating person's eligible revenue for an eligible revenue period (other than the first eligible revenue period).

Note: The assessment may be included in the same document as any other assessment the ACMA makes under this Division (see section 55).

- (2) The assessment must be based on:
- (a) the person's eligible revenue return; and
  - (b) the information and documents obtained by the ACMA because of its inquiries into the correctness of the return; and
  - (c) any other information or documents that the ACMA has and that it thinks relevant to making the assessment.
- (3) Subsection (2) has effect subject to section 48.
- (4) The ACMA must give a copy of an assessment of a person's eligible revenue to the person concerned.
- (5) The assessment is not a legislative instrument.

**48 Assessment based on estimate of eligible revenue**

- (1) If a participating person fails to give the ACMA an eligible revenue return for an eligible revenue period (other than the first eligible revenue period), the ACMA may:
- (a) estimate the person's eligible revenue for that period; and
  - (b) make a written assessment under section 47 of the person's eligible revenue for that period based on that estimate.
- (2) The ACMA must give the person at least 14 days' written notice of:
- (a) the amount of eligible revenue proposed to be assessed; and
  - (b) the ACMA's proposal to make the assessment based on the estimate.
- (3) However, the ACMA is not required to:
- (a) give the person a notice under subsection (2); or

- (b) make a written assessment under section 47 of the person's eligible revenue for the period based on the estimate; if the estimate is nil.
- (4) The ACMA must not make an assessment based on an estimate after receiving an eligible revenue return for the period from the person concerned.
- (5) However, if the ACMA has made an assessment based on the estimate, the ACMA is not required to change it if an eligible revenue return is later given to the ACMA.

#### 49 Levy contribution factor

- (1) The rule in subsection (2) applies if the ACMA has assessed the eligible revenue of participating persons for an eligible revenue period.
- (2) For the eligible levy period starting immediately after the eligible revenue period, the ACMA must work out a levy contribution factor for each of those participating persons.

Note: The levy contribution factor is used to work out the levy amount of a participating person (see section 50).

- (3) For the purposes of this Act, the *levy contribution factor* of a person for an eligible levy period is the amount worked out using the following formula:

$$\frac{\text{Individual eligible revenue}}{\text{Total eligible revenue}}$$

where:

*individual eligible revenue* means the assessed eligible revenue of the person for the eligible revenue period ending immediately before the eligible levy period.

*total eligible revenue* means the total assessed eligible revenue, for the eligible revenue period ending immediately before the eligible

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levy period, of all the participating persons for the eligible revenue period.

### Subdivision C—Levy amount

#### 50 Levy amount of a participating person

- (1) If a person is a participating person for an eligible revenue period (the *relevant eligible revenue period*), then, for the purposes of this Act, the *levy amount* of the person for the eligible levy period starting immediately after the relevant eligible revenue period is the amount worked out using the formula:

Levy contribution factor × Overall levy target amount

where:

*levy contribution factor* means the person's levy contribution factor for the eligible levy period worked out under section 49.

*overall levy target amount* means the overall levy target amount for the eligible levy period worked out under section 41.

Note: The *Telecommunications (Industry Levy) Act 2012* imposes levy on the levy amount.

- (2) The Minister may, by legislative instrument, modify the formula in subsection (1).

#### 51 ACMA to make written assessment

- (1) For each eligible levy period, the ACMA must make a written assessment setting out the matters in subsection (2).
- (2) For each participating person for the eligible revenue period ending immediately before the eligible levy period, the assessment must set out:
- (a) the person's levy amount under section 50 for the eligible levy period; and
  - (b) the levy payable by the person on that amount.

Note: Section 56 sets out when the levy is payable.



- (3) The ACMA must act expeditiously in preparing its assessment. However, a failure to comply with this subsection does not affect the validity of the assessment.
- (4) The assessment is not a legislative instrument.

## **52 Publication of assessment**

As soon as practicable after making an assessment under section 51, the ACMA must:

- (a) publish a copy of the assessment on the ACMA's website; and
- (b) give a copy of the assessment to the participating person to whom the assessment relates.

## **Subdivision D—Assessments**

### **53 Variation of assessments**

- (1) The ACMA may vary an assessment made under this Division by making such alterations and additions as it thinks necessary, even if levy has been paid in respect of an assessment.
- (2) Unless the contrary intention appears, an amended assessment is taken, for the purposes of this Division, to be an assessment under section 47 or 51, as the case may be.

### **54 ACMA may accept statements**

Despite anything in this Division, the ACMA may, for the purposes of making an assessment under this Division, partly or completely accept a statement in an eligible revenue return.

### **55 Multiple assessments in the same document**

The ACMA may include in the same document more than one assessment made under this Division.

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**Subdivision E—Collection and recovery of levy**

**56 When levy payable**

- (1) Levy assessed under section 51 becomes due and payable on:
  - (a) the 28th day; or
  - (b) such later day as is determined in writing by the ACMA; after the ACMA gives a copy of the assessment to the participating person to whom the assessment relates.
- (2) A copy of a determination under paragraph (1)(b) must be published on the ACMA's website.
- (3) A determination under paragraph (1)(b) is not a legislative instrument.

**57 Recovery of levy**

Levy:

- (a) is a debt due to the ACMA on behalf of the Commonwealth; and
- (b) may be recovered by the ACMA, on behalf of the Commonwealth, in a court of competent jurisdiction.

**58 Validity of assessment**

The validity of an assessment under this Division is not affected by a contravention of this Division.

**59 Evidence of assessment**

*Scope*

- (1) This section applies if a document that purports to be a copy of an assessment under section 51 is produced in a proceeding.

*Evidence*

- (2) Except so far as the contrary is established, it must be presumed:
- (a) that the document is a copy of the assessment; and
  - (b) that the ACMA has duly made the assessment; and
  - (c) that the amounts and other particulars set out in the assessment are correct.

**60 Onus of establishing incorrectness of assessment**

In any proceeding, the onus of establishing that an assessment under section 51 is incorrect is on the party making that assertion.

**61 Set-off**

- (1) If:
- (a) an amount of levy (the *first amount*) is payable by a person; and
  - (b) an amount (the *second amount*) is payable by the Commonwealth to the person:
    - (i) under a section 14 contract; or
    - (ii) as a section 14 grant;
- the ACMA may, on behalf of the Commonwealth, set off the whole or a part of the first amount against the whole or a part of the second amount.
- (2) Before doing so, the ACMA must consult the Secretary.

*Overall levy target amount*

- (3) For the purposes of sections 41 and 42, if the second amount is payable by the Commonwealth to the person under a section 14 contract, the amount set off is taken to have been paid by the Secretary, on behalf of the Commonwealth, under a section 14 contract.
- (4) For the purposes of sections 41 and 42, if the second amount is payable by the Commonwealth to the person as a section 14 grant,

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the amount set off is taken to have been paid by the Secretary, on behalf of the Commonwealth, by way of a section 14 grant.

*Grant taken to be payable by the Commonwealth*

- (5) For the purposes of this section, if a person is eligible to receive a section 14 grant, the amount of the grant is taken to be an amount payable by the Commonwealth to the person.

### **62 Refund of overpayment of levy**

If there is an overpayment of levy, the overpayment is to be refunded by the Secretary on behalf of the Commonwealth.

Note: For the appropriation for the refund, see section 77 of the *Public Governance, Performance and Accountability Act 2013*.

### **63 Cancellation of certain exemptions from levy**

- (1) This section cancels the effect of a provision of another Act that would have the effect of exempting a person from liability to pay levy.
- (2) The cancellation does not apply if the provision of the other Act is enacted after the commencement of this section and refers specifically to levy imposed by the *Telecommunications (Industry Levy) Act 2012*.

### **64 Commonwealth not liable to levy**

- (1) The Commonwealth is not liable to pay levy.
- (2) A reference in this section to the **Commonwealth** includes a reference to an authority of the Commonwealth that cannot, by law of the Commonwealth, be made liable to taxation by the Commonwealth.

## **65 Performance bonds and guarantees**

- (1) The Minister may, by written determination, require a person who has a liability to pay levy, or an anticipated liability to pay levy, to obtain, in accordance with the determination, performance bonds or guarantees in respect of the person's liability or anticipated liability.
- (2) The person must comply with the determination.
- (3) A determination under this section is a legislative instrument.
- (4) In this section:

*performance bond* has the meaning given by the determination.

## **Subdivision F—Disclosure of information**

### **66 Public may request information**

- (1) A person may request the ACMA to make available to the person:
  - (a) specified information or documents on the basis of which the ACMA may make, or has made, its assessment under section 51 for an eligible levy period; or
  - (b) specified information about how the ACMA may work out, or has worked out, the matters mentioned in paragraphs 51(2)(a) and (b).
- (2) The ACMA must comply with a request as provided in section 68. This subsection has effect subject to subsection (3).
- (3) The ACMA must not make available under this section:
  - (a) information (other than information prescribed for the purposes of this paragraph):
    - (i) that was obtained from, or relates to, a person who is a participating person for an eligible revenue period; and
    - (ii) the making available of which under this section can reasonably be expected to cause substantial damage to the person's commercial or other interests; or

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- (b) information prescribed for the purposes of this paragraph; or
- (c) so much of a document as sets out information of a kind referred to in paragraph (a) or (b).

**67 Request for information that is unavailable under section 66**

- (1) A person who is a participating person for an eligible revenue period may request the ACMA to make available to the person specified information or documents of a kind referred to in subsection 66(1) that subsection 66(3) prevents the ACMA from making available to the person under section 66.
- (2) The ACMA must comply with a request as provided for in section 68. This subsection has effect subject to subsection (3) of this section.
- (3) The ACMA must not, under this section, make available to a person (the *first person*) information, or so much of a document as sets out information:
  - (a) that was obtained from, or relates to, another person (the *second person*) who is a participating person for an eligible revenue period; and
  - (b) the making available of which to the first person can reasonably be expected to cause substantial damage to the second person's commercial or other interests;unless the ACMA is satisfied:
  - (c) that the information could be obtained by the first person lawfully, and without the second person's consent, from a source other than the ACMA; or
  - (d) that:
    - (i) the first person has made the request in good faith for the sole purpose of informing itself about the basis on which, or the methods by which, the ACMA made the assessment concerned; and
    - (ii) having regard to the policy objectives in section 13, the first person's interest in being able to examine that basis and those methods in order to see how its liability to pay

levy has been assessed outweighs the second person's interest in avoiding the damage referred to in paragraph (b) of this subsection.

- (4) In determining the question referred to in paragraph (3)(b), the ACMA must have regard to:
- (a) whether any undertakings have been given under subsection (5) and, if so, the nature of those undertakings; and
  - (b) such other matters (if any) as the ACMA considers relevant.
- (5) For the purposes of this section, a person may give the ACMA a written undertaking that, if specified information, or the whole or a part of a specified document, is made available to the person under this section, the person will not:
- (a) disclose the information, or the contents of the document, except to one or more specified persons; or
  - (b) use the information, or the document, except for the purpose of informing itself about the basis on which, or the methods by which, the ACMA made the assessment concerned.
- Note: Information, documents or persons may be specified by name, by inclusion in a class or in any other way.
- (6) If a person gives an undertaking under subsection (5), the person must comply with the undertaking.

## **68 How the ACMA is to comply with a request**

- (1) The ACMA may comply with a request by a person under section 66 or 67 by:
- (a) communicating information to the person in writing or in some other form; or
  - (b) making documents available for inspection by the person or by an employee, agent or professional adviser of the person; or
  - (c) giving to the person copies of, extracts from, or summaries of, documents.

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(2) In this section:

*document* includes a part of a document.

**Subdivision G—Other matters**

**69 Offence of failing to lodge eligible revenue return**

- (1) A person commits an offence if:
- (a) the person is subject to a requirement under section 43; and
  - (b) the person omits to do an act; and
  - (c) the omission breaches the requirement.

Penalty: 50 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

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

(3) A person who contravenes subsection (1) commits a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.

**70 Late payment penalty**

- (1) If an amount of levy that is payable by a person remains unpaid after the day on which it becomes due and payable, the person is liable to pay a penalty (*late payment penalty*) on the unpaid amount for each day until all of the levy has been paid.
- (2) The late payment penalty rate is 20% per year, or such lower rate as the ACMA determines in writing for the purposes of this subsection.
- (3) The ACMA may remit the whole or part of a late payment penalty that a person is liable to pay under subsection (2).
- (4) The late payment penalty for a day is due and payable at the end of that day.



- (5) Late payment penalty:
- (a) is a debt due to the ACMA on behalf of the Commonwealth;  
and
  - (b) may be recovered by the ACMA, on behalf of the Commonwealth, in a court of competent jurisdiction.
- (6) If the amount of the late payment penalty for a day is not an amount of whole dollars, the late payment penalty is rounded to the nearest dollar (rounding 50 cents upwards).
- (7) A determination under subsection (2) is a legislative instrument.

## Division 7—Other matters

### 71 Register of Public Interest Telecommunications Contracts

- (1) The Secretary is to maintain a register, to be known as the Register of Public Interest Telecommunications Contracts, in which the Secretary includes the following for each section 14 contract that is in force:
  - (a) the name of the contractor;
  - (b) the duration of the contract;
  - (c) a summary of the actions to be undertaken by the contractor under the contract;
  - (d) a description of the services, facilities or customer equipment to be supplied by the contractor in accordance with the contract;
  - (e) one of the following:
    - (i) the total amount paid or to be paid by the Commonwealth under the contract;
    - (ii) an estimate of the total amount paid or to be paid by the Commonwealth under the contract;
    - (iii) the method of working out the total amount paid or to be paid by the Commonwealth under the contract.
- (2) The Register of Public Interest Telecommunications Contracts is to be maintained by electronic means.
- (3) The Register of Public Interest Telecommunications Contracts is to be made available for inspection on the Department's website.
- (4) The Register of Public Interest Telecommunications Contracts is not a legislative instrument.

### 72 Register of Public Interest Telecommunications Grants

- (1) The Secretary is to maintain a register, to be known as the Register of Public Interest Telecommunications Grants, in which the
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Secretary includes the following for each section 14 grant that has been made:

- (a) the name of the grant recipient;
  - (b) a summary of the terms and conditions of the grant that require action to be undertaken by the grant recipient;
  - (c) a description of the services, facilities or customer equipment to be supplied by the grant recipient in accordance with the terms and conditions of the grant;
  - (d) either:
    - (i) the amount of the grant; or
    - (ii) the method for working out the amount of the grant.
- (2) The Register of Public Interest Telecommunications Grants is to be maintained by electronic means.
  - (3) The Register of Public Interest Telecommunications Grants is to be made available for inspection on the Department's website.
  - (4) The Register of Public Interest Telecommunications Grants is not a legislative instrument.

### **73 Delegation by the Minister**

- (1) The Minister may, by writing, delegate any or all of his or her functions or powers under this Part to a member of the staff of the ACMA who is:
  - (a) an SES employee; or
  - (b) an acting SES employee.

Note: The expressions **SES employee** and **acting SES employee** are defined in the *Acts Interpretation Act 1901*.

- (2) A delegate must comply with any written directions of the Minister.

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**74 Delegation by the Secretary**

- (1) The Secretary may, by writing, delegate any or all of his or her functions or powers under this Part to an SES employee, or acting SES employee, in the Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation, the delegate must comply with any directions of the Secretary.

## **Part 3—Funding of fixed wireless broadband and satellite broadband**

### **Division 1—Introduction**

#### **75 Simplified outline of this Part**

- The Secretary is responsible for entering into contracts, and making grants, relating to:
  - (a) fixed wireless broadband; and
  - (b) satellite broadband.
- The ACMA will assess and collect the charge imposed on carriers by the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.
- The proceeds of the charge will be used to:
  - (a) pay contractors and grant recipients; and
  - (b) offset designated administrative costs.

#### **76 Definitions**

In this Part:

***administrative cost instalment*** of charge has the meaning given by subsection 102D(5).

***amount*** includes a nil amount.

***annual administrative cost amount***, for a financial year, has the same meaning as in the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

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**annual base amount**, for a financial year, has the same meaning as in the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

**annual chargeable premises amount**, for a financial year, has the same meaning as in the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

**associate** has the same meaning as in Part 8 of the *Telecommunications Act 1997*.

**base instalment** of charge has the meaning given by subsection 102D(5).

**broadcast television stream** means a continuous stream of program material that is identical to the program material provided by:

- (a) a licensed television broadcasting service; or
- (b) a national television broadcasting service.

**charge** means charge imposed by the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

**chargeable premises associated with a local access line** of a person has the meaning given by section 93.

**charge offset certificate** means a certificate issued under section 98.

**contractor** has the meaning given by section 80.

**declared service** has the same meaning as in Part XIC of the *Competition and Consumer Act 2010*.

**designated administrative costs** means:

- (a) remuneration, and other employment-related costs and expenses, incurred in respect of APS employees whose duties relate to the performance of the ACMA's functions, or the exercise of the ACMA's powers, under this Part; or
- (b) any other costs, expenses and other obligations incurred by the ACMA in connection with the performance of the

ACMA's functions, or the exercise of the ACMA's powers, under this Part; or

- (c) remuneration, and other employment-related costs and expenses, incurred in respect of APS employees whose duties relate to the performance of the ACCC's functions, or the exercise of the ACCC's powers, under this Part or the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*; or
- (d) any other costs, expenses and other obligations incurred by the ACCC in connection with the performance of the ACCC's functions, or the exercise of the ACCC's powers, under this Part or the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*;

but does not include:

- (e) amounts incurred under contracts made under section 80; and
- (f) amounts incurred by way of grants made under section 80.

***designated broadband service*** has the meaning given by section 76AA.

***designated start date*** means 1 January 2021.

***eligible financial year*** has the meaning given by section 79.

***eligible funding recipient*** has the meaning given by section 78.

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

***exempt line*** has the meaning given by section 96.

***exempt premises*** has the meaning given by section 95.

***financial year*** has a meaning affected by section 78A.

***fixed wireless broadband service*** has the meaning given by section 76AB.

***grant recipient*** has the meaning given by section 80.

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**instalment** of charge: see subsection 102D(5).

**licensed television broadcasting service** means a broadcasting service that:

- (a) is provided in accordance with:
  - (i) a licence allocated by the ACMA under the *Broadcasting Services Act 1992*; or
  - (ii) a class licence determined by the ACMA under the *Broadcasting Services Act 1992*; and
- (b) provides television programs.

**local access line** has the meaning given by section 76A.

**month** means calendar month.

**multi-unit building** means:

- (a) a building that has 2 or more units for occupation as a place of residence or business; or
- (b) a building in a complex, where each building has 2 or more units for occupation as a place of residence or business.

**national television broadcasting service** means a broadcasting service that:

- (a) is a national broadcasting service within the meaning of the *Broadcasting Services Act 1992*; and
- (b) provides television programs.

**NBN Co** has the same meaning as in the *National Broadband Network Companies Act 2011*.

**nominal funding entitlement** of a person for a financial year means the amount specified in a nominal funding entitlement certificate that:

- (a) is held by the person; and
- (b) relates to the financial year.

**nominal funding entitlement certificate** means a certificate issued under section 86.



***potentially chargeable premises*** has the meaning given by section 94.

***potentially concessional premises*** has the meaning given by section 96A.

Note: See also subsection 100(5).

***premises*** has a meaning affected by section 79A.

***recently connected greenfield premises***, in relation to a person for a month, has the meaning given by section 96B.

Note: See also subsection 100(11).

***Regional Broadband Scheme Special Account*** means the Regional Broadband Scheme Special Account established by section 89.

***residential customer*** has the same meaning as in Part 8 of the *Telecommunications Act 1997*.

***satellite broadband service*** has the meaning given by section 77.

***small business customer*** means:

- (a) a customer who is a small business employer (within the meaning of the *Fair Work Act 2009*); or
- (b) a customer who:
  - (i) carries on a business; and
  - (ii) does not have any employees.

For the purposes of paragraph (a) of this definition, it is to be assumed that each reference in section 23 of the *Fair Work Act 2009* to a national system employer were a reference to an employer (within the ordinary meaning of that expression).

***superfast carriage service*** means a carriage service, where:

- (a) the carriage service enables end-users to download communications; and
- (b) the download transmission speed of the carriage service is normally 25 megabits per second or more; and

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- (c) the carriage service is supplied to particular premises using a line.

Note: The line does not need to be physically connected to the premises. This is because *using* has an extended meaning—see subsection 5(1) of this Act and section 24 of the *Telecommunications Act 1997* (when read together with section 18A of the *Acts Interpretation Act 1901*).

### 76A Local access line

- (1) For the purposes of this Part, a **local access line** is a line that is part of the infrastructure of a local access network.
- (2) However, a line does not form part of a **local access line** to the extent that the line is on the customer side of the boundary of a telecommunications network.
- (3) Subsection (2) has effect subject to subsection (4).
- (4) For the purposes of this Part, if a line in a multi-unit building is used to supply a carriage service to a unit in the building, the line is taken to be a **local access line**.
- (5) For the purposes of this section, the **boundary of a telecommunications network** is to be determined in the same manner in which it is determined under section 22 of the *Telecommunications Act 1997* for the purposes of sections 20, 21 and 30 of that Act.
- (6) For the purposes of this section, **local access network** has the meaning generally accepted within the telecommunications industry.

### 76AA Designated broadband services

- (1) For the purposes of this Part, **designated broadband service** means a carriage service that is supplied using a local access line, where:
  - (a) the carriage service enables end-users to download communications; and
  - (b) the local access line is part of the infrastructure of a telecommunications network in Australia; and

(c) the local access line is technically capable of being used to supply a superfast carriage service;

but does not include:

(d) a carriage service that can only be used by an end-user to make and receive voice calls; or

(e) a carriage service that can only be used by an end-user to view one or more broadcast television streams; or

(f) a carriage service that belongs to a class determined under subsection (2).

Note: See also section 102ZH.

(2) The Minister may, by legislative instrument, determine one or more classes of carriage service for the purposes of paragraph (1)(f).

Note: See also section 102ZFB (disallowance of determinations).

### **76AB Fixed wireless broadband service**

(1) For the purposes of this Part, *fixed wireless broadband service* means a carriage service, where:

(a) the carriage service is supplied using a fixed wireless technology platform; and

(b) the carriage service is marketed to customers, or potential customers, as a fixed wireless service; and

(c) the carriage service enables end-users to download communications; and

(d) the peak download transmission speed of the carriage service is at least 25 megabits per second; and

(e) the peak upload transmission speed of the carriage service is at least 5 megabits per second; and

(f) the carriage service is not a public mobile telecommunications service; and

(g) the carriage service is a listed carriage service; and

(h) the conditions (if any) determined under subsection (2) are satisfied.

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- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of paragraph (1)(h).
- (3) For the purposes of this section, *fixed wireless technology platform* has the meaning generally accepted within the telecommunications industry.

**77 Satellite broadband service**

- (1) For the purposes of this Part, *satellite broadband service* means a carriage service, where:
  - (a) the carriage service is supplied using a satellite; and
  - (b) the carriage service enables end-users to download communications; and
  - (c) the peak download transmission speed of the carriage service is at least 25 megabits per second; and
  - (d) the peak upload transmission speed of the carriage service is at least 5 megabits per second; and
  - (e) the carriage service is not a public mobile telecommunications service; and
  - (f) the carriage service is a listed carriage service; and
  - (g) the conditions (if any) determined under subsection (2) are satisfied.
- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of paragraph (1)(g).

**78 Eligible funding recipients**

- (1) For the purposes of this Part, *eligible funding recipient* means a carrier that is:
  - (a) an NBN corporation; or
  - (b) determined under subsection (2).
- (2) The Minister may, by legislative instrument, determine one or more carriers for the purposes of paragraph (1)(b).

### **78A Financial year**

For the purposes of this Part (other than section 85), the 6-month period beginning on the designated start date is taken to be a financial year.

### **79 Eligible financial year**

For the purposes of this Part, *eligible financial year* means:

- (a) the financial year beginning on the designated start date; or
- (b) a later financial year.

### **79A Premises**

- (1) The Minister may, by legislative instrument, determine that, if a location satisfies one or more specified conditions, the location is taken to be premises for the purposes of this Part.

Note: See also section 102ZFB (disallowance of determinations).

- (2) The Minister may, by legislative instrument, determine that, if a location satisfies one or more specified conditions, the location is taken not to be premises for the purposes of this Part.

Note: See also section 102ZFB (disallowance of determinations).

- (3) A determination under subsection (1) or (2) must be of a legislative character.

## **Division 2—Contracts and grants relating to fixed wireless broadband and satellite broadband**

### **80 Contracts and grants**

- (1) The Secretary may, on behalf of the Commonwealth:
  - (a) enter into a contract with; or
  - (b) make a grant of financial assistance to;  
an eligible funding recipient in relation to:
    - (c) the connection of premises to a telecommunications network in order that a carriage service provider can provide:
      - (i) fixed wireless broadband services to an end-user at the premises; or
      - (ii) satellite broadband services to an end-user at the premises; or
    - (d) the supply of eligible services to a carriage service provider in order that the carriage service provider can provide:
      - (i) fixed wireless broadband services to an end-user at premises; or
      - (ii) satellite broadband services to an end-user at premises;  
or
    - (e) facilities that are used, or proposed to be used, to supply:
      - (i) fixed wireless broadband services; or
      - (ii) satellite broadband services; or
    - (f) a matter that is incidental or ancillary to a matter mentioned in paragraph (c), (d) or (e).
- (2) For the purposes of this Part, if the Secretary enters into a contract with a person under subsection (1), the person is a **contractor**.
- (3) For the purposes of this Part, if the Secretary makes a grant of financial assistance to a person under subsection (1), the person is a **grant recipient**.

- (4) A contract under subsection (1) may provide for the Commonwealth to reimburse, or partly reimburse, costs or expenses.
- (5) A grant under subsection (1) may be made by way of the reimbursement, or partial reimbursement, of costs or expenses.
- (6) Subsections (4) and (5) do not limit subsection (1).
- (7) To avoid doubt, the use of the word “Regional” in:
  - (a) the short title of the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*; or
  - (b) the name of the Regional Broadband Scheme Special Account; or
  - (c) section 92A;does not limit subsection (1) of this section.

## **81 Terms and conditions of grants**

### *Scope*

- (1) This section applies to a grant of financial assistance made under section 80.

### *Terms and conditions*

- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the grant recipient.
- (3) An agreement under subsection (2) is to be entered into by the Secretary on behalf of the Commonwealth.
- (4) Subsection (2) does not apply to a condition under section 82.

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**82 Condition about compliance with Ministerial determination**

*Condition*

- (1) It is a condition of:
- (a) a contract entered into under section 80; or
  - (b) a grant made under section 80;
- that the contractor or grant recipient, as the case may be, must comply with a determination under subsection (2) in so far as the determination applies to the contract or grant, as the case may be.

*Determination*

- (2) The Minister may, by legislative instrument, make a determination that sets out either or both of the following:
- (a) standards or rules that must be complied with by contractors or grant recipients, as the case may be, in relation to contracts entered into, or grants made, under section 80;
  - (b) minimum benchmarks that must be met or exceeded by contractors or grant recipients, as the case may be, in relation to contracts entered into, or grants made, under section 80.

*Application of determinations*

- (3) A determination under subsection (2) may be of general application or may be limited as provided in the determination.
- (4) Subsection (3) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

*Other terms and conditions*

- (5) This section does not, by implication, limit:
- (a) the terms and conditions that may be included in a contract entered into under section 80; or
  - (b) the terms and conditions that may be included in an agreement under section 81.



*Determination prevails over inconsistent contract or agreement*

- (6) A term or condition:
- (a) of a contract entered into under section 80; or
  - (b) set out in an agreement under section 81;
- has no effect to the extent to which it is inconsistent with a determination under subsection (2) that applies to the contract or to the grant to which the agreement relates, as the case may be.
- (7) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it overrides a term or condition:
- (a) of a contract entered into under section 80; and
  - (b) that gives the contractor a right to adjustment of payment for a change in the services, facilities or customer equipment to be supplied by the contractor in accordance with the contract.
- (8) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it specifies the price, or a method of ascertaining the price, for any of the services, facilities or customer equipment to be supplied by a contractor in accordance with a section 80 contract.
- (9) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it overrides a term or condition:
- (a) set out in an agreement under section 81; and
  - (b) that gives the grant recipient a right to adjustment of payment for a change in the services, facilities or customer equipment to be supplied by the grant recipient in accordance with the terms and conditions of the grant.
- (10) Despite subsection (6), a determination under subsection (2) has no effect to the extent to which it specifies the price, or a method of ascertaining the price, for any of the services, facilities or customer equipment to be supplied by the grant recipient of a section 80 grant in accordance with the terms and conditions of the grant.

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### **83 Secretary has powers etc. of the Commonwealth**

- (1) The Secretary, on behalf of the Commonwealth, has all the rights, responsibilities, duties and powers of the Commonwealth in relation to the Commonwealth's capacity as:
  - (a) a party to a contract entered into under section 80; or
  - (b) the grantor of a grant made under section 80.
- (2) Without limiting subsection (1):
  - (a) an amount payable by the Commonwealth under a section 80 contract is to be paid by the Secretary on behalf of the Commonwealth; and
  - (b) an amount payable to the Commonwealth under a section 80 contract is to be paid to the Secretary on behalf of the Commonwealth; and
  - (c) a section 80 grant is to be paid by the Secretary on behalf of the Commonwealth; and
  - (d) an amount payable to the Commonwealth by way of the repayment of the whole or a part of a section 80 grant is to be paid to the Secretary on behalf of the Commonwealth; and
  - (e) the Secretary may institute an action or proceeding on behalf of the Commonwealth in relation to a matter that concerns:
    - (i) a section 80 contract; or
    - (ii) a section 80 grant.

### **84 Conferral of powers on the Secretary**

The Secretary may exercise a power conferred on the Secretary by:

- (a) a contract entered into under section 80; or
- (b) an agreement under section 80.

### **85 Monitoring of performance**

- (1) The Secretary must monitor, and report each financial year to the Minister on, all significant matters relating to:
  - (a) the performance of contractors; and

- (b) the performance of grant recipients.
- (2) A report under subsection (1) for a financial year must set out details of the following matters:
  - (a) the adequacy of each contractor's compliance, during that year, with the terms and conditions of a section 80 contract;
  - (b) the adequacy of each grant recipient's compliance, during that year, with the terms and conditions of a section 80 grant;
  - (c) any notice of breach by a contractor of a section 80 contract, where the notice was given during that year;
  - (d) any notice of breach by a grant recipient of a term or condition of a section 80 grant, where the notice was given during that year;
  - (e) any remedial action taken by the Secretary during that year in response to a breach of a section 80 contract;
  - (f) any remedial action taken by the Secretary during that year in response to a breach of the terms or conditions of a section 80 grant;
  - (g) the result of any such remedial action.
- (3) Subsection (2) does not limit subsection (1).
- (4) A report under subsection (1) for a financial year must be included in the annual report prepared by the Secretary and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the financial year.

## 86 Nominal funding entitlement certificate

### *Funding financial year*

- (1) For the purposes of this section, ***funding financial year*** means:
  - (a) the second eligible financial year; or
  - (b) a later eligible financial year.

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*Issue of certificate*

- (2) If a carrier is an eligible funding recipient at the start of 1 February in a funding financial year, the Secretary must:
- (a) issue to the carrier a certificate stating that a specified amount is the nominal funding entitlement of the carrier for the funding financial year; and
  - (b) do so:
    - (i) by the end of 31 March in the funding financial year; and
    - (ii) if the carrier has applied under subsection 98(1) for a charge offset certificate in relation to the previous financial year—before making a decision in response to the application.
- (3) A certificate issued under subsection (1) is to be known as a ***nominal funding entitlement certificate***.

*Estimated balance of Regional Broadband Scheme Special Account*

- (4) The following provisions have effect in relation to the issue of nominal funding entitlement certificates in relation to a funding financial year:
- (a) before issuing those certificates, the Secretary must make an estimate of so much of the balance of the Regional Broadband Scheme Special Account as at 7 May in the funding financial year as is attributable to amounts paid to the Commonwealth by way of:
    - (i) so much of an amount of charge as is attributable to the annual base amount for a financial year; or
    - (ii) a base instalment of charge; and
  - (b) in issuing those certificates, the Secretary must have regard to that estimate.

*Payments to holder of certificate*

- (5) If:
- (a) a carrier is an eligible funding recipient; and
  - (b) the carrier is the holder of a nominal funding entitlement certificate in relation to a funding financial year;
- the Secretary must take all reasonable steps to ensure that the total of:
- (c) the amounts that have, or will, become due and payable by the Commonwealth to the carrier under section 80 contracts during the funding financial year; and
  - (d) the section 80 grants that were, or will be, made to the carrier during the funding financial year;
- equals whichever of the following amounts is applicable:
- (e) if the carrier holds a charge offset certificate for the previous financial year—the nominal funding entitlement of the carrier for the funding financial year, reduced by the amount specified in the charge offset certificate;
  - (f) if the carrier does not hold a charge offset certificate for the previous financial year—the nominal funding entitlement of the carrier for the funding financial year.

*Copy of certificate to be given to the ACMA*

- (6) If the Secretary issues a nominal funding entitlement certificate, the Secretary must give a copy of the certificate to the ACMA.

*Publication of certificate*

- (7) If the Secretary issues a nominal funding entitlement certificate, the Secretary must publish a copy of the certificate on the Department's website.

*Certificate cannot be transferred*

- (8) A nominal funding entitlement certificate cannot be transferred.

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**87 Secretary to comply with rules**

- (1) The Minister may, by legislative instrument, make rules to be complied with by the Secretary in relation to the performance of the Secretary's functions, or the exercise of the Secretary's powers, under this Division.
- (2) The Secretary must comply with any rules in force under subsection (1).

**88 Executive power of the Commonwealth**

This Division does not, by implication, limit the executive power of the Commonwealth.

## **Division 3—Regional Broadband Scheme Special Account**

### **89 Regional Broadband Scheme Special Account**

- (1) The Regional Broadband Scheme Special Account is established by this section.
- (2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

### **90 Credits to the Account**

There must be credited to the Regional Broadband Scheme Special Account:

- (a) an amount equal to an amount paid to the Commonwealth by way of:
  - (i) charge; or
  - (ii) an instalment of charge; and
- (b) an amount equal to an amount paid to the Commonwealth under a section 80 contract; and
- (c) an amount equal to an amount paid to the Commonwealth by way of damages or compensation for a breach of a section 80 contract; and
- (d) an amount equal to an amount paid to the Commonwealth by way of the repayment of the whole or a part of a section 80 grant.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

### **91 Distribution of whole or part of balance of the Account**

- (1) If:

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- (a) the whole or a part of the balance standing to the credit of the Regional Broadband Scheme Special Account at a particular time is attributable to charge paid by particular carriers; and
  - (b) a determination is in force under subsection (2);
- the Secretary may, on behalf of the Commonwealth, distribute to those carriers the whole or a part of the balance.
- (2) The Minister may, by legislative instrument, determine:
    - (a) rules to be complied with by the Secretary in relation to the timing of distributions under subsection (1); and
    - (b) a method to be applied by the Secretary in making distributions under subsection (1).
  - (3) The Secretary must comply with a determination in force under subsection (2).

**92 Purposes of the Account**

The purposes of the Regional Broadband Scheme Special Account are as follows:

- (a) to pay amounts payable by the Commonwealth under a contract entered into under section 80;
- (b) to make grants under section 80;
- (c) to make distributions in accordance with section 91;
- (d) to pay refunds under section 99 or 102J.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

**92A Offset for designated administrative costs—transfer to general CRF**

- (1) The Secretary may, by notifiable instrument, direct that a specified amount is to be debited from the Regional Broadband Scheme Special Account.
- (2) The total of the amounts debited under subsection (1) must not exceed whichever is the lesser of the following:



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- (a) the total of the relevant Budget amounts (see subsection (3));
- (b) the total of the amounts paid to the Commonwealth by way of:
- (i) so much of an amount of charge as is attributable to the annual administrative cost amount for a financial year; or
  - (ii) an administrative cost instalment of charge.
- (3) For the purposes of this section, **relevant Budget amounts** are to be ascertained using the following table.

<b>Relevant Budget amounts</b>			
<b>Item</b>	<b>Document</b>	<b>Location in document</b>	<b>Relevant Budget amount</b>
1	<i>Portfolio Additional Estimates Statements</i> for 2016-17 for the Treasury Portfolio	table that relates to the ACCC's Entity 2016-17 measures since Budget	the amount shown in the table in the column headed 2016-17 opposite the entry relating to Regional Broadband Scheme Departmental expenses
2	<i>Portfolio Additional Estimates Statements</i> for 2016-17 for the Communications and the Arts Portfolio	table that relates to the ACMA's Entity 2016-17 measures since Budget	the amount shown in the table in the column headed 2016-17 opposite the entry relating to Regional Broadband Scheme Departmental capital
3	<i>Portfolio Budget Statements</i> for 2018-19 for the Department	table that relates to Budgeted expenses for the Department	the amount shown in the table in the column headed 2017-18 opposite the entry relating to Regional Broadband Scheme Special Account Departmental expenses

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<b>Relevant Budget amounts</b>			
<b>Item</b>	<b>Document</b>	<b>Location in document</b>	<b>Relevant Budget amount</b>
4	<i>Portfolio Budget Statements</i> for: (a) the 2018-19 financial year; or (b) a later financial year; for the Department	table that relates to Budgeted expenses for the Department	the amount shown in the table in the column relating to that financial year opposite the entry relating to Regional Broadband Scheme Special Account Departmental expenses

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## **Division 4—Chargeable premises associated with a local access line**

### **93 Chargeable premises associated with a local access line**

For the purposes of this Part, if:

- (a) a person is a carrier; and
- (b) particular premises are potentially chargeable premises in relation to the person for a month; and
- (c) the premises are not exempt premises in relation to the person for the month;

the premises are *chargeable premises associated with a local access line* of the person for the month.

### **94 Potentially chargeable premises**

If:

- (a) a person is a carrier; and
- (b) during a period comprising the whole or a part of a month in an eligible financial year, either:
  - (i) the person owns a local access line, but no nominated carrier declaration is in force in relation to the line; or
  - (ii) under a nominated carrier declaration, the person is the nominated carrier in relation to a local access line; and
- (c) the line is not an exempt line in relation to the person for the month; and
- (d) during the whole or a part of the period, a carriage service provider (who may be the person) supplies a designated broadband service to particular premises in Australia using the line;

the premises are *potentially chargeable premises* in relation to the person for the month.

Note: The line does not need to be physically connected to the premises.  
This is because *using* has an extended meaning—see subsection 5(1)

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of this Act and section 24 of the *Telecommunications Act 1997* (when read together with section 18A of the *Acts Interpretation Act 1901*).

**95 Exempt premises—small networks**

(1) If:

- (a) a person is a member of an associated group during the whole or a part of a month; and
- (b) the total number of potentially chargeable premises in relation to the members of the group for that month is less than 2,000; and
- (c) one or more of those potentially chargeable premises are potentially chargeable premises in relation to the person for that month;

each of the potentially chargeable premises mentioned in paragraph (c) are *exempt premises* in relation to the person for that month.

(2) If:

- (a) a person is not a member of an associated group during the whole or a part of a month; and
- (b) the total number of potentially chargeable premises in relation to the person for that month is less than 2,000;

each of those potentially chargeable premises are *exempt premises* in relation to the person for that month.

*Associated group*

(3) For the purposes of this section, if:

- (a) a person is in a position to exercise control of:
  - (i) a local access line; or
  - (ii) a telecommunications network; and
- (b) the person has one or more associates;

then:

- (c) the person is taken to belong to an associated group; and
- (d) the associated group consists of the person and those associates.

- (4) For the purposes of subsection (3), the question of whether a person is in a position to exercise control of:
- (a) a local access line; or
  - (b) a telecommunications network;
- is to be determined in the same manner in which that question is determined for the purposes of Part 8 of the *Telecommunications Act 1997*.
- (5) For the purposes of subsection (3), the question of whether a person has one or more associates is to be determined in the same manner in which that question is determined for the purposes of Part 8 of the *Telecommunications Act 1997*.

## **96 Exempt lines—local access lines transitioning to the NBN**

### *Designated Telstra successor company*

- (1) If:
- (a) a person is a carrier; and
  - (b) during a period comprising the whole or a part of a month in an eligible financial year, either:
    - (i) the person owns a local access line, but there is no nominated carrier declaration in force in relation to the line; or
    - (ii) under a nominated carrier declaration, the person is the nominated carrier in relation to a local access line; and
  - (c) the line is not owned by an NBN corporation at any time during that month; and
  - (d) the line is not used by an NBN corporation to supply a declared service at any time during that month; and
  - (e) during the whole of that month, there was in force a legally enforceable agreement that satisfies the following conditions:
    - (i) the agreement provides for the transfer of ownership or control of the line to an NBN corporation;
    - (ii) the agreement is covered by a determination made under subsection 577BA(9) of the *Telecommunications Act 1997*;

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- (iii) the agreement is not specified in an instrument under subsection (2);  
the line is an *exempt line* in relation to the person for that month.
- (2) The Minister may, by legislative instrument, specify one or more agreements for the purposes of subparagraph (1)(e)(iii).

*Optus*

- (3) If:
  - (a) a person is a carrier; and
  - (b) during a period comprising the whole or a part of a month in an eligible financial year, either:
    - (i) the person owns a local access line, but there is no nominated carrier declaration in force in relation to the line; or
    - (ii) under a nominated carrier declaration, the person is the nominated carrier in relation to a local access line; and
  - (c) the line is not owned by an NBN corporation at any time during that month; and
  - (d) the line is not used by an NBN corporation to supply a declared service at any time during that month; and
  - (e) during the whole of that month, there was in force a contract that satisfies the following conditions:
    - (i) the contract provides for the deactivation or decommissioning of lines that form part of the infrastructure of a hybrid fibre-coaxial network;
    - (ii) the contract was entered into between NBN Co and the listed Optus companies (see subsection (10));
    - (iii) the contract applies to the line;
    - (iv) the agreement is not specified in an instrument under subsection (4);the line is an *exempt line* in relation to the person for that month.
- (4) The Minister may, by legislative instrument, specify one or more agreements for the purposes of subparagraph (3)(e)(iv).

*Other networks*

- (5) If:
- (a) a person is a carrier; and
  - (b) during a period comprising the whole or a part of a month in an eligible financial year, either:
    - (i) the person owns a local access line, but there is no nominated carrier declaration in force in relation to the line; or
    - (ii) under a nominated carrier declaration, the person is the nominated carrier in relation to a local access line; and
  - (c) that month is one of the first 6 months of the first eligible financial year; and
  - (d) the line is not owned by an NBN corporation at any time during that month; and
  - (e) the line is not used by an NBN corporation to supply a declared service at any time during that month; and
  - (f) during the whole of that month, there was in force a legally enforceable agreement that satisfies the following conditions:
    - (i) the agreement provides for the transfer of ownership or control of the line to an NBN corporation;
    - (ii) the agreement was in force immediately before the commencement of this section;
    - (iii) the agreement is not covered by subparagraph (1)(e)(ii) or (3)(e)(ii);
    - (iv) the agreement is not specified in an instrument under subsection (6);
    - (v) such other conditions (if any) as are determined under subsection (7);
- the line is an ***exempt line*** in relation to the person for that month.
- (6) The Minister may, by legislative instrument, specify one or more agreements for the purposes of subparagraph (5)(f)(iv).
- (7) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subparagraph (5)(f)(v).

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*When agreement comes into force*

- (8) For the purposes of this section, an agreement is taken to come into force when the agreement is entered into.

*No specification by class*

- (9) Subsection 13(3) of the *Legislation Act 2003* does not apply to subsection (2), (4) or (6) of this section.

*Listed Optus company*

- (10) For the purposes of this section, **listed Optus company** means:
- (a) Optus Networks Pty Limited (ACN 008 570 330); or
  - (b) Optus Internet Pty Limited (ACN 083 164 532); or
  - (c) Optus Vision Pty Limited (ACN 066 518 821); or
  - (d) Optus Vision Media Pty Limited (ACN 070 870 647); or
  - (e) Optus Systems Pty Limited (ACN 056 541 167); or
  - (f) SingTel Optus Pty Limited (ACN 052 833 208).

**96A Potentially concessional premises**

For the purposes of this Part, if particular premises are potentially chargeable premises in relation to a person for a month because a carriage service provider (who may be the person) supplies a designated broadband service to:

- (a) a residential customer who occupies the premises; or
- (b) a small business customer who occupies the premises;

the premises are **potentially concessional premises** in relation to the person for that month.

**96B Recently connected greenfield premises**

- (1) If:
- (a) during a period comprising the whole or a part of a month in an eligible financial year, a person is a carrier; and



- (b) a declaration made under subsection 63(2) of the *Telecommunications Act 1997* was in force on 30 June 2018 in relation to the carrier licence held by the person; and
- (c) the declaration provides that the person must (upon request by an end-user at relevant premises) connect, or arrange for another person on the person's behalf to connect, premises located in a development area (however described) specified in the declaration to a telecommunications network owned by the person (as specified in the declaration); and
- (d) the person, or another person on the person's behalf:
  - (i) has connected one or more premises located in the development area to the telecommunications network; and
  - (ii) has done so before the end of 30 June 2019; and
- (e) one or more of the connected premises are potentially chargeable premises in relation to the person for that month; each of the potentially chargeable premises mentioned in paragraph (e) are ***recently connected greenfield premises*** in relation to the person for that month.

(2) If:

- (a) a person is a carrier; and
- (b) during a period comprising the whole or a part of a month in an eligible financial year, the person supplies an eligible local bitstream access service using a local access line; and
- (c) during a whole or a part of that period, a carriage service provider supplies a designated broadband service to one or more premises using the line; and
- (d) one or more of those premises are potentially chargeable premises in relation to the person for that month; each of the potentially chargeable premises mentioned in paragraph (d) are ***recently connected greenfield premises*** in relation to the person for that month.

(3) In this section:

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***eligible local bitstream access service*** means a local bitstream access service that is first supplied at a time during the period:

- (a) beginning at the start of 1 January 2011; and
- (b) ending at the end of 30 June 2019.

***local bitstream access service*** has the meaning given by a declaration that:

- (a) was made:
  - (i) under subsection 152AL(3) of the *Competition and Consumer Act 2010*; and
  - (ii) in compliance with repealed subsection 152AL(3C) of the *Competition and Consumer Act 2010*; and
- (b) was in force immediately before the commencement of Schedule 1 to the *Telecommunications Legislation Amendment (Competition and Consumer) Act 2020*.

## **Division 5—Anti-avoidance**

### **97 Anti-avoidance**

- (1) A carrier must not, either alone or together with one or more other persons, enter into, begin to carry out or carry out a scheme if it would be concluded that the carrier did so for the sole or dominant purpose of avoiding the application of:
- (a) section 93 of this Act; or
  - (b) any provision of the *Telecommunications (Regional Broadband Scheme) Charge Act 2020* (other than section 20 of that Act);

in relation to:

- (c) the carrier; or
  - (d) any other carrier.
- (1A) A carrier must not, either alone or together with one or more other persons, enter into, begin to carry out or carry out a scheme if it would be concluded that the carrier did so for the sole or dominant purpose of obtaining the benefit of section 20 of the *Telecommunications (Regional Broadband Scheme) Charge Act 2020* in relation to:
- (a) the carrier; or
  - (b) any other carrier.

*Ancillary contraventions*

- (2) A person must not:
- (a) aid, abet, counsel or procure a contravention of subsection (1) or (1A); or
  - (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1) or (1A); or
  - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1) or (1A); or
  - (d) conspire with others to effect a contravention of subsection (1) or (1A).

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*Civil penalty provisions*

- (3) Subsections (1), (1A) and (2) are ***civil penalty provisions***.

Note: Part 31 of the *Telecommunications Act 1997* provides for pecuniary penalties for breaches of civil penalty provisions.

*Offences*

- (4) A carrier commits an offence if:
- (a) the carrier, either alone or together with one or more other persons, enters into, begins to carry out or carries out a scheme; and
  - (b) the carrier did so for the sole or dominant purpose of avoiding the application of:
    - (i) section 93 of this Act; or
    - (ii) any provision of the *Telecommunications (Regional Broadband Scheme) Charge Act 2020* (other than section 20 of that Act);in relation to:
    - (iii) the carrier; or
    - (iv) any other carrier.

Penalty: 10,000 penalty units.

- (4A) A carrier commits an offence if:
- (a) the carrier, either alone or together with one or more other persons, enters into, begins to carry out or carries out a scheme; and
  - (b) the carrier did so for the sole or dominant purpose of obtaining the benefit of section 20 of the *Telecommunications (Regional Broadband Scheme) Charge Act 2020* in relation to:
    - (i) the carrier; or
    - (ii) any other carrier.

Penalty: 10,000 penalty units.

*Validity of transactions*

- (5) A contravention of subsection (1), (1A), (2), (4) or (4A) does not affect the validity of any transaction.

*Scheme*

- (6) For the purposes of this section, *scheme* means:
- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied; or
  - (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

## Division 6—Charge offset certificate

### 98 Charge offset certificate

#### *Application*

- (1) If:
  - (a) a person is an eligible funding recipient; and
  - (b) the ACMA has made an assessment under section 102 setting out the charge payable by the person for a financial year (the ***charge financial year***);the person may, at any time during the period:
  - (c) beginning when the assessment was made; and
  - (d) ending at the end of the standard due date (within the meaning of section 102D) for the charge financial year;apply to the Secretary for the issue to the person of a charge offset certificate for the charge financial year.
- (2) An application under subsection (1) must:
  - (a) be in writing; and
  - (b) be in a form approved, in writing, by the Secretary; and
  - (c) be accompanied by such information as is specified in rules made under subsection (9).

#### *Issue of certificate*

- (3) If:
  - (a) an application under subsection (1) has been made for the issue to a person of a charge offset certificate for the charge financial year; and
  - (b) the person is the holder of a nominal funding entitlement certificate in relation to the next financial year; and
  - (c) rules made under subsection (9) for the purposes of this paragraph are in force; and
  - (d) the conditions set out in those rules are satisfied;

the Secretary must:

- (e) issue a certificate stating that the person is entitled to a charge offset for the charge financial year equal to the amount specified in the certificate; and
  - (f) do so by the end of 31 March next following the charge financial year.
- (4) The amount specified in the certificate:
- (a) must be the amount ascertained in accordance with rules made under subsection (9); and
  - (b) must not exceed the nominal funding entitlement of the person for the next financial year; and
  - (c) must not exceed the annual base amount of the person for the charge financial year.
- (5) A certificate issued under subsection (3) is to be known as a ***charge offset certificate***.

*Refusal*

- (6) If the Secretary decides to refuse to issue a charge offset certificate to a person, the Secretary must give written notice of the decision to the person.

*Copy of certificate*

- (7) If the Secretary issues a charge offset certificate, the Secretary must give a copy of the certificate to the ACMA.

*Charge offset certificate cannot be transferred*

- (8) A charge offset certificate cannot be transferred.

*Rules*

- (9) The Minister may, by legislative instrument, make rules for the purposes of this section.

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## 99 Remission or refund of charge

### *Remission*

- (1) If:
- (a) a person becomes the holder of a charge offset certificate for a financial year; and
  - (b) a base instalment of charge is payable by the person in relation to the financial year; and
  - (c) the base instalment of charge has not been paid;
- the Secretary must, on behalf of the Commonwealth, remit so much of the base instalment of charge as equals the amount specified in the certificate.

Note: For *base instalment* of charge, see section 102D.

- (2) The Secretary must inform the ACMA of a remission of charge under subsection (1).

- (3) If:
- (a) the ACMA has made an assessment under section 102 setting out the charge payable by a person for a financial year; and
  - (b) the base instalment of charge is remitted, to any extent, under subsection (1) of this section; and
  - (c) the ACMA is informed of the remission;
- the ACMA must, under subsection 102B(1), vary the assessment to reflect the remission.

### *Refund*

- (4) If:
- (a) a person becomes the holder of a charge offset certificate for a financial year; and
  - (b) a base instalment of charge was payable by the person in relation to the financial year; and
  - (c) the base instalment of charge has been paid;



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the Secretary must, on behalf of the Commonwealth, refund so much of the base instalment of charge as equals the amount specified in the certificate.

Note: For *base instalment* of charge, see section 102D.

## Division 7—Assessment, collection and recovery of charge

### Subdivision A—Reporting obligations

#### 100 Reporting obligations

- (1) If there are one or more chargeable premises associated with a local access line of a person for a month in an eligible financial year, the person must:
  - (a) give the ACMA a written report about:
    - (i) those chargeable premises; and
    - (ii) the chargeable premises (if any) associated with a local access line of the person for each of the other months in the financial year; and
  - (b) do so before the end of 31 October next following the financial year.
- (2) The report must be in a form approved, in writing, by the ACMA.
- (3) The approved form may require verification, by a statutory declaration, of statements made in the report.
- (3A) If, at any time during a month covered by the report, the person had an associate in relation to control of:
  - (a) a telecommunications network; or
  - (b) a company; or
  - (c) a local access line;the report must:
  - (d) set out the name of the associate; and
  - (e) set out the ACN (if any) of the associate; and
  - (f) identify the network, company or line, as the case requires; and
  - (g) identify which paragraph or paragraphs of subsection 152(1) of the *Telecommunications Act 1997* resulted in the person having the associate.

*Transitional*

- (4) If:
- (a) the report relates to:
    - (i) the first eligible financial year; or
    - (ii) the second eligible financial year; or
    - (iii) the third eligible financial year; or
    - (iv) the fourth eligible financial year; or
    - (v) the fifth eligible financial year; and
  - (b) there are one or more potentially concessional premises in relation to the person for a month in the eligible financial year;
- the report must set out the total number of potentially concessional premises in relation to the person for that month.
- (5) If:
- (a) particular premises are reported as potentially concessional premises in relation to the person for a month; and
  - (b) apart from this subsection, the premises are not potentially concessional premises in relation to the person for the month; and
  - (c) the person:
    - (i) did not know; and
    - (ii) could not, with reasonable diligence, have ascertained; that the premises are not potentially concessional premises in relation to the person for the month;
- the premises are taken, for all purposes, to be potentially concessional premises in relation to the person for the month.
- (6) If:
- (a) the report relates to:
    - (i) the first eligible financial year; or
    - (ii) the second eligible financial year; or
    - (iii) the third eligible financial year; or
    - (iv) the fourth eligible financial year; or
    - (v) the fifth eligible financial year; and

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- (b) during the whole or a part of a month in the eligible financial year, the person was the controller of an associated group;
- the report must:
- (c) set out a statement to that effect; and
  - (d) identify each of the members of the associated group; and
  - (e) set out the circumstances that resulted in the person being the controller of the associated group.

*Associated group*

- (7) For the purposes of subsection (6), if:
  - (a) a person is in a position to exercise control of:
    - (i) a local access line; or
    - (ii) a telecommunications network; and
  - (b) the person has one or more associates;then:
  - (c) the person is taken to belong to an associated group; and
  - (d) the associated group consists of the person and those associates; and
  - (e) the person is the controller of the associated group.
- (8) For the purposes of subsection (7), the question of whether a person is in a position to exercise control of:
  - (a) a local access line; or
  - (b) a telecommunications network;is to be determined in the same manner in which that question is determined for the purposes of Part 8 of the *Telecommunications Act 1997*.
- (9) For the purposes of subsection (7), the question of whether a person has one or more associates is to be determined in the same manner in which that question is determined for the purposes of Part 8 of the *Telecommunications Act 1997*.

*Transitional—recently connected greenfield premises*

- (10) If:
- (a) the report relates to:
    - (i) the first eligible financial year; or
    - (ii) the second eligible financial year; or
    - (iii) the third eligible financial year; or
    - (iv) the fourth eligible financial year; or
    - (v) the fifth eligible financial year; and
  - (b) there are one or more recently connected greenfield premises in relation to the person for a month in the eligible financial year;
- the report must set out the total number of recently connected greenfield premises in relation to the person for that month.

- (11) If:
- (a) particular premises are reported as recently connected greenfield premises in relation to the person for a month; and
  - (b) apart from this subsection, the premises are not recently connected greenfield premises in relation to the person for the month; and
  - (c) the person:
    - (i) did not know; and
    - (ii) could not, with reasonable diligence, have ascertained; that the premises are not recently connected greenfield premises in relation to the person for the month;
- the premises are taken, for all purposes, to be recently connected greenfield premises in relation to the person for the month.

## **101 Offence of failing to lodge report**

- (1) A person commits a strict liability offence if:
- (a) the person is subject to a requirement under section 100; and
  - (b) the person omits to do an act; and
  - (c) the omission breaches the requirement.

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Penalty: 50 penalty units.

- (2) A person who contravenes subsection (1) commits a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.

**Subdivision B—Assessments**

**102 Assessments**

- (1) If a person has given the ACMA a section 100 report in relation to a financial year before the end of 31 October next following the financial year, the ACMA must:
- (a) make a written assessment setting out:
    - (i) the total number of chargeable premises (if any) associated with a local access line of the person for each of the months in the financial year; and
    - (ii) the person's annual chargeable premises amount (if any) for the financial year; and
    - (iii) the person's annual base amount (if any) for the financial year; and
    - (iv) the person's annual administrative cost amount (if any) for the financial year; and
    - (v) the charge (if any) payable by the person in relation to the financial year; and
  - (b) do so by the assessment deadline for the financial year.

Note 1: Section 102D sets out when the charge is payable.

Note 2: If a month is in the first, second, third, fourth or fifth eligible financial year, the total number mentioned in paragraph (a) may be reduced—see subsection (6).

- (2) If a person has not given the ACMA a section 100 report in relation to a financial year before the end of 31 October next following the financial year, the ACMA may, before the assessment deadline for the financial year, make a written assessment setting out:

- (a) the total number of chargeable premises (if any) associated with a local access line of the person for each of the months in the financial year; and
- (b) the person's annual chargeable premises amount (if any) for the financial year; and
- (c) the person's annual base amount (if any) for the financial year; and
- (d) the person's annual administrative cost amount (if any) for the financial year; and
- (e) the charge (if any) payable by the person in relation to the financial year.

Note 1: Section 102D sets out when the charge is payable.

Note 2: If a month is in the first, second, third, fourth or fifth eligible financial year, the total number mentioned in paragraph (a) may be reduced—see subsection (6).

- (3) An assessment under this section is not a legislative instrument.

*Assessment deadline*

- (4) For the purposes of this section, the **assessment deadline** for a financial year is the end of:
  - (a) 30 November next following the financial year; or
  - (b) if:
    - (i) a later day is ascertained in accordance with a determination made under subsection (5); and
    - (ii) the day ascertained in accordance with the determination is not later than 2 months before the standard due date (within the meaning of section 102D) for the financial year;the day ascertained in accordance with the determination.
- (5) The ACMA may, by legislative instrument, make a determination for the purposes of subparagraph (4)(b)(i).

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*Transitional—reduction of total number of chargeable premises*

- (6) Section 20 of the *Telecommunications (Regional Broadband Scheme) Charge Act 2020* applies for the purposes of subparagraph (1)(a)(i) and paragraph (2)(a) in the same way that it applies for the purposes of that Act.

### **102A Notification of assessment**

As soon as practicable after making an assessment under section 102, the ACMA must give a copy of the assessment to:

- (a) the person to whom the assessment relates; and
- (b) the Secretary.

### **102B Variation of assessments**

- (1) The ACMA may vary an assessment made under this Division by making such alterations and additions as it thinks necessary, even if charge has been paid in respect of an assessment.
- (2) Unless the contrary intention appears, a varied assessment is taken, for the purposes of this Division, to be an assessment under section 102.

### **102C ACMA may accept statements**

Despite anything in this Division, the ACMA may, for the purposes of making an assessment under this Division, partly or completely accept a statement in a report under section 100.

## **Subdivision C—Collection and recovery of charge**

### **102D When charge payable**

*Person other than an eligible funding recipient*

- (1) Charge payable by a person (other than an eligible funding recipient) in relation to a financial year becomes due and payable on:



- (a) the standard due date for the financial year; or
  - (b) if the ACMA, by written notice given to the person, allows a later day—that later day.
- (2) A day allowed under paragraph (1)(b) must not be later than 28 February next following the financial year.
- (3) A copy of a notice under paragraph (1)(b) must be published on the ACMA's website.
- (4) A notice under paragraph (1)(b) is not a legislative instrument.

*Eligible funding recipient*

- (5) If a person is an eligible funding recipient, charge payable by the person in relation to a financial year is payable in 2 instalments, as follows:
- (a) an instalment (the **base instalment**) of so much of the amount of the charge as equals the annual base amount of the person for the financial year;
  - (b) an instalment (the **administrative cost instalment**) of so much of the amount of the charge as equals the annual administrative cost amount of the person for the financial year.
- (6) If a person is an eligible funding recipient, the base instalment of charge payable by the person in relation to a financial year becomes due and payable on:
- (a) if the person has made an application under subsection 98(1) for a charge offset certificate for the financial year—30 April next following the financial year; or
  - (b) otherwise:
    - (i) the standard due date for the financial year; or
    - (ii) if the ACMA, by written notice given to the person, allows a later day—that later day.
- (7) A day allowed under subparagraph (6)(b)(ii) must not be later than 28 February next following the financial year.

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- (8) A copy of a notice under subparagraph (6)(b)(ii) must be published on the ACMA's website.
- (9) A notice under subparagraph (6)(b)(ii) is not a legislative instrument.
- (10) If a person is an eligible funding recipient, the administrative cost instalment of charge payable by the person in relation to a financial year becomes due and payable on:
  - (a) the standard due date for the financial year; or
  - (b) if the ACMA, by written notice given to the person, allows a later day—that later day.
- (11) A day allowed under paragraph (10)(b) must not be later than 28 February next following the financial year.
- (12) A copy of a notice under paragraph (10)(b) must be published on the ACMA's website.
- (13) A notice under paragraph (10)(b) is not a legislative instrument.

*Standard due date*

- (14) For the purposes of this section, the *standard due date* for a financial year is:
  - (a) 31 December next following the financial year; or
  - (b) if:
    - (i) a later day is ascertained in accordance with a determination made under subsection (15); and
    - (ii) the day ascertained in accordance with the determination is not later than 28 February next following the financial year;the day ascertained in accordance with the determination.
- (15) The ACMA may, by legislative instrument, make a determination for the purposes of subparagraph (14)(b)(i).

### **102E Recovery of charge**

Charge, or an instalment of charge:

- (a) is a debt due to the ACMA on behalf of the Commonwealth;  
and
- (b) may be recovered by the ACMA, on behalf of the Commonwealth, in:
  - (i) the Federal Court; or
  - (ii) the Federal Circuit and Family Court of Australia (Division 2); or
  - (iii) a court of a State or Territory that has jurisdiction in relation to the matter.

### **102F Validity of assessment**

The validity of an assessment under this Division is not affected by a contravention of this Division.

### **102G Evidence of assessment**

*Scope*

- (1) This section applies if a document that purports to be a copy of an assessment under section 102 is produced in a proceeding.

*Evidence*

- (2) Except so far as the contrary is established, it must be presumed:
  - (a) that the document is a copy of the assessment; and
  - (b) that the ACMA has duly made the assessment; and
  - (c) that the amounts and other particulars set out in the assessment are correct.

### **102H Onus of establishing incorrectness of assessment**

In any proceeding, the onus of establishing that an assessment under section 102 is incorrect is on the party making that assertion.

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**102J Refund of overpayment of charge**

If there is an overpayment of:

- (a) charge; or
- (b) an instalment of charge;

the overpayment is to be refunded by the Secretary on behalf of the Commonwealth.

**102K Cancellation of certain exemptions from charge**

- (1) This section cancels the effect of a provision of another Act that would have the effect of exempting a person from liability to pay charge.
- (2) The cancellation does not apply if the provision of the other Act is enacted after the commencement of this section and refers specifically to charge imposed by the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

**102L Commonwealth not liable to charge**

- (1) The Commonwealth is not liable to pay charge.
- (2) A reference in this section to the *Commonwealth* includes a reference to an authority of the Commonwealth that cannot, by law of the Commonwealth, be made liable to taxation by the Commonwealth.

**Subdivision D—Other matters**

**102N Late payment penalty**

- (1) If an amount of:
  - (a) charge; or
  - (b) an instalment of charge;that is payable by a person remains unpaid after the day on which it becomes due and payable, the person is liable to pay a penalty (*late payment penalty*) on the unpaid amount for each day until all of:

- (c) the charge; or
  - (d) the instalment of charge;
- as the case may be, has been paid.
- (2) The late payment penalty rate is 20% per year, or such lower rate as the ACMA determines in writing for the purposes of this subsection.
  - (3) The ACMA may remit the whole or part of a late payment penalty that a person is liable to pay under subsection (1).
  - (4) The late payment penalty for a day is due and payable at the end of that day.
  - (5) Late payment penalty:
    - (a) is a debt due to the ACMA on behalf of the Commonwealth; and
    - (b) may be recovered by the ACMA, on behalf of the Commonwealth, in:
      - (i) the Federal Court; or
      - (ii) the Federal Circuit and Family Court of Australia (Division 2); or
      - (iii) a court of a State or Territory that has jurisdiction in relation to the matter.
  - (6) If the amount of the late payment penalty for a day is not an amount of whole dollars, the late payment penalty is rounded to the nearest dollar (rounding 50 cents upwards).
  - (7) A determination under subsection (2) is a legislative instrument.

## **Division 8—Disclosure of information**

### **Subdivision A—Access to information or documents held by a carrier or carriage service provider**

#### **102P Access to information or documents held by a carrier or carriage service provider**

##### *Scope*

- (1) This section applies to a carrier or carriage service provider if the ACMA believes on reasonable grounds that the carrier or carriage service provider has information or a document that is relevant to the operation of:
  - (a) Division 4, 5, 6 or 7 of this Part; or
  - (b) subsection 102ZFA(4); or
  - (c) the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

##### *Requirement*

- (2) The ACMA may, by written notice given to the carrier or carriage service provider, require the carrier or carriage service provider:
  - (a) to give to the ACMA, within the period and in the manner and form specified in the notice, any such information; or
  - (b) to produce to the ACMA, within the period and in the manner specified in the notice, any such documents; or
  - (c) to make copies of any such documents and to produce to the ACMA, within the period and in the manner specified in the notice, those copies.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

*Compliance*

- (4) A carrier or carriage service provider must comply with a requirement under subsection (2) to the extent that the carrier or carriage service provider is capable of doing so.
- (5) A carrier or carriage service provider commits an offence if:
  - (a) the ACMA has given a notice to the carrier or carriage service provider under subsection (2); and
  - (b) the carrier or carriage service provider engages in conduct; and
  - (c) the carrier's conduct, or the carriage service provider's conduct, contravenes a requirement in the notice.

Penalty for contravention of this subsection: 50 penalty units.

**102Q Copying documents—compensation**

A carrier or carriage service provider is entitled to be paid by the ACMA reasonable compensation for complying with a requirement covered by paragraph 102P(2)(c).

**102R Copies of documents**

- (1) The ACMA may:
  - (a) inspect a document or copy produced under subsection 102P(2); and
  - (b) make and retain copies of, or take and retain extracts from, such a document.
- (2) The ACMA may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 102P(2)(c).

**102S ACMA may retain documents**

- (1) The ACMA may take, and retain for as long as is necessary, possession of a document produced under subsection 102P(2).

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- (2) The carrier or carriage service provider otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the ACMA to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the ACMA must, at such times and places as the ACMA thinks appropriate, permit the carrier or carriage service provider otherwise entitled to possession of the document, or a person authorised by that carrier or carriage service provider, to inspect and make copies of, or take extracts from, the document.

**102T Law relating to legal professional privilege not affected**

This Subdivision does not affect the law relating to legal professional privilege.

**Subdivision B—Access to information or documents held by an eligible funding recipient**

**102U Access to information or documents held by an eligible funding recipient**

*Scope*

- (1) This section applies to an eligible funding recipient if the ACCC believes on reasonable grounds that the eligible funding recipient has information or a document that is relevant to the performance of any of the ACCC's functions, or the exercise of any of the ACCC's powers, under the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

*Requirement*

- (2) The ACCC may, by written notice given to the eligible funding recipient, require the eligible funding recipient:



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- (a) to give to the ACCC, within the period and in the manner and form specified in the notice, any such information; or
  - (b) to produce to the ACCC, within the period and in the manner specified in the notice, any such documents; or
  - (c) to make copies of any such documents and to produce to the ACCC, within the period and in the manner specified in the notice, those copies.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

*Compliance*

- (4) An eligible funding recipient must comply with a requirement under subsection (2) to the extent that the eligible funding recipient is capable of doing so.
- (5) An eligible funding recipient commits an offence if:
- (a) the ACCC has given a notice to the eligible funding recipient under subsection (2); and
  - (b) the eligible funding recipient engages in conduct; and
  - (c) the eligible funding recipient's conduct contravenes a requirement in the notice.

Penalty for contravention of this subsection: 50 penalty units.

**102V Copying documents—compensation**

An eligible funding recipient is entitled to be paid by the ACCC reasonable compensation for complying with a requirement covered by paragraph 102U(2)(c).

**102W Copies of documents**

- (1) The ACCC may:
- (a) inspect a document or copy produced under subsection 102U(2); and

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- (b) make and retain copies of, or take and retain extracts from, such a document.
- (2) The ACCC may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 102U(2)(c).

**102X ACCC may retain documents**

- (1) The ACCC may take, and retain for as long as is necessary, possession of a document produced under subsection 102U(2).
- (2) The eligible funding recipient otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the ACCC to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the ACCC must, at such times and places as the ACCC thinks appropriate, permit the eligible funding recipient otherwise entitled to possession of the document, or a person authorised by that eligible funding recipient, to inspect and make copies of, or take extracts from, the document.

**102Y Law relating to legal professional privilege not affected**

This Subdivision does not affect the law relating to legal professional privilege.

**Subdivision C—Disclosure of information to certain bodies**

**102Z Disclosure of information by the ACMA to certain bodies**

- (1) The ACMA may disclose information to any of the following bodies:
  - (a) the Department;
  - (b) the ACCC;

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- (c) the Regional Telecommunications Independent Review Committee;
  - (d) the Department administered by the Minister administering the *Public Governance, Performance and Accountability Act 2013*;
  - (e) the Department administered by the Treasurer;
  - (f) an authorised government agency (see subsection (2));
- if:
- (g) the information was:
    - (i) obtained under, or for the purposes of, this Division; or
    - (ii) set out in a report under section 100; and
  - (h) the ACMA is satisfied that the information will enable or assist the body to perform or exercise any of the functions or powers of the body.
- (2) The ACMA may, by notifiable instrument, declare that a specified department or authority of the Commonwealth, a State or a Territory is an **authorised government agency** for the purposes of paragraph (1)(f).
- (3) The ACMA may, by writing, impose conditions to be complied with in relation to information disclosed under subsection (1).
- (4) An instrument made under subsection (3) that imposes conditions relating to one particular disclosure identified in the instrument is a notifiable instrument.
- (5) Otherwise, an instrument made under subsection (3) is a legislative instrument.

**102ZA Disclosure of information by the ACCC to certain bodies**

- (1) The ACCC may disclose information to any of the following bodies:
- (a) the Department;
  - (b) the ACMA;
  - (c) the Regional Telecommunications Independent Review Committee;

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- (d) the Department administered by the Minister administering the *Public Governance, Performance and Accountability Act 2013*;
  - (e) the Department administered by the Treasurer;
  - (f) an authorised government agency (see subsection (2));
- if:
- (g) the information was obtained under, or for the purposes of, this Division or section 102ZF; and
  - (h) the ACCC is satisfied that the information will enable or assist the body to perform or exercise any of the functions or powers of the body.
- (2) The ACCC may, by notifiable instrument, declare that a specified department or authority of the Commonwealth, a State or a Territory is an **authorised government agency** for the purposes of paragraph (1)(f).
  - (3) The ACCC may, by writing, impose conditions to be complied with in relation to information disclosed under subsection (1).
  - (4) An instrument made under subsection (3) that imposes conditions relating to one particular disclosure identified in the instrument is a notifiable instrument.
  - (5) Otherwise, an instrument made under subsection (3) is a legislative instrument.

## **Division 9—Other matters**

### **102ZB Register of Contracts for the Funding of Fixed Wireless Broadband and Satellite Broadband**

- (1) The Secretary is to maintain a register, to be known as the Register of Contracts for the Funding of Fixed Wireless Broadband and Satellite Broadband, in which the Secretary includes the following for each section 80 contract that is in force:
  - (a) the name of the contractor;
  - (b) the duration of the contract;
  - (c) if the contract requires actions to be undertaken by the contractor—a summary of those actions;
  - (d) if the contract requires services, facilities or customer equipment to be supplied by the contractor—a description of those services, facilities or customer equipment;
  - (e) if the contract provides for the Commonwealth to reimburse, or partly reimburse, costs or expenses—a description of those costs or expenses;
  - (f) one of the following:
    - (i) the total amount paid or to be paid by the Commonwealth under the contract;
    - (ii) an estimate of the total amount paid or to be paid by the Commonwealth under the contract;
    - (iii) the method of working out the total amount paid or to be paid by the Commonwealth under the contract.
- (2) The Register of Contracts for the Funding of Fixed Wireless Broadband and Satellite Broadband is to be maintained by electronic means.
- (3) The Register of Contracts for the Funding of Fixed Wireless Broadband and Satellite Broadband is to be made available for inspection on the Department's website.

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- (4) The Register of Contracts for the Funding of Fixed Wireless Broadband and Satellite Broadband is not a legislative instrument.

**102ZC Register of Grants for the Funding of Fixed Wireless Broadband and Satellite Broadband**

- (1) The Secretary is to maintain a register, to be known as the Register of Grants for the Funding of Fixed Wireless Broadband and Satellite Broadband, in which the Secretary includes the following for each section 80 grant that has been made:
- (a) the name of the grant recipient;
  - (b) if the terms and conditions of the grant require action to be undertaken by the grant recipient—a summary of those actions;
  - (c) if services, facilities or customer equipment are to be supplied by the grant recipient in accordance with the terms and conditions of the grant—a description of those services, facilities or customer equipment;
  - (d) if the grant is by way of the reimbursement, or partial reimbursement, of costs or expenses—a description of those costs or expenses;
  - (e) either:
    - (i) the amount of the grant; or
    - (ii) the method for working out the amount of the grant.
- (2) The Register of Grants for the Funding of Fixed Wireless Broadband and Satellite Broadband is to be maintained by electronic means.
- (3) The Register of Grants for the Funding of Fixed Wireless Broadband and Satellite Broadband is to be made available for inspection on the Department's website.
- (4) The Register of Grants for the Funding of Fixed Wireless Broadband and Satellite Broadband is not a legislative instrument.

### **102ZD Publication of charge payments and charge offsets**

The ACMA must publish on its website a statement, for each eligible financial year, that sets out:

- (a) the total amount of charge paid by carriers in relation to the eligible financial year; and
- (b) the total of the amounts specified in charge offset certificates issued to carriers in relation to the eligible financial year.

### **102ZE ACMA may give certain information to the ACCC**

The ACMA may give the ACCC information that is relevant to the performance of any of the ACCC's functions, or the exercise of any of the ACCC's powers, under the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*.

### **102ZF Report about the number of premises supplied with designated broadband services during the applicable reporting period**

*Reportable premises*

- (1) For the purposes of this section, if:
  - (a) a person is a carrier; and
  - (b) during a period comprising the whole or a part of the applicable reporting period, either:
    - (i) the person owns a local access line, but there is no nominated carrier declaration in force in relation to the line; or
    - (ii) under a nominated carrier declaration, the person is the nominated carrier in relation to a local access line; and
  - (c) during the whole or a part of the period, a carriage service provider (who may be the person) supplies a designated broadband service to particular premises in Australia using the line;

the premises are *reportable premises* in relation to the person for the applicable reporting period.

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Note: The line does not need to be physically connected to the premises. This is because *using* has an extended meaning—see subsection 5(1) of this Act and section 24 of the *Telecommunications Act 1997* (when read together with section 18A of the *Acts Interpretation Act 1901*).

*Report*

(2) If:

- (a) a person is a carrier; and
- (b) there are one or more reportable premises in relation to the person for the applicable reporting period;

the person must:

- (c) give the ACCC a written report setting out:
  - (i) the number of those premises; and
  - (ii) the number of potentially chargeable premises (if any) in relation to the person for the applicable reporting period (assuming paragraph 79(a) referred to 1 July 2019 instead of the designated start date); and
  - (iii) the number of chargeable premises (if any) associated with a local access line of the person for the applicable reporting period (assuming paragraph 79(a) referred to 1 July 2019 instead of the designated start date); and
  - (iv) the number of exempt premises (if any) in relation to the person for the applicable reporting period (assuming paragraph 79(a) referred to 1 July 2019 instead of the designated start date); and
  - (v) the number of exempt lines (if any) in relation to the person for the applicable reporting period (assuming paragraph 79(a) referred to 1 July 2019 instead of the designated start date); and
  - (vi) the number of potentially concessional premises (if any) in relation to the person for the applicable reporting period (assuming paragraph 79(a) referred to 1 July 2019 instead of the designated start date); and
  - (vii) the number of recently connected greenfield premises (if any) in relation to the person for the applicable



- reporting period (assuming paragraph 79(a) referred to 1 July 2019 instead of the designated start date); and
- (d) do so within 60 days after the commencement of this section.
- (3) The report must be in a form approved, in writing, by the ACCC.
- (4) The approved form may require verification, by a statutory declaration, of statements made in the report.
- (4A) If, at any time during the applicable reporting period, the person had an associate in relation to control of:
- (a) a telecommunications network; or
  - (b) a company; or
  - (c) a local access line;
- the report must:
- (d) set out the name of the associate; and
  - (e) set out the ACN (if any) of the associate; and
  - (f) identify the network, company or line, as the case requires; and
  - (g) identify which paragraph or paragraphs of subsection 152(1) of the *Telecommunications Act 1997* resulted in the person having the associate.

*Offence of failing to lodge report*

- (5) A person commits a strict liability offence if:
- (a) the person is subject to a requirement under subsection (2) or (4A); and
  - (b) the person omits to do an act; and
  - (c) the omission breaches the requirement.

Penalty: 50 penalty units.

- (6) A person who contravenes subsection (5) commits a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.

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*Applicable reporting period*

- (7) For the purposes of this section, ***applicable reporting period*** means the month immediately preceding the month in which this section commenced.

**102ZFA Review of this Part etc.**

- (1) The Minister must cause to be conducted a review of the following matters:
- (a) the operation of this Part;
  - (b) the operation of the remaining provisions of this Act to the extent to which they relate to this Part;
  - (c) the operation of the *Telecommunications Act 1997* to the extent to which that Act relates to this Part;
  - (d) the operation of the *Telecommunications (Regional Broadband Scheme) Charge Act 2020*;
  - (e) whether this Part should be amended;
  - (f) whether the remaining provisions of this Act, to the extent to which they relate to this Part, should be amended;
  - (g) whether the *Telecommunications Act 1997*, to the extent to which that Act relates to this Part, should be amended;
  - (h) whether the *Telecommunications (Regional Broadband Scheme) Charge Act 2020* should be amended.
- (2) A review under subsection (1) must make provision for public consultation.
- (3) A review under subsection (1) must be conducted:
- (a) before the end of the period of 4 years after the commencement of this section; or
  - (b) as soon as practicable after the end of that 4-year period.

*Direction to the ACMA*

- (4) The Minister may give the ACMA a written direction requiring the ACMA to make available specified information for the purposes of facilitating the conduct of a review under subsection (1).

- (5) The ACMA must comply with a direction under subsection (4).

*Direction to the ACCC*

- (6) The Minister may give the ACCC a written direction requiring the ACCC to make available specified information for the purposes of facilitating the conduct of a review under subsection (1).
- (7) The ACCC must comply with a direction under subsection (6).

*Report*

- (8) The Minister must cause to be prepared a report of a review under subsection (1).
- (9) The Minister must cause copies of the report to be tabled in each House of the Parliament within 25 sittings days of that House after the completion of the preparation of the report.

### **102ZFB Disallowance of determinations**

*Scope*

- (1) This section applies to a determination made under subsection 76AA(2), 79A(1) or (2).

*Disallowance*

- (2) Either House of the Parliament may, following a motion upon notice, pass a resolution disallowing the determination. For the resolution to be effective:
- (a) the notice must be given in that House within 15 sitting days of that House after the copy of the determination was tabled in the House under section 38 of the *Legislation Act 2003*; and
  - (b) the resolution must be passed, in pursuance of the motion, within 15 sitting days of that House after the giving of that notice.

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(3) If neither House passes such a resolution, the determination takes effect on the day immediately after the last day upon which such a resolution could have been passed if it were assumed that notice of a motion to disallow the determination was given in each House on the last day of the 15 sitting day period of that House mentioned in paragraph (2)(a).

(3A) If:

(a) notice of a motion to disallow the determination is given in a House of the Parliament within 15 sitting days of that House after the copy of the determination was tabled in that House under section 38 of the *Legislation Act 2003*; and

(b) at the end of 15 sitting days of that House after the giving of that notice of motion:

(i) the notice has not been withdrawn and the motion has not been called on; or

(ii) the motion has been called on, moved and (where relevant) seconded and has not been withdrawn or otherwise disposed of;

the determination is then taken to have been disallowed, and subsection (3) does not apply to the determination.

(4) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

Note 1: The 15 sitting day notice period mentioned in paragraph (2)(a) of this section is the same as the 15 sitting day notice period mentioned in paragraph 42(1)(a) of the *Legislation Act 2003*.

Note 2: The 15 sitting day disallowance period mentioned in paragraph (2)(b) of this section is the same as the 15 sitting day disallowance period mentioned in paragraph 42(1)(b) of the *Legislation Act 2003*.

### **102ZG Delegation by the Secretary**

(1) The Secretary may, by writing, delegate any or all of the Secretary's functions or powers under this Part to an SES employee, or acting SES employee, in the Department.

Note: The expressions **SES employee** and **acting SES employee** are defined in the *Acts Interpretation Act 1901*.

- (2) A delegate must comply with any written directions of the Secretary.

**102ZH Meaning of *capable***

In determining the meaning of the expression *capable* when used in:

- (a) a provision of this Act (other than this Part); or
- (b) the *Telecommunications Act 1997*;

disregard the expression *technically capable* when used in section 76AA.

## Part 4—Continued access to untimed local calls

### 103 Simplified outline

The following is a simplified outline of this Part:

- Local calls are to be charged for on an untimed basis.

### 104 Requirement to provide an untimed local call option

If a carriage service provider charges an eligible customer for eligible local calls made using a standard telephone service supplied to the customer, the provider must give the customer an untimed local call option.

Note 1: *Eligible customer* is defined by section 110.

Note 2: *Eligible local call* is defined by section 106.

Note 3: *Untimed local call option* is defined by section 105.

### 105 Untimed local call option

- (1) For the purposes of this Part, if a carriage service provider charges an eligible customer for eligible local calls made using a standard telephone service supplied to the customer, the provider gives the customer an untimed local call option if, and only if, the service is supplied to the customer on terms and conditions under which:
  - (a) the customer may choose, on connection of the service, to have the charges for eligible local calls that are made using the service worked out on an untimed basis; and
  - (b) if the customer chooses as mentioned in paragraph (a)—the carriage service provider must not work out the charges for such calls in any other way except with the customer's written consent; and
  - (c) if the customer:

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- (i) does not choose as mentioned in paragraph (a); or
  - (ii) consents to having the charges for such calls worked out otherwise than on an untimed basis;
- the customer may later give the carriage service provider a written notice to the effect that the customer wishes the charges for such calls to be worked out on an untimed basis; and
- (d) if the customer gives the carriage service provider such a notice—the carriage service provider:
    - (i) must, in respect of the earliest practicable period beginning after it receives the notice, work out the charges for such calls on an untimed basis; and
    - (ii) must not, in respect of a period after the period referred to in subparagraph (i), work out the charges for such calls in any other way except with the customer's written consent.

Note 1: *Eligible customer* is defined by section 110.

Note 2: *Untimed basis* is defined by subsection (2).

- (2) For the purposes of this section, charges for eligible local calls are worked out on an untimed basis if, and only if, the charges for those calls are worked out by reference to the number of such calls made during a particular period, regardless of how long each call lasted.

## 106 Eligible local calls

- (1) For the purposes of the application of this Part to a carriage service provider who charges for a call made using a standard telephone service supplied to an eligible customer in a particular standard zone, being an eligible customer who is a residential/charity customer, if the call:
  - (a) is made between points in the applicable zone in relation to the provider and in relation to the customer; and
  - (b) is either:

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- (i) of a kind that, immediately before 20 September 1996, a general carrier offered to supply, or supplied, on an untimed basis between points in that standard zone; or
- (ii) made using a standard telephone service supplied to the customer for a universal service purpose;

the call is an **eligible local call** unless the call involves the use, by at least one party to the call, of a public mobile telecommunications service, or a satellite service, that is not supplied to that party for a universal service purpose.

Note 1: **Eligible customer** is defined by section 110.

Note 2: **Standard zone** is defined by section 108.

Note 3: **Applicable zone** is defined by section 109.

Note 4: **Untimed basis** is defined by subsection (3).

- (2) For the purposes of the application of this Part to a carriage service provider who charges for a call made using a standard telephone service supplied to an eligible customer in a particular standard zone, being an eligible customer who is not a residential/charity customer, if the call:

- (a) is a voice call or, if a voice call is not practical for a particular end-user with a disability, a call that is equivalent to a voice call; and
- (b) is made between points in the applicable zone in relation to the provider and in relation to the customer; and
- (c) is either:
  - (i) of a kind that, immediately before 20 September 1996, a general carrier offered to supply, or supplied, on an untimed basis between points in that standard zone; or
  - (ii) made using a standard telephone service supplied to the customer for a universal service purpose;

the call is an **eligible local call** unless the call involves the use, by at least one party to the call, of a public mobile telecommunications service, or a satellite service, that is not supplied to that party for a universal service purpose.

Note 1: **Eligible customer** is defined by section 110.



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Note 2: **Standard zone** is defined by section 108.

Note 3: **Applicable zone** is defined by section 109.

Note 4: **Untimed basis** is defined by subsection (3).

- (3) For the purposes of this section, calls of a particular kind are supplied on an untimed basis if, and only if, the charges for the calls of that kind are worked out by reference to the number of such calls made during a particular period, regardless of how long each call lasted.
- (3A) For the purposes of this section, a service is supplied **for a universal service purpose** if, and only if, the service is supplied:
- (a) in fulfilment of the universal service obligation; or
  - (b) in compliance with the obligations under a contract entered into under section 14 for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(a); or
  - (c) in compliance with the terms and conditions of a grant made under section 14 for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(a).
- (4) In this section:

**general carrier** means a person who held a general telecommunications licence under the *Telecommunications Act 1991* immediately before 20 September 1996.

**residential/charity customer** means:

- (a) a residential customer; or
- (b) a customer that is a registered charity.

**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.

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### 107 Benefits for customers outside standard zones

- (1) For the purposes of this section, if a customer of a carriage service provider is in Australia, but is not in a standard zone, the customer is a *designated customer*.
- (2) The regulations may formulate a scheme to give benefits to designated customers, where the benefits:
  - (a) relate to charges for calls made using a standard telephone service supplied to the customer; and
  - (b) are comparable to the benefits given to eligible customers under section 104 (which deals with the requirement to provide an untimed local call option).
- (3) For the purposes of subsection (2), a comparison of benefits is to have regard to (among other things), the ability to make calls to essential business and community services on an untimed basis.
- (4) Regulations made for the purposes of subsection (2) may impose requirements on carriage service providers.
- (5) A carriage service provider must comply with any applicable requirements imposed by regulations made for the purposes of subsection (2).
- (7) For the purposes of this section, charges for particular calls are worked out on an untimed basis if, and only if, the charges for those calls are worked out by reference to the number of such calls made during a particular period, regardless of how long each call lasted.

### 108 Standard zones

- (1) For the purposes of this Part, if:
  - (a) immediately before 1 July 1991, Telecom supplied, or offered to supply, to persons within a particular area within Australia, a carriage service that was, immediately before that date, a standard telephone service (within the meaning of the *Telecommunications Act 1991*); and

- (b) under the terms and conditions on which Telecom supplied, or would supply, that service to persons in that area, the charges for calls of a particular kind between points within that area made using the service were, or would be, worked out on an untimed basis;

that area is a *standard zone*.

Note: *Untimed basis* is defined by subsection (2).

- (2) For the purposes of this section, charges for calls of a particular kind are worked out on an untimed basis if, and only if, the charges for the calls of that kind are worked out by reference to the number of such calls made during a particular period, regardless of how long each call lasted.
- (3) In this section:

*Telecom* means the Australian Telecommunications Corporation, as it existed immediately before 1 July 1991.

### 109 Applicable zones

- (1) A reference in this Part to the *applicable zone* in relation to a carriage service provider and in relation to an eligible customer, being a customer in a particular standard zone, is a reference to whichever of the following is applicable:
- (a) if:
- (i) the provider is a universal service provider, contractor or grant recipient for the customer; and
  - (ii) there is in force a written notice given to the ACMA by the provider nominating a specified area as a nominated area; and
  - (iii) the customer is in the nominated area and chooses to adopt that nominated area as the applicable zone in relation to the provider and in relation to the customer; the nominated area;
- (b) if:

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- (i) the provider is a universal service provider, contractor or grant recipient for the customer; and
    - (ii) paragraph (a) does not apply;the standard zone;
  - (c) if:
    - (i) the provider is not a universal service provider, contractor or grant recipient for the customer; and
    - (ii) there is in force a written notice given to the ACMA by the provider nominating a specified area as a nominated area; and
    - (iii) the customer is in the nominated area;the nominated area;
  - (d) if:
    - (i) the provider is not a universal service provider, contractor or grant recipient for the customer; and
    - (ii) paragraph (c) does not apply;the standard zone.
- (2) To avoid doubt, an area nominated under subsection (1) may overlap a standard zone.
- (3) For the purposes of this section, if:
- (a) a customer of a carriage service provider is in a particular area; and
  - (b) the provider is a universal service provider;
- the provider is a universal service provider for the customer.
- (4) For the purposes of this section if:
- (a) a customer of a carriage service provider is in a particular area; and
  - (b) the provider is a contractor in relation to a contract entered into under section 14 for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(a); and
  - (c) the contract imposes an obligation on the contractor to supply standard telephone services;

the provider is a contractor for the customer.

- (5) For the purposes of this section if:
- (a) a customer of a carriage service provider is in a particular area; and
  - (b) the provider is a grant recipient in relation to a grant made under section 14 for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(a); and
  - (c) the terms and conditions of the grant require the grant recipient to supply standard telephone services;
- the provider is a grant recipient for the customer.

### **110 Eligible customer**

For the purposes of this Part, if a customer of a carriage service provider is in a standard zone, the customer is an *eligible customer*.

### **111 Points**

For the purposes of the application of this Part to a mobile-type carriage service, a *point* includes a mobile or potentially mobile point.

### **112 Application of this Part**

This Part does not apply in relation to a contract for the supply of a standard telephone service if:

- (a) the contract was entered into before the commencement of section 231 of the *Telecommunications Act 1997*; and
- (b) the contract would not have complied with Part 8 of that Act if the contract had been entered into immediately after the commencement of that section.

## **Part 5—Customer service guarantee**

### **Division 1—Introduction**

#### **113 Simplified outline**

The following is a simplified outline of this Part:

- The ACMA may make performance standards to be complied with by carriage service providers in relation to customer service.
- If a carriage service provider contravenes a performance standard, the carriage service provider is liable to pay damages to the customer for the contravention.
- The amount of damages payable for a particular contravention is equal to the relevant amount specified in the scale of damages determined by the ACMA.
- The Minister may make performance standards to be complied with by carriage service providers in relation to the supply of wholesale carriage services.
- The Minister may set minimum benchmarks in relation to compliance by carriage service providers with performance standards.
- The Telecommunications Industry Ombudsman may issue an evidentiary certificate in relation to a contravention of a performance standard.

## 114 Interpretation

(1) In this Part:

*customer* includes prospective customer.

*damages* includes punitive damages.

(2) In determining the meaning that an expression has when used in a provision of the *Telecommunications Act 1997*, or in a provision of this Act other than this Part, subsection (1) is to be disregarded.

### 114A Wholesale carriage service and wholesale customer

For the purposes of this Part, if:

- (a) a carriage service provider (the *first provider*) supplies, or proposes to supply, a carriage service to another carriage service provider (the *second provider*); and
- (b) the carriage service is, or is to be, supplied to the second provider in order that the second provider can provide a carriage service;

then:

- (c) the carriage service that is, or is to be, supplied to the second provider is a *wholesale carriage service*; and
- (d) the second provider is a *wholesale customer* of the first provider.

## **Division 2—Retail performance standards and benchmarks**

### **115 Performance standards**

- (1) The ACMA may, by written instrument, make standards to be complied with by carriage service providers in relation to:
  - (a) the making of arrangements with customers about the period taken to comply with requests to connect customers to specified kinds of carriage services; and
  - (b) the periods that carriage service providers may offer to customers when making those arrangements; and
  - (c) the compliance by carriage service providers with the terms of those arrangements; and
  - (d) the period taken to comply with requests to rectify faults or service difficulties relating to specified kinds of carriage services, where the rectification follows the making of a customer report about a fault or service difficulty; and
  - (e) the keeping of appointments to meet customers, or representatives of customers, where the appointment relates to:
    - (i) a connection of a kind covered by paragraph (a); or
    - (ii) a rectification of a kind covered by paragraph (d); and
  - (f) any other matter concerning the supply, or proposed supply, of a carriage service to a customer.
- (2) A standard under this section that relates to a particular kind of carriage service does not apply to a particular carriage service provider in connection with the supply of that kind of service at a particular location unless the carriage service provider:
  - (a) supplies that kind of service at that location; or
  - (b) offers to supply that kind of service at that location.
- (2A) A standard under this section does not apply in relation to matter concerning the supply, or proposed supply, of a wholesale carriage service.



- (3) The ACMA must not make a standard under this section unless it is directed to do so by the Minister under section 124.
- (4) A standard under this section may be of general application or may be limited as provided in the standard. This subsection does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.
- (5) An instrument under subsection (1) is a legislative instrument.

### **116 Damages for breach of performance standards**

- (1) If:
  - (a) a carriage service provider contravenes a standard in force under section 115; and
  - (b) the contravention relates to a particular customer;  
the carriage service provider is liable to pay damages to the customer for the contravention.
- (2) The amount of damages payable for a particular contravention is equal to the relevant amount specified in the scale in force under section 117.
- (3) However, if:
  - (a) the carriage service provider:
    - (i) credits an amount to an account that the customer has with the provider; or
    - (ii) pays an amount to the customer; and
  - (b) the credit or payment was made as a result of a right or remedy that:
    - (i) was available to the customer otherwise than under this Division; and
    - (ii) arose out of the same event or transaction as the contravention;

the amount of damages payable for the contravention is to be reduced (but not below zero) by the amount of the credit or payment.

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- (4) The customer may recover the amount of the damages by action against the carriage service provider in a court of competent jurisdiction.
- (5) The liability of the carriage service provider under this section may be discharged:
  - (a) by giving the customer a credit in an account the customer has with the carriage service provider; or
  - (b) in any other manner agreed between the carriage service provider and the customer.
- (6) An action under this section must be instituted within 2 years after:
  - (a) in the case of a contravention that continued throughout a period—the time when the contravention began; or
  - (b) in any other case—the time when the contravention occurred.
- (7) If the customer dies, a reference in this section to the *customer* includes a reference to the legal personal representative of the customer.

**117 Scale of damages for breach of performance standards**

- (1) The ACMA may, by legislative instrument, specify a scale of damages for contraventions of standards under section 115.
- (2) The scale must:
  - (a) specify categories of contraventions; and
  - (b) specify a dollar amount as the amount of damages payable for contraventions covered by each of those categories.
- (3) A dollar amount specified in accordance with paragraph (2)(b) must not exceed \$25,000.
- (4) A category may be specified by reference to contraventions that continue over a specified number of days.
- (5) Subsection (4) does not, by implication, limit the ways in which a category may be specified.

**117A Time for payment of damages for breach of performance standards**

*Decision whether to accept liability for damages*

- (1) If, at a particular time, a carriage service provider first has reason to believe that an event has occurred that is reasonably likely to result in the carriage service provider being liable to pay damages to a particular customer under section 116, then, within 14 days after that time, the carriage service provider must decide whether to accept that liability.
- (2) In making a decision under subsection (1), the carriage service provider must have regard to whether there is any reasonable basis for the carriage service provider to dispute the liability.
- (3) If a carriage service provider makes a decision under subsection (1) not to accept a liability to pay damages to a particular customer, the carriage service provider must give the customer written notification of the decision within 14 weeks after the decision is made.

*Crediting customer account*

- (4) If:
  - (a) a carriage service provider makes a decision under subsection (1) to accept a liability to pay damages to a particular customer; and
  - (b) the liability is to be discharged by giving the customer a credit in an account the customer has with the carriage service provider;the liability must be discharged within the period of 14 weeks after the decision is made and:
  - (c) if it is practicable for the carriage service provider to give the customer the credit within that 14-week period and in time for the customer to be notified of the credit in the first bill sent to the customer during that period—by giving the

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customer the credit in time for the customer to be notified of the credit in that bill; or

- (d) if paragraph (c) does not apply, but it is practicable for the carriage service provider to give the customer the credit within that 14-week period and in time for the customer to be notified of the credit in the second bill sent to the customer during that period—by giving the customer the credit in time for the customer to be notified of the credit in that bill.

*Other manner of discharging liability*

- (5) If:
- (a) a carriage service provider makes a decision under subsection (1) to accept a liability to pay damages to a particular customer; and
  - (b) the liability is not to be discharged by giving the customer a credit in an account the customer has with the carriage service provider;
- the liability must be discharged within 14 weeks after the decision is made.

*Customer*

- (6) If the customer dies, a reference in this section to the **customer** includes a reference to the legal personal representative of the customer.

*Transitional*

- (7) The reference in subsection (1) to a **particular time** is a reference to a particular time after the end of the period of 12 months beginning on the date of commencement of this section.

### **117B Performance benchmarks**

- (1) The Minister may, by legislative instrument, set minimum benchmarks in relation to compliance by carriage service providers with a standard in force under section 115.
- (2) An instrument under this section may be of general application or may be limited as provided in the instrument.
- (3) Subsection (2) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

### **117C Compliance with performance benchmarks**

#### *Scope*

- (1) This section applies if an instrument under section 117B is applicable to a carriage service provider (the ***first provider***).

#### *Provider must meet or exceed minimum benchmark*

- (2) The first provider must meet or exceed a minimum benchmark set by the instrument.

#### *Contravention caused by another provider*

- (3) For the purposes of determining whether the first provider has met or exceeded a minimum benchmark set by the instrument, if:
  - (a) the first provider has contravened a standard in force under section 115; and
  - (b) the contravention is wholly or partly attributable to one or more acts or omissions of another carriage service provider; the first provider is taken not to have contravened the standard.

## **Division 3—Wholesale performance standards and benchmarks**

### **117D Performance standards**

- (1) The Minister may, by legislative instrument, make standards to be complied with by carriage service providers in relation to a matter that:
  - (a) concerns the supply, or proposed supply, of wholesale carriage services to a wholesale customer; and
  - (b) is capable of affecting the capacity or ability of a wholesale customer to comply with a standard in force under section 115 in relation to a matter concerning the supply, or proposed supply, of a carriage service by the wholesale customer.
- (2) A standard under this section may be of general application or may be limited as provided in the standard.
- (3) Subsection (2) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

### **117E Performance benchmarks**

- (1) The Minister may, by legislative instrument, set minimum benchmarks in relation to compliance by carriage service providers with a standard in force under section 117D.
- (2) An instrument under this section may be of general application or may be limited as provided in the instrument.
- (3) Subsection (2) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

## **117F Compliance with performance benchmarks**

### *Scope*

- (1) This section applies if an instrument under section 117E is applicable to a carriage service provider (the **first provider**).

### *Provider must meet or exceed minimum benchmark*

- (2) The first provider must meet or exceed a minimum benchmark set by the instrument.

### *Contravention caused by another provider*

- (3) For the purposes of determining whether the first provider has met or exceeded a minimum benchmark set by the instrument, if:
  - (a) the first provider has contravened a standard in force under section 117D; and
  - (b) the contravention is wholly or partly attributable to one or more acts or omissions of another carriage service provider; the first provider is taken not to have contravened the standard.

## Division 4—Other provisions

### 118 Remedial directions—compliance with performance standards

- (1) This section applies if a carriage service provider is subject to a standard in force under section 115 or 117D.
- (2) The ACMA may give the provider a written direction:
  - (a) requiring the provider to take specified action directed towards ensuring that the provider does not contravene, or is unlikely to contravene, the standard; or
  - (b) requiring the provider to take such action as will ensure that the extent of the provider's compliance with the standard reaches or exceeds a specified goal or target.

Note: Under section 124, the Minister may give the ACMA directions in relation to the exercise of its powers under this Part.

- (3) The following are examples of the kinds of direction that may be given to a carriage service provider under subsection (2):
  - (a) a direction that the provider implement effective administrative systems for monitoring compliance with a standard in force under section 115 or 117D;
  - (b) a direction that the provider take such action as is necessary to ensure that the extent of the provider's compliance with a standard in force under section 115, in so far as that standard relates to the keeping of appointments to meet customers in rural areas, reaches or exceeds a specified goal or target.
- (4) Before giving a direction under subsection (2), the ACMA must consult the Telecommunications Industry Ombudsman. However, this rule does not apply if the Minister, under section 124, required the ACMA to give the direction.
- (5) A carriage service provider must not contravene a direction under subsection (2).
- (6) A direction under subsection (2) is a legislative instrument.



**118A Right of contribution**

- (1) If:
- (a) a carriage service provider (the *first provider*) contravenes a standard in force under section 115; and
  - (b) the contravention relates to a particular customer; and
  - (c) the first provider is liable, under section 116, to pay damages (the *primary damages*) to the customer for the contravention; and
  - (d) the contravention is wholly or partly attributable to one or more acts or omissions of another carriage service provider (the *second provider*); and
  - (e) the first provider has discharged the liability for the primary damages;
- the second provider is liable to pay damages (the *secondary damages*) to the first provider for the acts or omissions.
- (2) The amount of the secondary damages for the acts or omissions is:
- (a) if the contravention is wholly attributable to the acts or omissions—an amount equal to the primary damages; or
  - (b) if the contravention is partly attributable to the acts or omissions—such amount (not exceeding the primary damages) as the court thinks fair and reasonable.
- (3) If the second provider makes a payment to the first provider as a result of a right or remedy that:
- (a) was available to the first provider otherwise than under this section; and
  - (b) arose out of the same acts or omissions;
- the amount of the secondary damages payable for the acts or omissions is to be reduced (but not below zero) by the amount of the payment.
- (4) The first provider may recover the amount of the secondary damages by action against the second provider in a court of competent jurisdiction.

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- (5) An action under this section must be instituted within 2 years after the first provider discharged the liability for the primary damages.
- (6) If the customer dies, a reference in this section to the *customer* includes a reference to the legal personal representative of the customer.
- (7) Paragraph (1)(a) does not apply to a contravention that occurs before the end of the period of 6 months beginning on the date of commencement of this section.

**119 Evidentiary certificate issued by the Telecommunications Industry Ombudsman**

- (1) The Telecommunications Industry Ombudsman may issue a written certificate:
  - (a) stating that a specified carriage service provider has contravened a standard in force under section 115; and
  - (b) setting out particulars of that contravention.
- (2) In any proceedings under this Part, a certificate under subsection (1) is prima facie evidence of the matters in the certificate.
- (3) A document purporting to be a certificate under subsection (1) must, unless the contrary is established, be taken to be a certificate and to have been properly given.
- (4) Subsection (1) does not apply to the Telecommunications Industry Ombudsman unless the Telecommunications Industry Ombudsman gives the Minister a written notice consenting to the conferral of the powers conferred by that subsection.
- (5) If no notice is in force under subsection (4), subsection (1) has effect as if the reference in that subsection to the Telecommunications Industry Ombudsman were a reference to the ACMA.
- (6) The Minister must cause a copy of a notice under subsection (4) to be published on the Department's website.

- (7) The continuity of a notice under subsection (4) is not affected by:
- (a) a change in the occupancy of the position of Telecommunications Industry Ombudsman; or
  - (b) a vacancy in the position of Telecommunications Industry Ombudsman that does not continue for more than 4 months.

## **120 Waiver of customer service guarantee**

- (1) The ACMA may, by written instrument, make provision for customers of carriage service providers to waive, in whole or in part, their protection and rights under this Part in relation to a particular carriage service supplied, or proposed to be supplied, by the carriage service provider concerned.
- (2) If such a waiver is made, then, to the extent of the waiver, the carriage service provider is not bound by, and need not comply with, any standards in force under section 115 in relation to the supply of that service to that customer.
- (3) A waiver must be made in accordance with the rules set out in the instrument.
- (4) A waiver must be in the form specified in the instrument.
- (5) The form must include a statement that summarises the consequences of the waiver.
- (6) A waiver must not be set out in a standard form of agreement formulated by a carriage service provider for the purposes of section 479 of the *Telecommunications Act 1997*.
- (7) A customer is not entitled to waive, in whole or in part, the customer's protection and rights under this Part in relation to a particular standard telephone service supplied, or proposed to be supplied, by the carriage service provider concerned if the service is supplied, or proposed to be supplied:
  - (a) in fulfilment of the universal service obligation; or
  - (b) in compliance with the obligations under a contract entered into under section 14 for a purpose relating to the

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achievement of the policy objective set out in paragraph 13(1)(a); or

- (c) in compliance with the terms and conditions of a grant made under section 14 for a purpose relating to the achievement of the policy objective set out in paragraph 13(1)(a).

- (8) An instrument under subsection (1) is a legislative instrument.

**120A Carriage service may be supplied on condition that the customer waives the customer service guarantee**

This Act does not prevent, and is taken never to have prevented, a carriage service provider from supplying, or proposing to supply, a particular carriage service to a customer on condition that the customer waives, in accordance with section 120, the customer's protection and rights under this Part in relation to the carriage service.

**121 Savings of other laws and remedies**

- (1) This Part is not intended to exclude or limit the concurrent operation of any law of a State or Territory.
- (2) This Part does not limit, restrict or otherwise affect any right or remedy a person would have if this Part had not been enacted.
- (3) This Part does not limit, restrict or otherwise affect the operation of the Telecommunications Industry Ombudsman scheme. In particular, this Part does not affect a customer's right to complain to the Telecommunications Industry Ombudsman.
- (4) Subsection (3) does not, by implication, limit subsection (2).

**122 Breach of performance standard is not an offence**

A contravention of a standard in force under section 115 or 117D is not an offence.

**122A Failure to meet or exceed a minimum benchmark is not an offence**

A contravention of section 117C or 117F is not an offence.

**123 Clause 1 of Schedule 2 to the *Telecommunications Act 1997* does not apply to a breach of a performance standard**

Clause 1 of Schedule 2 to the *Telecommunications Act 1997* does not apply to a contravention of a standard in force under section 115 or 117D.

Note: Clause 1 of Schedule 2 to the *Telecommunications Act 1997* requires carriage service providers to comply with this Act.

**124 Minister may direct the ACMA about the use of its powers under this Part**

- (1) The Minister may give the ACMA written directions about how the ACMA is to exercise its powers under this Part.
- (2) The ACMA must comply with a direction under this section.
- (3) This section does not affect the Minister's power to give the ACMA directions under other provisions about other matters.
- (4) A direction under this section is a legislative instrument.
- (5) The Minister must not give the ACMA a direction under section 14 of the *Australian Communications and Media Authority Act 2005* about how the ACMA is to exercise its powers under this Part.

**125 Review of performance standards following Ministerial direction**

- (1) This section applies to a direction under section 124 that requires the ACMA to make a standard under section 115.
- (2) If the Minister revokes a direction, the ACMA must revoke the section 115 standard that is in force because of the direction.

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- (3) If the Minister varies a direction, the ACMA must either:
  - (a) vary the section 115 standard that is in force because of the direction so that the standard complies with the varied direction; or
  - (b) revoke the section 115 standard and determine a new section 115 standard that so complies.
- (4) If a section 115 standard is in force because of a direction:
  - (a) the ACMA may vary the standard on its own initiative, but only in such a way that the varied standard still complies with the direction; and
  - (b) the ACMA may, on its own initiative, revoke the standard and determine a new section 115 standard that so complies.
- (5) A revocation or variation of a section 115 standard must be in writing.
- (6) An instrument of revocation or variation of a section 115 standard is a legislative instrument.

## **Part 6—The Telecommunications Industry Ombudsman**

### **126 Simplified outline**

The following is a simplified outline of this Part:

- Certain carriers and carriage service providers must enter into the Telecommunications Industry Ombudsman scheme.
- The membership of the scheme must be open to all carriers and carriage service providers.
- Carriers and carriage service providers must comply with the scheme.

### **127 Eligible carriage service providers**

For the purposes of this Part, an *eligible carriage service provider* is:

- (a) a carriage service provider who supplies:
  - (i) a standard telephone service, where any of the customers are residential customers or small business customers; or
  - (ii) a public mobile telecommunications service; or
  - (iii) a carriage service that enables end-users to access the internet; or
- (b) a carriage service intermediary who arranges for the supply of a service referred to in subparagraph (a)(i), (ii) or (iii).

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**128 Telecommunications Industry Ombudsman scheme**

- (1) Each carrier and each eligible carriage service provider must, in association with other carriers and other eligible carriage service providers, enter into a scheme providing for a Telecommunications Industry Ombudsman.

Note: Section 129 provides for exemptions from subsection (1) of this section.

- (2) The scheme is to be known as the ***Telecommunications Industry Ombudsman scheme***.
- (3) To avoid doubt, there is only one Telecommunications Industry Ombudsman scheme, namely, the scheme operated by Telecommunications Industry Ombudsman Limited (ABN 46 057 634 787).
- (4) The scheme must provide for the Telecommunications Industry Ombudsman to:
- (a) investigate; and
  - (b) make determinations relating to; and
  - (c) give directions relating to;
- complaints about carriage services by end-users of those services.
- (4A) An end-user of a carriage service is not liable to pay any fee or charge (however described) to the provider of the carriage service in respect of a complaint made by the end-user about the carriage service.
- (5) The following is an example of such a complaint: a complaint about billing, or the manner of charging, for the supply of carriage services.
- (5A) The scheme may also provide for the Telecommunications Industry Ombudsman to:
- (a) investigate; and
  - (b) make determinations relating to; and
  - (c) give directions relating to;



complaints about the connection of premises to a qualifying telecommunications network, where the connection is:

- (d) by a statutory infrastructure provider for a service area; and
  - (e) in order that a carriage service provider can provide qualifying carriage services to an end-user at premises in the service area.
- (5B) For the purposes of subsection (5A), the following expressions have the same meaning as in Part 19 of the *Telecommunications Act 1997*:
- (a) ***qualifying carriage service***;
  - (b) ***qualifying telecommunications network***;
  - (c) ***service area***;
  - (d) ***statutory infrastructure provider***.
- (6) The scheme must not provide for the Telecommunications Industry Ombudsman to investigate complaints about:
- (a) the levels at which tariffs charged for the supply of carriage services are set; or
  - (b) the content of a content service.
- (7) The membership of the scheme must be open to all:
- (a) carriers; and
  - (b) carriage service providers.
- (8) The scheme must comply with any standards determined under subsection (9).
- (9) The Minister may, by legislative instrument, determine standards for the purposes of subsection (8).
- (10) In making a determination under subsection (9), the Minister must have regard to the following matters:
- (a) accessibility;
  - (b) independence;
  - (c) fairness;
  - (d) accountability;

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- (e) efficiency;
  - (f) effectiveness;
  - (g) such other matters (if any) as the Minister considers relevant.
- (11) Before making a determination under subsection (9), the Minister must consult:
- (a) the Telecommunications Industry Ombudsman; and
  - (b) the ACMA.

### **129 Exemptions from requirement to join scheme**

- (1) The ACMA may, by writing, declare that a specified carrier or eligible carriage service provider is exempt from the requirement set out in subsection 128(1). The declaration has effect accordingly.

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

- (2) In deciding whether a carrier or provider should be exempt from the requirement set out in subsection 128(1), the ACMA must have regard to the following matters:
- (a) the extent to which the carrier or provider deals with residential customers in relation to the supply of carriage services;
  - (b) the extent to which the carrier or provider deals with proprietors of small businesses in relation to the supply of carriage services;
  - (c) the potential for complaints under the Telecommunications Industry Ombudsman scheme about services supplied by the carrier or provider;
  - (d) whether the carrier or provider is a statutory infrastructure provider (within the meaning of Part 19 of the *Telecommunications Act 1997*).
- (3) Subsection (2) does not, by implication, limit the matters to which the ACMA may have regard.

- (4) Before making a declaration under this section, the ACMA must consult the Telecommunications Industry Ombudsman.
- (5) The ACMA must publish a copy of a declaration under this section on the ACMA's website.
- (6) A declaration under this section is not a legislative instrument if:
  - (a) the declaration specifies a carrier by name; or
  - (b) the declaration specifies an eligible carriage service provider by name.
- (7) A declaration under this section is a legislative instrument if:
  - (a) the declaration specifies a class of carriers; or
  - (b) the declaration specifies a class of eligible carriage service providers.

### **130 Direction to join scheme**

- (1) The ACMA may give a carriage service provider a written notice directing the provider to enter into the Telecommunications Industry Ombudsman scheme.
- (2) The provider must comply with the direction.
- (3) In deciding whether to give a direction to a provider under this section, the ACMA must have regard to the following matters:
  - (a) the extent to which the provider deals with residential customers in relation to the supply of carriage services;
  - (b) the extent to which the provider deals with proprietors of small businesses in relation to the supply of carriage services;
  - (c) the potential for complaints under the Telecommunications Industry Ombudsman scheme about the services supplied by the provider;
  - (d) whether the provider is a statutory infrastructure provider (within the meaning of Part 19 of the *Telecommunications Act 1997*).

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- (4) Subsection (3) does not, by implication, limit the matters to which the ACMA may have regard.
- (5) Before giving a direction under this section, the ACMA must consult the Telecommunications Industry Ombudsman.

**131 Determination that a class of carriage service providers must join scheme**

- (1) The ACMA may, by legislative instrument, determine that the members of a specified class of carriage service providers must enter into the Telecommunications Industry Ombudsman scheme.
- (3) In deciding whether to make a determination under this section in relation to a class of carriage service providers, the ACMA must have regard to the following matters:
  - (a) the extent to which members of that class deal with residential customers in relation to the supply of carriage services;
  - (b) the extent to which members of that class deal with proprietors of small businesses in relation to the supply of carriage services;
  - (c) the potential for complaints under the Telecommunications Industry Ombudsman scheme about services supplied by members of that class;
  - (d) whether members of that class are statutory infrastructure providers (within the meaning of Part 19 of the *Telecommunications Act 1997*).
- (4) Subsection (3) does not, by implication, limit the matters to which the ACMA may have regard.
- (5) Before making a determination under this section, the ACMA must consult the Telecommunications Industry Ombudsman.

**132 Members of scheme must comply with scheme**

A carrier or carriage service provider who is a member of the Telecommunications Industry Ombudsman scheme must comply with the scheme.

**133 Register of members of scheme**

- (1) The Telecommunications Industry Ombudsman is to maintain a Register of the names of the members of the Telecommunications Industry Ombudsman scheme.
- (2) The Register may be maintained by electronic means.
- (3) The Telecommunications Industry Ombudsman must ensure that the Register is open for inspection, at all reasonable times, by members of the public.

**133A Reviews of the Telecommunications Industry Ombudsman scheme**

- (1) The Telecommunications Industry Ombudsman must cause to be conducted reviews of the operation of the Telecommunications Industry Ombudsman scheme.

*Timing of reviews*

- (2) The first review must be completed within 3 years after the commencement of this section.
- (3) Each subsequent review must be completed within 5 years after the completion of the previous review.

*Independent reviews*

- (4) A review must be conducted by a person or body who is independent of:
  - (a) the Telecommunications Industry Ombudsman; and
  - (b) the telecommunications industry.

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*Consultation*

- (5) A review must make provision for:
- (a) public consultation; and
  - (b) consultation with:
    - (i) the Telecommunications Industry Ombudsman; and
    - (ii) the ACMA.

*Report of review*

- (6) The person or body conducting a review must:
- (a) prepare a report of the review; and
  - (b) give the report to the Telecommunications Industry Ombudsman.
- (7) The Telecommunications Industry Ombudsman must:
- (a) give a copy of the report to the Minister; and
  - (b) publish the report on the Telecommunications Industry Ombudsman's website.

*Response to recommendations in report*

- (8) If a report of a review sets out one or more recommendations to the Telecommunications Industry Ombudsman, the Telecommunications Industry Ombudsman must, within 6 months after receiving the report:
- (a) prepare a statement setting out the Telecommunications Industry Ombudsman's response to each of the recommendations; and
  - (b) publish a copy of the statement on the Telecommunications Industry Ombudsman's website; and
  - (c) give a copy of the statement to the Minister.

*Completion of review*

- (9) For the purposes of this section, a review is **completed** when the report of the review is given to the Telecommunications Industry Ombudsman.

## **Part 8—Provision of emergency call services**

### **146 Simplified outline**

The following is a simplified outline of this Part:

- The ACMA may impose requirements on any or all of the following:
    - (a) carriers;
    - (b) carriage service providers;
    - (c) emergency call persons;
- in relation to emergency call services.

### **147 Provision of emergency call services**

- (1) The ACMA must make a written determination imposing requirements on any or all of the following:
  - (a) carriers;
  - (b) carriage service providers;
  - (c) emergency call persons;in relation to emergency call services.
- (2) In making a determination under this section, the ACMA must have regard to the following:
  - (a) the objective that a carriage service provider who supplies a standard telephone service should provide each end-user of that standard telephone service with access, free of charge, to an emergency call service, unless the ACMA considers that it would be unreasonable for such access to be provided;

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- (b) the objective that, if a carriage service provider who supplies a standard telephone service is required to provide each end-user of that standard telephone service with access to an emergency call service operated by a recognised person, the recognised person should:
  - (i) receive and handle calls made by those end-users to the relevant emergency service number; and
  - (ii) if appropriate—transfer such calls to an appropriate emergency service organisation; and
  - (iii) if appropriate—give information in relation to such calls to an appropriate emergency service organisation;
- (c) the objective that emergency service organisations should not be charged for services provided by a recognised person who operates an emergency call service, being services by way of:
  - (i) receiving and handling calls to an emergency service number; or
  - (ii) transferring such calls to an emergency service organisation; or
  - (iii) giving information in relation to such calls to an emergency service organisation;
- (d) the objective that emergency service organisations should not be charged for the following carriage services:
  - (i) carriage services used to connect calls made to an emergency service number;
  - (ii) carriage services used to transfer such calls to an emergency service organisation;
  - (iii) carriage services used to give information in relation to such calls to an emergency service organisation;
- (e) the objective that, as far as practicable, a common system is used to:
  - (i) transfer calls made to an emergency service number to an emergency service organisation; and
  - (ii) give information in relation to such calls to an emergency service organisation;



- (f) the objective that calls made to an emergency service number are transferred to an appropriate emergency service organisation with the minimum of delay;
- (g) the objective that, from the perspective of an ordinary end-user of a standard telephone service, there appears to be a single national emergency call system;
- (h) the objective that reasonable community expectations for the handling of calls to emergency service numbers are met;
- (i) the objective that carriage services used to make calls to an emergency service number should, as far as practicable, provide the emergency call person concerned with automatic information about:
  - (i) the location of the caller; and
  - (ii) the identity of the customer of the service being used by the caller;
- (j) the objective that carriers should provide carriage service providers with access to:
  - (i) controlled carriage services of the carriers; and
  - (ii) controlled networks of the carriers; and
  - (iii) controlled facilities of the carriers;in order that the providers can comply with their obligations under the determination;
- (k) the objective that carriage service providers should provide other carriage service providers with access to:
  - (i) controlled carriage services of the first-mentioned providers; and
  - (ii) controlled networks of the first-mentioned providers; and
  - (iii) controlled facilities of the first-mentioned providers;in order that the other providers can comply with their obligations under the determination;
- (l) the objective that a determination should be consistent with the following:
  - (i) Australian Privacy Principle 6;

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- (ib) each registered APP code (as defined in the *Privacy Act 1988*), if any, that binds a participant in a section of the telecommunications industry;
  - (ii) codes registered under Part 6 of the *Telecommunications Act 1997*;
  - (iii) standards determined under Part 6 of the *Telecommunications Act 1997*.
- (3) Subsection (2) does not, by implication, limit the matters to which the ACMA may have regard.
- (4) A determination under this section may deal with ancillary or incidental matters, including the protection of the privacy of information transmitted in connection with a call to an emergency service number.
- (5) A determination under this section may deal with performance standards, including (but not limited to) performance standards relating to:
  - (a) the answering of calls to emergency service numbers; and
  - (b) delays in transferring calls made to an emergency service number to the appropriate emergency service organisation; and
  - (c) the handling of complaints about emergency call services.
- (6) Subsections (4) and (5) do not, by implication, limit subsection (1).
- (7) A determination under this section is a legislative instrument.
- (8) In making a determination under this section, the ACMA may apply, adopt or incorporate (with or without modification) any matter contained in a code or standard proposed or approved by a body or association, either:
  - (a) as in force or existing at a particular time; or
  - (b) as in force or existing from time to time.This subsection does not, by implication, limit section 589 of the *Telecommunications Act 1997*.

- (9) Before making a determination under this section, the ACMA must consult representatives of each of the following groups:
- (a) carriers;
  - (b) carriage service providers;
  - (c) recognised persons who operate an emergency call service;
  - (d) emergency service organisations;
  - (e) consumers of standard telephone services.
- (9A) Before making a determination under this section, the ACMA must consult the Secretary.
- (10) A carriage service provider may provide the access referred to in paragraph (2)(a) itself or by arranging with another person for the access to be provided.
- (11) In this section:
- emergency service organisation*** means:
- (a) a police force or service; or
  - (b) a fire service; or
  - (c) an ambulance service; or
  - (d) if there is a numbering scheme manager—a service specified by the ACMA for the purposes of this paragraph in a legislative instrument; or
  - (da) if there is no numbering scheme manager—a service specified for the purposes of this paragraph in the numbering plan made by the ACMA; or
  - (e) a service for despatching a force or service referred to in paragraph (a), (b), (c), (d) or (da).

### **148 Compliance with determination**

- (1) A person on whom a requirement is imposed by a determination in force under section 147 must comply with the determination.
- (2) Subsection (1) has effect subject to sections 149 and 151.
- (3) A person must not:

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- (a) aid, abet, counsel or procure a contravention of subsection (1); or
  - (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1); or
  - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1); or
  - (d) conspire with others to effect a contravention of subsection (1).
- (4) Subsections (1) and (3) are ***civil penalty provisions***.

Note: Part 31 of the *Telecommunications Act 1997* provides for pecuniary penalties for breaches of civil penalty provisions. This provision is a civil penalty provision for the purposes of that Act.

### 149 Access to emergency call services

- (1) This section applies if:
- (a) an emergency call service is operated by a recognised person; and
  - (b) a determination under section 147 requires a carriage service provider who supplies a standard telephone service to provide each end-user of that standard telephone service with access to that emergency call service; and
  - (c) a determination under section 147 requires the recognised person to:
    - (i) receive and handle calls made by those end-users to the relevant emergency service number; and
    - (ii) if appropriate—transfer such calls to an appropriate emergency service organisation; and
    - (iii) if appropriate—give information in relation to such calls to an appropriate emergency service organisation.
- (2) The recognised person must comply with the requirement mentioned in paragraph (1)(c) on such terms and conditions as are:
- (a) agreed between the following parties:
    - (i) the carriage service provider;
    - (ii) the recognised person; or

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(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 section.
- (4) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this section, 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) Subsection (4) does not, by implication, limit subsection (3).
- (6) A determination made in an arbitration under this section must not be inconsistent with a Ministerial pricing determination in force under section 150.

**150 Ministerial pricing determinations**

The Minister may, by legislative instrument, make a determination setting out principles dealing with price-related terms and conditions relating to requirements of a kind referred to in subsection 149(1). The determination is to be known as a *Ministerial pricing determination*.

**151 Access to be provided**

- (1) This section applies if a determination under section 147 requires a person to provide access as mentioned in paragraph 147(2)(j) or (k).
- (2) The person must provide that access in accordance with the requirements set out in the determination and on such terms and conditions as are:
  - (a) agreed between the following parties:

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- (i) the person;
- (ii) the carriage service provider to whom access is required to be provided; 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 section.
- (4) The regulations may provide that, for the purposes of a particular arbitration conducted by the ACCC under this section, 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) Subsection (4) does not, by implication, limit subsection (3).

## **Part 9—Price control arrangements for designated Telstra successor companies**

### **152 Simplified outline**

The following is a simplified outline of this Part:

- This Part provides for price control arrangements for carriage services, content services and facilities supplied by designated Telstra successor companies.

### **153 Definitions**

In this Part:

**carrier charge** means:

- (a) a charge for a carriage service, or a content service, supplied by a designated Telstra successor company; or
- (b) a charge for a facility supplied by a designated Telstra successor company.

**charge** includes:

- (a) any charge or fee (whether payable periodically, in instalments or otherwise); and
- (b) a nil charge or nil fee; and
- (c) in relation to a carriage service, includes:
  - (i) any charge or fee (including of a kind referred to in paragraph (a) or (b)) for or in relation to a facility used, or intended for use, in relation to the supply of the service; and
  - (ii) any other charge or fee (including of a kind referred to in paragraph (a) or (b)) for or in relation to the supply of the service.

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### 154 Minister may determine price control arrangements

- (1) The Minister may determine in writing that specified carrier charges are subject to price control arrangements.
- (2) An instrument under this section is a legislative instrument.

### 155 Effect of price control arrangements

- (1) Where a carrier charge is subject to price control arrangements, the Minister may, by legislative instrument, determine:
  - (a) price-cap arrangements and other price control arrangements that are to be applied in relation to the charge; or
  - (b) principles in accordance with which a designated Telstra successor company is to make alterations to the charge;or both.
- (3) To avoid doubt, price-cap arrangements and other price control arrangements determined under this section may relate to charges for untimed local calls in particular areas.
- (4) A determination under this section may make different provision with respect to different customers. This section does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.
- (5) A designated Telstra successor company must comply with a determination under this section.

### 156 Alteration of charges subject to price control arrangements

- (1) Where a designated Telstra successor company proposes to alter a carrier charge that is subject to price control arrangements, the following provisions have effect.
- (2) Where, under the applicable determinations under section 155, the consent of the ACCC is not required to the proposed alteration, the designated Telstra successor company may make the proposed alteration.



- (3) Where, under the applicable determinations under section 155, the consent of the ACCC is required to the proposed alteration, the designated Telstra successor company must not make the proposed alteration unless the following paragraphs have been complied with:
- (a) if those determinations require the giving to the ACCC of a period of notice before the proposed alteration is made—that period has ended or the ACCC has waived the giving of the notice;
  - (b) if those determinations require the giving to the ACCC of particular information not later than a particular time before the alteration is made:
    - (i) the information was so given; or
    - (ii) some only of the information was so given and the ACCC has waived the giving of the remainder of the information; or
    - (iii) the ACCC has waived the giving of the information;
  - (c) subject to paragraph (d), either:
    - (i) the ACCC has consented to the proposed alteration; or
    - (ii) the period within which the ACCC is required under those determinations to give or refuse its consent to the proposed alteration has ended and the ACCC did not before the end of that period refuse its consent to the proposed alteration;
  - (d) if, before the end of the period within which, but for this paragraph, the ACCC would be required under the applicable determinations to give or refuse its consent to the proposed alteration, the ACCC requested the designated Telstra successor company to provide further information about the proposed alteration, the first-mentioned period is taken to be extended by a period equal to the number of days commencing on the day on which the request was made and ending on the day on which the further information was provided.

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**157 Carrier charges subject to notification and disallowance**

- (1) The Minister may determine in writing that specified carrier charges are subject to notification and disallowance.
- (2) An instrument under this section is a legislative instrument.

**158 Alteration of charges subject to notification and disallowance**

- (1) If a designated Telstra successor company proposes to alter a carrier charge that is subject to notification and disallowance, the designated Telstra successor company must, by written notice, inform the Minister of the alteration at least 30 days before it is to take effect.
- (2) The Minister may, within 30 days after receiving the notice:
  - (a) by writing request the ACCC to give a written report as to whether the proposed alteration should be disallowed in the public interest; and
  - (b) direct the designated Telstra successor company in writing not to make the alteration until the Minister has received and considered the report.
- (3) The ACCC must give the report to the Minister within 30 days after receiving the request.
- (4) If the Minister, after taking the ACCC's report into account, is of the opinion that the proposed alteration is not in the public interest, he or she may, by written notice given to the designated Telstra successor company within 30 days after receiving the report, direct the designated Telstra successor company not to make the alteration.
- (5) A designated Telstra successor company must comply with a direction under subsection (4).

## **Part 9B—Independent reviews of regional telecommunications**

### **Division 1—Independent reviews of regional telecommunications**

#### **158P Reviews of regional telecommunications to be conducted by the RTIRC**

- (1) The RTIRC must conduct reviews of the adequacy of telecommunications services in regional, rural and remote parts of Australia.

Note: **RTIRC** means the Regional Telecommunications Independent Review Committee established by section 158R.

- (2) In determining the adequacy of those services, the RTIRC must have regard to whether people in regional, rural and remote parts of Australia have equitable access to telecommunications services that are:
  - (a) significant to people in those parts of Australia; and
  - (b) currently available in one or more urban parts of Australia.

#### *Timing of reviews*

- (3) The first review must start:
  - (a) before the end of 2008; or
  - (b) if, before 31 December 2008, the Minister makes a written determination specifying an earlier day—as soon as practicable after that earlier day.
- (4) Each subsequent review must be completed within 3 years after the last day on which a copy of a statement setting out the Commonwealth Government's response to the recommendations of the previous review was tabled in a House of the Parliament under paragraph 158Q(6)(b). For this purpose, a review is completed

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when the report of the review is given to the Minister under section 158Q.

*Consultation*

- (5) In conducting a review, the RTIRC must make provision for:
- (a) public consultation; and
  - (b) consultation with people in regional, rural and remote parts of Australia.

*Relevant matters*

- (6) In conducting a review, the RTIRC must have regard to:
- (a) any policies of the Commonwealth Government notified to the RTIRC by the Minister; and
  - (b) such other matters as the RTIRC considers relevant.

*Determination*

- (7) Before making a determination under paragraph (3)(b), the Minister must consult:
- (a) the Prime Minister; and
  - (b) the Treasurer; and
  - (c) the Finance Minister; and
  - (d) the Minister administering the *Urban and Regional Development (Financial Assistance) Act 1974*.
- (8) A determination under paragraph (3)(b) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

*Australia*

- (9) Section 11 of the *Telecommunications Act 1997* (as applied by section 7 of this Act) does not apply to a reference in this section to Australia.

*Definitions*

(10) In this section:

**Australia** does not include an external Territory prescribed for the purposes of section 10 of the *Telecommunications Act 1997*.

**telecommunications services** includes:

- (a) carriage services; and
- (b) services provided by means of carriage services.

**158Q Report of review**

- (1) The RTIRC must:
  - (a) prepare a report of a review under section 158P; and
  - (b) give the report to the Minister.
- (2) The Minister must cause copies of the report to be tabled in each House of the Parliament within 15 sitting days of that House after receiving the report.

*Recommendations*

- (3) The report may set out recommendations to the Commonwealth Government.
- (4) In formulating a recommendation that the Commonwealth Government should take particular action, the RTIRC must assess the costs and benefits of that action.
- (5) Subsection (4) does not prevent the RTIRC from taking other matters into account in formulating a recommendation.

*Government response to recommendations*

- (6) If a report sets out one or more recommendations to the Commonwealth Government:
  - (a) as soon as practicable after receiving the report, the Minister must cause to be prepared a statement setting out the

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- Commonwealth Government's response to the recommendations; and
- (b) within 6 months after receiving the report, the Minister must cause copies of the statement to be tabled in each House of the Parliament.
- (6A) A statement prepared under paragraph (6)(a) must contain an explanation of how the Commonwealth Government's response to the recommendations will improve telecommunications services in regional, rural or remote parts of Australia.
- (7) The Commonwealth Government's response to the recommendations may have regard to the views of the following:
- (a) participants in sections of the telecommunications industry (within the meaning of Part 6 of the *Telecommunications Act 1997*);
  - (b) the ACMA;
  - (c) the ACCC;
  - (d) the Telecommunications Industry Ombudsman;
  - (e) bodies or associations that represent the interests of consumers;
  - (f) such other persons as the Minister considers relevant.

*Definitions*

- (8) In this section:

***Australia*** has the same meaning as in section 158P.

***telecommunications services*** has the same meaning as in section 158P.

## **Division 2—Regional Telecommunications Independent Review Committee (RTIRC)**

### **158R Establishment of the RTIRC**

There is to be a Regional Telecommunications Independent Review Committee.

### **158S Functions of the RTIRC**

The RTIRC has the functions that are conferred on it by this Part.

### **158T Membership of the RTIRC**

- (1) The RTIRC is to consist of a Chair and at least 2 other members.
- (2) A person may only be appointed as an RTIRC member if it appears to the Minister that the person has knowledge of, or experience in:
  - (a) matters affecting regional, rural and remote parts of Australia; or
  - (b) telecommunications.
- (3) The Minister must ensure that:
  - (a) the RTIRC Chair is not a person covered by subsection (4); and
  - (b) a majority of the other RTIRC members are not persons covered by subsection (4).
- (4) This subsection applies to the following persons:
  - (a) an employee of the Commonwealth;
  - (b) an employee of an authority of the Commonwealth;
  - (c) a person who holds a full-time office under a law of the Commonwealth.
- (4A) The Minister must ensure that at least one RTIRC member is nominated by an organisation that represents the interests of people, or bodies, in regional, rural or remote parts of Australia.

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- (5) The Minister must ensure that no RTIRC member is:
- (a) a carriage service provider; or
  - (b) a partner in a carriage service provider partnership; or
  - (c) an officer or employee of a carrier; or
  - (d) an officer or employee of a carriage service provider; or
  - (e) an officer or employee of a partner in a carrier partnership; or
  - (f) an officer or employee of a partner in a carriage service provider partnership; or
  - (g) an officer or employee of a body corporate, where a related body corporate is:
    - (i) a carrier; or
    - (ii) a carriage service provider; or
    - (iii) a partner in a carrier partnership; or
    - (iv) a partner in a carriage service provider partnership.
- (6) Section 11 of the *Telecommunications Act 1997* (as applied by section 7 of this Act) does not apply to a reference in this section to Australia.
- (7) In this section:

***Australia*** does not include an external Territory prescribed for the purposes of section 10 of the *Telecommunications Act 1997*.

***carriage service provider partnership*** means a partnership that is a carriage service provider.

***carrier partnership*** means a partnership that is a carrier.

***related body corporate*** has the same meaning as in the *Corporations Act 2001*.



### **158U Appointment of RTIRC members**

- (1) The RTIRC members are to be appointed by the Minister by written instrument.
- (2) An RTIRC member holds office for the period specified in the instrument of appointment. The period must not exceed 4 years.
- (3) An RTIRC member holds office on a part-time basis.

### **158V Acting appointments—RTIRC Chair**

The Minister may appoint an RTIRC member to act as the RTIRC Chair:

- (a) during a vacancy in the office of the RTIRC Chair, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the RTIRC Chair is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

### **158W Procedures**

- (1) The regulations may prescribe the procedures to be followed at or in relation to meetings of the RTIRC, including matters relating to the following:
  - (a) the convening of meetings of the RTIRC;
  - (b) the number of RTIRC members who are to constitute a quorum;
  - (c) the selection of an RTIRC member to preside at meetings of the RTIRC in the absence of the RTIRC Chair;
  - (d) the manner in which questions arising at a meeting of the RTIRC are to be decided.
- (2) A resolution is taken to have been passed at a meeting of the RTIRC if:

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- (a) without meeting, a majority of RTIRC members indicate agreement with the resolution in accordance with the method determined by the RTIRC under subsection (3); and
  - (b) all RTIRC members were informed of the proposed resolution, or reasonable efforts had been made to inform all RTIRC members of the proposed resolution.
- (3) Subsection (2) applies only if the RTIRC:
- (a) determines that it applies; and
  - (b) determines the method by which RTIRC members are to indicate agreement with resolutions.

**158X Disclosure of interests**

- (1) An RTIRC member who has a material personal interest in a matter being considered by the RTIRC must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the RTIRC.
- (2) The disclosure is to be recorded in the minutes of the meeting and, unless the Minister or the RTIRC otherwise determines, the RTIRC member must not:
  - (a) be present during any deliberation by the RTIRC about that matter; or
  - (b) take part in any decision of the RTIRC relating to that matter.
- (3) For the purposes of the making of a determination by the RTIRC under subsection (2) in relation to an RTIRC member who has made a disclosure under subsection (1), an RTIRC member who has an interest in the matter to which the disclosure relates must not:
  - (a) be present during any deliberation of the RTIRC for the purposes of making the determination; or
  - (b) take part in the making by the RTIRC of the determination.

### **158Y Remuneration and allowances**

- (1) An RTIRC member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.
- (2) An RTIRC member is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **158Z Leave of absence**

- (1) The Minister may grant leave of absence to the RTIRC Chair on the terms and conditions that the Minister determines.
- (2) The RTIRC Chair may grant leave of absence to an RTIRC member on the terms and conditions that the RTIRC Chair determines.

### **158ZA Resignation**

An RTIRC member may resign his or her appointment by giving the Minister a written resignation.

### **158ZB Termination of appointment**

- (1) The Minister may terminate the appointment of an RTIRC member for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of an RTIRC member if:
  - (a) the RTIRC member:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with his or her creditors; or

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- (iv) makes an assignment of remuneration for the benefit of his or her creditors; or
  - (b) the RTIRC member is absent, except on leave of absence, for 3 consecutive meetings of the RTIRC; or
  - (c) the RTIRC member fails, without reasonable excuse, to comply with section 158X.
- (3) The Minister may terminate the appointment of the RTIRC Chair if the RTIRC Chair becomes a person covered by subsection 158T(4).
- (4) The Minister may terminate the appointment of an RTIRC member if the RTIRC member becomes a person covered by paragraph 158T(5)(a), (b), (c), (d), (e), (f) or (g).

**158ZC Other terms and conditions**

An RTIRC member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

**158ZD Assistance to RTIRC**

- (1) Any or all of the following:
- (a) the ACMA;
  - (b) the ACCC;
  - (c) the Department;
  - (d) any other Department, agency or authority of the Commonwealth;
- may assist the RTIRC in the performance of its functions.
- (2) The assistance may include the following:
- (a) the provision of information;
  - (b) the provision of advice;
  - (c) the making available of resources and facilities (including secretariat services and clerical assistance).

- (3) A reference in Parts 26 and 27 of the *Telecommunications Act 1997* to the *ACMA's telecommunications functions* includes a reference to the function conferred on the ACMA by subsection (1).

## **Part 10—Miscellaneous**

### **160 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may prescribe penalties, not exceeding 10 penalty units, for offences against the regulations.

## 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 how an amendment is to be made. If, despite the misdescription, the amendment

## Endnotes

### Endnote 1—About the endnotes

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.



**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

## Endnotes

### Endnote 3—Legislation history

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#### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Telecommunications (Consumer Protection and Service Standards) Act 1999	50, 1999	5 July 1999	Part 3: 1 July 1999 Remainder: 2 Aug 1999	
Telecommunications Laws Amendment (Universal Service Cap) Act 1999	42, 1999	11 June 1999	Sch 2: 2 Aug 1999 (s 2(3))	—
Telecommunications (Consumer Protection and Service Standards) Amendment Act 2000	33, 2000	19 Apr 2000	19 Apr 2000	Sch. 1 (items 4, 5)
Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 1) 2000	95, 2000	30 June 2000	Schedule 1: 1 July 2000 Remainder: Royal Assent	Sch. 1 (items 81–85)
Telecommunications (Consumer Protection and Service Standards) Amendment Act (No. 2) 2000	142, 2000	29 Nov 2000	Schedules 1, 2 and Schedule 3 (items 1–9, 12, 14, 15): 1 July 2000 Schedule 3 (items 10, 11, 13): 1 Jan 2001 Remainder: Royal Assent	Sch. 2, Sch. 3 (items 7, 9) and Sch. 5
Privacy Amendment (Private Sector) Act 2000	155, 2000	21 Dec 2000	Schedule 3: Royal Assent Remainder: 21 Dec 2001	—

## 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 163–165): 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	—
Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001	121, 2001	24 Sept 2001	Sch 2 (item 167): 1 July 2002 (s 2(2))	—
Communications Legislation Amendment Act (No. 1) 2003	114, 2003	27 Nov 2003	Schedule 2: 27 Mar 2003 Remainder: 28 Nov 2003	Sch. 5 (item 13)
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Schedule 1 (items 429–437, 496): Royal Assent	s. 4 and Sch. 1 (item 496)
Telecommunications (Consumer Protection and Service Standards) Amendment (National Relay Service) Act 2005	24, 2005	21 Mar 2005	Sch 1 (item 9): never commenced (s 2(1) item 3) Remainder: 21 Mar 2005 (s 2(1) items 1, 2)	—
Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005	45, 2005	1 Apr 2005	Sch 1 (items 161–165), Sch 2 and Sch 4: 1 July 2005 (s 2(1) items 2, 3, 10)	Sch 4

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### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
<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)	—
Telecommunications Legislation Amendment (Future Proofing and Other Measures) Act 2005	117, 2005	23 Sept 2005	Schedules 1 and 2: Royal Assent	—
Offshore Petroleum (Repeals and Consequential Amendments) Act 2006	17, 2006	29 Mar 2006	Schedule 2 (item 112): 1 July 2008 ( <i>see</i> s. 2(1) and F2008L02273)	—
Communications Legislation Amendment (Content Services) Act 2007	124, 2007	20 July 2007	Schedule 2 (items 3–11): 20 July 2008 Schedule 3: Royal Assent	Sch. 2 (item 11)
Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Act 2007	152, 2007	24 Sept 2007	25 Sept 2007	—
Nation-building Funds (Consequential Amendments) Act 2008	155, 2008	18 Dec 2008	Schedule 2 (items 48–50): 1 Jan 2009 ( <i>see</i> s. 2(1))	—
Statute Stocktake (Regulatory and Other Laws) Act 2009	111, 2009	16 Nov 2009	Schedule 1 (items 55–102): 17 Nov 2009	Sch. 1 (items 98–102)
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 5 (item 137(a)): 1 Mar 2010 (s 2(1) item 38)	—

## 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>
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Schedule 6 (items 1, 139): 1 Jan 2011	—
Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010	140, 2010	15 Dec 2010	Schedule 1 (items 214–226): 15 Mar 2011 Schedule 1 (items 227–240): 15 June 2011	Sch. 1 (item 240)
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 1137–1139) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Telecommunications Legislation Amendment (Universal Service Reform) Act 2012	44, 2012	16 Apr 2012	Schedule 1 (items 56–106, 112–123): 1 July 2012 ( <i>see s. 2(1)</i> )	Sch. 1 (items 122, 123)
Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012	169, 2012	3 Dec 2012	Schedule 2 (item 215): 3 Dec 2012 ( <i>see s. 2(1)</i> )	—
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (items 97, 146) 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 283–334, 343): Royal Assent	Sch 3 (item 343)

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### 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 (Consumer Protection) Act 2014	3, 2014	28 Feb 2014	Sch 1 (items 31, 32): 28 Aug 2014 (s 2(1) item 3)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 12 (items 191–195) 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 43–82, 204–207, 246, 247): 17 Oct 2014 (s 2(1) item 2)	—

## 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 (Deregulation) Act 2015	38, 2015	13 Apr 2015	Sch 1 (items 62–163): 1 July 2015 (s 2(1) item 3) Sch 2 (items 7, 8), Sch 7 and Sch 8: 14 Apr 2015 (s 2(1) items 4, 6)	Sch 1 (items 138–163), Sch 7 (items 6, 7) and Sch 8 (item 2)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 622–625): 5 Mar 2016 (s 2(1) item 2)	—
Communications Legislation Amendment (Deregulation and Other Measures) Act 2019	120, 2019	12 Dec 2019	Sch 1 (items 18–20) and Sch 6 (items 31, 32, 34): 12 Dec 2019 (s 2(1) item 1)	Sch 6 (item 34)
Telecommunications Legislation Amendment (Competition and Consumer) Act 2020	47, 2020	25 May 2020	Sch 4 (items 8–13): 26 May 2020 (s 2(1) item 7)	—
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 4 (item 21): 1 Sept 2021 (s 2(1) item 14)	—
Telstra Corporation and Other Legislation Amendment Act 2021	140, 2021	13 Dec 2021	Sch 2 (items 100–122) and Sch 3 (item 2): 1 Jan 2023 (s 2(1) item 3)	—

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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>
<b>as amended by</b>				
Telecommunication s Legislation Amendment (Information Disclosure, National Interest and Other Measures) Act 2023	17, 2023	11 Apr 2023	Sch 1 (item 16): 13 Dec 2021 (s 2(1) item 4)	—
Telecommunications Legislation Amendment (Enhancing Consumer Safeguards and Other Measures) Act 2024	36, 2024	31 May 2024	Sch 1 (items 167–170), Sch 4 (items 1–18) and Sch 5 (items 9, 10): 1 June 2024 (s 2(1) item 1)	—



## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s. 2.....	am. No. 142, 2000; No 109, 2014
s. 4.....	am No 45, 2005; No 111, 2009; No 44, 2012; No 109, 2014; No 38, 2015; No 47, 2020; No 140, 2021 ed C43
s. 5.....	am No 95, 2000; No 142, 2000; No 117, 2005; No 111, 2009; No 140, 2010; No 44, 2012; No 109, 2014; No 38, 2015; No 120, 2019; No 47, 2020
s. 6.....	am. No. 140, 2010; No. 44, 2012; No 38, 2015
s. 6A.....	ad. No. 140, 2010 rep No 38, 2015
s. 7.....	am. No. 17, 2006
s. 7A.....	ad. No. 5, 2001
<b>Part 2</b>	
Part 2 heading.....	rs No 38, 2015
Part 2.....	rs. No. 142, 2000
<b>Division 1</b>	
s. 8.....	rs. No. 142, 2000 am. No. 45, 2005; No. 111, 2009; No. 44, 2012; No 109, 2014 rs No 38, 2015
s. 8A.....	ad No 142, 2000 am No 111, 2009; No 44, 2012 rep No 38, 2015 ad No 47, 2020 am No 36, 2024
s. 8B.....	ad No 142, 2000 rep No 38, 2015
s. 8BA.....	ad No 140, 2010
s. 8C.....	ad No 142, 2000

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<b>Provision affected</b>	<b>How affected</b>
	rep No 38, 2015
	ad No 36, 2024
s. 8D.....	ad. No. 142, 2000
	am. No. 111, 2009; No. 44, 2012; No 103, 2013
	rep No 38, 2015
s. 8E.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 8F.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 8G.....	ad. No. 142, 2000
	rep No 38, 2015
s. 8H.....	ad. No. 44, 2012
	rep No 38, 2015
s. 8J.....	ad. No. 44, 2012
	rs No 38, 2015
	am No 126, 2015
s. 8K.....	ad. No. 44, 2012
	rs No 38, 2015
	am No 126, 2015
<b>Division 2</b>	
<b>Subdivision A</b>	
s. 9.....	rs. No. 142, 2000
	am. No. 140, 2010; No. 44, 2012; No 38, 2015; No 126, 2015
s. 9A.....	ad. No. 142, 2000
	rs. No. 140, 2010
	rep. No. 44, 2012
s. 9B.....	ad. No. 142, 2000
	am. No. 44, 2012; No 103, 2013
s. 9C.....	ad. No. 142, 2000

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s. 9D.....	ad. No. 142, 2000 rep. No. 44, 2012
s. 9E.....	ad. No. 142, 2000 am No 38, 2015
s. 9F.....	ad. No. 142, 2000 rep. No. 44, 2012
Subdivision B.....	rep No 38, 2015
s. 9G.....	ad. No. 142, 2000 am. No. 44, 2012 rep No 38, 2015
s. 9H.....	ad. No. 142, 2000 rep No 38, 2015
s. 9J.....	ad. No. 142, 2000 rep No 38, 2015
s. 10.....	rs. No. 142, 2000 rep. No. 111, 2009
ss. 10A–10G.....	ad. No. 142, 2000 rep. No. 111, 2009
ss. 10H, 10J.....	ad. No. 142, 2000 rep. No. 111, 2009
Division 4.....	rep No 38, 2015
s. 11.....	rs. No. 142, 2000 am No 109, 2014 rep No 38, 2015
s. 11A.....	ad. No. 142, 2000 am No 109, 2014 rep No 38, 2015
s. 11B.....	ad No 142, 2000 am No. 45, 2005; No 103, 2013; No 109, 2014 rep No 38, 2015
s. 11C.....	ad No 142, 2000

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 45, 2005; No 103, 2013
	rep No 109, 2014
s 11D.....	ad. No. 142, 2000
	rep No 109, 2014
s 11E .....	ad No 142, 2000
	rep No 109, 2014
s. 11F .....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
Subdivision A .....	rep No 38, 2015
s. 12.....	rs. No. 142, 2000
	rep No 38, 2015
<b>Subdivision B</b>	
Subdivision B heading.....	rs No 38, 2015
s 12A.....	rs No 142, 2000
	am No 45, 2005; No 44, 2012; No 38, 2015; No 140, 2021; No 36, 2024
s. 12B.....	ad. No. 142, 2000
	am No 38, 2015
s 12C.....	ad No 142, 2000
	am No 45, 2005; No 140, 2010
	rs No 109, 2014
	am No 38, 2015
	rs No 140, 2021
	am No 36, 2024
s 12D.....	ad No 142, 2000
	am No 44, 2012
	rs No 38, 2015
	am No 120, 2019; No 140, 2021; No 36, 2024
s 12E .....	ad No 142, 2000
	am No 44, 2012

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rs No 38, 2015
	am No 140, 2021; No 36, 2024
s. 12EA .....	ad. No. 142, 2000
	am. No. 45, 2005; No 109, 2014
	rep No 38, 2015
Subdivision BA heading .....	rep No 38, 2015
Subdivision BA.....	ad. No. 140, 2010
<b>Subdivision C</b>	
Subdivision C heading.....	ad No 38, 2015
Subdivision C .....	rep No 109, 2014
s 12EB.....	ad. No. 140, 2010
	am No 109, 2014; No 38, 2015
s 12EC.....	ad No 140, 2010
	am No 109, 2014; No 38, 2015
Subdivision BB heading .....	rep No 38, 2015
Subdivision BB.....	ad. No. 140, 2010
s 12ED .....	ad. No. 140, 2010
	am No 109, 2014; No 38, 2015
s 12EE.....	ad No 140, 2010
	am No 109, 2014; No 38, 2015
s 12EF .....	ad No 140, 2010
	am No 109, 2014
s 12EG .....	ad No 140, 2010
	am No 109, 2014
s 12EH .....	ad No 140, 2010
	am No 109, 2014
s 12EI.....	ad No 140, 2010
s. 12F .....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 12G.....	ad No 142, 2000

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Provision affected	How affected
	am No 103, 2013
	rep No 109, 2014
s. 12H.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s. 12J.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s. 12K.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s. 12L.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s. 12M.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
Subdivision D.....	rep No 109, 2014
s. 12P.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s. 12Q.....	ad No 142, 2000
	am No 103, 2013
	rep No 109, 2014
s. 12R.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s. 12S.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s. 12T.....	ad. No. 142, 2000

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am No 45, 2005
	rep No 109, 2014
s 12U.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
Subdivision E.....	rep No 109, 2014
s. 12V.....	ad. No. 142, 2000
	rep No 109, 2014
s 12W.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 12X.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s 12Y.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s 12Z.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
<b>Division 3</b>	
Division 3.....	rep. No. 111, 2009
	ad No 38, 2015
<b>Subdivision A</b>	
s. 13.....	rs. No. 142, 2000
	rep No 109, 2014
	ad No 38, 2015
s 13A.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 13B.....	ad. No. 142, 2000

**Endnotes**

Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
	am No 45, 2005
	rep No 109, 2014
s 13C.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s 13D.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s 13E.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s. 13F.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 13G.....	ad No 142, 2000
	am No 103, 2013
	rep No 109, 2014
s. 13H.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 13J.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 13K.....	ad. No. 142, 2000
	am. No 45, 2005
	rep No 109, 2014
s 13L.....	ad. No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s 13M.....	ad. No. 142, 2000
	am. No. 45, 2005

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rep No 109, 2014
s 13N.....	ad No 142, 2000
	am No 103, 2013
	rep No 109, 2014
s 13P .....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 13Q.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 13R .....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 109, 2014
s 13S .....	ad. No. 142, 2000
	rep No 109, 2014
s 13T .....	ad No. 142, 2000
	am No. 45, 2005
	rep No 109, 2014
s 13U.....	ad No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
s 13V .....	ad No. 142, 2000
	am No 45, 2005
	rep No 109, 2014
<b>Subdivision B</b>	
s 14.....	rs No 142, 2000
	am No 45, 2005; No 103, 2013; No 109, 2014
	rs No 38, 2015
	am No 47, 2020
s. 14A.....	rs. No. 142, 2000
	rep No 38, 2015

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<b>Provision affected</b>	<b>How affected</b>
Division 8 .....	rep. No. 111, 2009
s. 15.....	rs. No. 142, 2000 rep. No. 111, 2009 ad No 38, 2015
s. 15A.....	ad. No. 142, 2000 rep. No. 111, 2009
s. 15B.....	ad. No. 142, 2000 am. No. 45, 2005 rep. No. 111, 2009
ss. 15C–15H.....	ad. No. 142, 2000 rep. No. 111, 2009
s. 15J .....	ad. No. 142, 2000 rep. No. 111, 2009
s. 15K.....	ad. No. 142, 2000 am. No. 45, 2005 rep. No. 111, 2009
s. 15L .....	ad. No. 142, 2000 rep. No. 111, 2009
s. 15M.....	ad. No. 142, 2000 am. No. 45, 2005 rep. No. 111, 2009
ss. 15N, 15P.....	ad. No. 142, 2000 rep. No. 111, 2009
Division 9 .....	rep No 38, 2015
s. 16.....	rs. No. 142, 2000 am No 109, 2014 rs No 38, 2015
s. 16A.....	ad. No. 142, 2000 am. No. 45, 2005 rep No 38, 2015
s. 16B.....	ad. No. 142, 2000

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rep No 38, 2015
Division 10 .....	rep. No. 111, 2009
s. 17.....	rs. No. 142, 2000
	rep. No. 111, 2009
	ad No 38, 2015
s. 17A.....	ad. No. 142, 2000
	rep. No. 111, 2009
Division 11 .....	rep No 38, 2015
s. 18.....	rs. No. 142, 2000
	am. No. 44, 2012
	rs No 38, 2015
s. 18A.....	ad. No. 142, 2000
	rep No 38, 2015
s. 18B.....	ad. No. 142, 2000
	rep No 38, 2015
s. 18C.....	ad. No. 142, 2000
	rep No 38, 2015
s. 18D.....	ad. No. 142, 2000
	rep No 38, 2015
s. 18E.....	ad. No. 142, 2000
	rep No 38, 2015
Division 12 .....	rep. No. 111, 2009
s. 19.....	rs. No. 142, 2000
	rep. No. 111, 2009
	ad No 38, 2015
ss. 19A–19C.....	rs. No. 142, 2000
	rep. No. 111, 2009
ss. 19D, 19E.....	ad. No. 142, 2000
	rep. No. 111, 2009
Division 13 .....	rep No 38, 2015
s. 20.....	am. No. 95, 2000

**Endnotes**

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<b>Provision affected</b>	<b>How affected</b>
	rs. No. 142, 2000
	am. No. 5, 2001; No. 45, 2005
	rs No 38, 2015
s. 20A.....	ad. No. 142, 2000
	am No 103, 2013
	rep No 38, 2015
s. 20B.....	ad. No. 142, 2000
	am. No. 45, 2005; No. 111, 2009; No 103, 2013
	rep No 38, 2015
s. 20C.....	ad. No. 142, 2000
	am. No. 44, 2012; No 103, 2013
	rep No 38, 2015
s. 20D.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20E.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20F.....	ad. No. 142, 2000
	am. No. 45, 2005; No 103, 2013
	rep No 38, 2015
s. 20G.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20H.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20J.....	ad. No. 142, 2000
	am. No. 5, 2001; No. 45, 2005; No. 111, 2009
	rep No 38, 2015
s. 20K.....	ad. No. 142, 2000

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am. No. 45, 2005
	rep No 38, 2015
s. 20L .....	ad. No. 142, 2000
	am. No. 45, 2005; No. 8, 2010
	rep No 38, 2015
s. 20M .....	ad. No. 142, 2000
	am. No. 45, 2005
	rs. No. 111, 2009
	rep No 38, 2015
s. 20N .....	ad. No. 142, 2000
	am. No. 45, 2005; No. 111, 2009
	rep No 38, 2015
s. 20P .....	ad. No. 142, 2000
	am. No. 45, 2005; No 103, 2013
	rep No 38, 2015
s. 20Q .....	ad. No. 142, 2000
	rep No 38, 2015
s. 20R .....	ad. No. 142, 2000
	am. No. 45, 2005; No 103, 2013
	rep No 38, 2015
s. 20S .....	ad. No. 142, 2000
	rep No 38, 2015
s. 20T .....	ad. No. 142, 2000
	rep No 38, 2015
s. 20U .....	ad. No. 142, 2000
	am. No. 45, 2005; No. 111, 2009
	rep No 38, 2015
s. 20V .....	ad. No. 142, 2000
	am. No. 45, 2005; No. 111, 2009
	rep No 38, 2015
s. 20W .....	ad. No. 142, 2000

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 45, 2005
	rep No 38, 2015
s. 20X.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20Y.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20Z.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20ZA.....	ad. No. 142, 2000
	rep No 38, 2015
s. 20ZB.....	ad. No. 142, 2000
	rep No 38, 2015
s. 20ZC.....	ad. No. 142, 2000
	am. No. 45, 2005
	rep No 38, 2015
s. 20ZD.....	ad No 142, 2000
	rep No 38, 2015
s. 20ZE.....	ad No 142, 2000
	rep No 38, 2015
s. 20ZF.....	ad No 142, 2000
	rep No 38, 2015
s. 20ZG.....	ad No 142, 2000
	rep No 38, 2015
s. 20ZH.....	ad No 142, 2000
	am No 103, 2013
	rep No 38, 2015
Division 14.....	rep No 38, 2015
s. 21.....	am. No. 95, 2000

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<b>Provision affected</b>	<b>How affected</b>
	rs. No. 142, 2000
	am. No. 45, 2005; No 62, 2014
	rs No 38, 2015
s 21A.....	ad No 142, 2000
	am No 8, 2005; No 62, 2014
	rep No 38, 2015
	ad No 140, 2021
s. 21B.....	ad. No. 142, 2000
	am. Nos. 8 and 45, 2005 No 6, 2014
	rep No 38, 2015
s. 21C.....	ad. No. 142, 2000
	rs. No. 8, 2005
	am. No. 45, 2005; No 103, 2013
	rep No 38, 2015
s. 21D.....	ad. No. 142, 2000
	am. Nos. 8 and 45, 2005; No 103, 2013
	rep No 38, 2015
s. 21E.....	ad. No. 142, 2000
	rep No 38, 2015
Division 15.....	rep No 38, 2015
s. 22.....	am. No. 95, 2000
	rs. No. 142, 2000
	am. No. 45, 2005; No. 111, 2009
	rs No 38, 2015
<b>Subdivision C</b>	
Subdivision C.....	ad No 140, 2021
s 22A.....	ad No 142, 2000
	am No 45, 2005; No 111, 2009
	rep No 38, 2015
	ad No 140, 2021
s 22AA.....	ad No 140, 2021

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<b>Provision affected</b>	<b>How affected</b>
s 22B .....	ad No 142, 2000 am No 45, 2005 rep No 38, 2015 ad No 140, 2021
s 22C .....	ad No 142, 2000 am No 103, 2013 rep No 38, 2015 ad No 140, 2021
s 22CA .....	ad No 140, 2021
s 22D .....	ad No 142, 2000 am No 103, 2013 rep No 38, 2015 ad No 140, 2021
s 22E .....	ad No 140, 2021
Division 16 .....	rep No 38, 2015
<b>Division 4</b>	
Division 4 .....	rs No 38, 2015
<b>Subdivision A</b>	
s. 23 .....	am. No. 95, 2000 rs. No. 142, 2000 am. No. 45, 2005; No. 111, 2009 rep No 109, 2014 ad No 38, 2015
s. 23A .....	ad. No. 142, 2000 am. No. 45, 2005 rep No 38, 2015
s. 23B .....	ad. No. 142, 2000 am. No. 45, 2005 rep No 38, 2015
s. 23C .....	ad. No. 142, 2000 am. No. 45, 2005



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<b>Provision affected</b>	<b>How affected</b>
	rep No 38, 2015
s. 23D.....	ad. No. 142, 2000 am. Nos. 8 and 45, 2005; No 103, 2013
	rep No 38, 2015
s. 24.....	rep. No. 142, 2000 ad No 38, 2015
s. 24A.....	ad. No. 95, 2000 rep. No. 142, 2000
s. 25.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 26.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 26A.....	am. No. 95, 2000 rep. No. 142, 2000
s. 26B.....	rep. No. 142, 2000
ss. 26C, 26D.....	am. No. 95, 2000 rep. No. 142, 2000
s. 26E.....	rep. No. 142, 2000
s. 26F.....	ad. No. 95, 2000 rep. No. 142, 2000
s. 27.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 28.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 29.....	rep. No. 142, 2000 ad No 38, 2015
<b>Subdivision B</b>	

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<b>Provision affected</b>	<b>How affected</b>
s. 30.....	rep. No. 142, 2000 ad No 38, 2015
s. 31.....	rep. No. 142, 2000 ad No 38, 2015
s. 32.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 33.....	rep. No. 142, 2000 ad No 38, 2015
s. 34.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 35.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
<b>Subdivision C</b>	
s. 36.....	rep. No. 142, 2000 ad No 38, 2015
<b>Division 5</b>	
Division 5 heading.....	rs No 38, 2015
Division 5 .....	ad No 38, 2015
s. 37.....	rep. No. 142, 2000 ad No 38, 2015
s. 38.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 39.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 40.....	rep. No. 142, 2000 ad No 38, 2015

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<b>Provision affected</b>	<b>How affected</b>
ss. 40A–40H .....	rep. No. 142, 2000
ss. 40J–40N.....	rep. No. 142, 2000
s. 40P .....	rep. No. 142, 2000
<b>Division 6</b>	
Division 6 .....	rep No 109, 2014 ad No 38, 2015
<b>Subdivision A</b>	
s. 41.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 42.....	rep. No. 142, 2000 ad No 38, 2015
<b>Subdivision B</b>	
s. 43.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s 44.....	rep No 142, 2000 ad No 38, 2015 am No 140, 2021 ed C43
s. 45.....	rep. No. 142, 2000 ad No 38, 2015
s. 46.....	rep. No. 142, 2000 ad No 38, 2015
ss. 46A–46F.....	rep. No. 142, 2000
s. 47.....	rep. No. 142, 2000 ad No 38, 2015
s. 48.....	rep. No. 142, 2000 ad No 38, 2015
s. 49.....	am. No. 95, 2000 rep. No. 142, 2000

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<b>Provision affected</b>	<b>How affected</b>
	ad No 38, 2015
<b>Subdivision C</b>	
s. 50.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 51.....	am. No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 52.....	rep. No. 142, 2000 ad No 38, 2015
<b>Subdivision D</b>	
s. 53.....	rep. No. 142, 2000 ad No 38, 2015
s. 54.....	am. No. 42, 1999 rep. No. 142, 2000 ad No 38, 2015
s. 55.....	rep. No. 142, 2000 ad No 38, 2015
<b>Subdivision E</b>	
s. 56.....	am. No. 42, 1999 rep. No. 142, 2000 ad No 38, 2015
s. 57.....	am. No. 42, 1999; No. 95, 2000 rep. No. 142, 2000 ad No 38, 2015
s. 58.....	rep. No. 142, 2000 ad No 38, 2015
s. 59.....	rep. No. 142, 2000 ad No 38, 2015
s. 60.....	am. No. 95, 2000 rep. No. 142, 2000

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<b>Provision affected</b>	<b>How affected</b>
	ad No 38, 2015
s. 61.....	rep. No. 142, 2000
	ad No 38, 2015
s. 61AA.....	ad. No. 95, 2000
	rep. No. 142, 2000
ss. 61A, 61B.....	rep. No. 142, 2000
s. 62.....	rep. No. 142, 2000
	ad No 38, 2015
s. 63.....	rep. No. 142, 2000
	ad No 38, 2015
s. 64.....	rep. No. 142, 2000
	ad No 38, 2015
s. 65.....	rep. No. 142, 2000
	ad No 38, 2015
<b>Subdivision F</b>	
s. 66.....	rep. No. 142, 2000
	ad No 38, 2015
s. 67.....	rep. No. 142, 2000
	ad No 38, 2015
s. 68.....	rep. No. 142, 2000
	ad No 38, 2015
<b>Subdivision G</b>	
s. 69.....	rep. No. 142, 2000
	ad No 38, 2015
s. 70.....	rep. No. 142, 2000
	ad No 38, 2015
<b>Division 7</b>	
Division 7 .....	rs No 38, 2015
s. 71.....	rep. No. 142, 2000
	ad No 38, 2015
s. 72.....	rep. No. 142, 2000

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<b>Provision affected</b>	<b>How affected</b>
	ad No 38, 2015
s. 73.....	rep. No. 142, 2000
	ad No 38, 2015
s. 74.....	rep. No. 142, 2000
	ad No 38, 2015
<b>Part 3</b>	
Part 3.....	rep No 109, 2014
	ad No 47, 2020
<b>Division 1</b>	
s 75.....	rep No 142, 2000
	ad No 47, 2020
s 76.....	rep No 142, 2000
	ad No 47, 2020
s 76A.....	ad No 47, 2020
	am No 36, 2024
s 76AA.....	ad No 47, 2020
s 76AB.....	ad No 47, 2020
s 77.....	rep No 142, 2000
	ad No 47, 2020
s 78.....	rep No 142, 2000
	ad No 47, 2020
s 78A.....	ad No 47, 2020
s 79.....	rep No 142, 2000
	ad No 47, 2020
s 79A.....	ad No 47, 2020
<b>Division 2</b>	
s 80.....	rep No 142, 2000
	ad No 47, 2020
s 81.....	rep No 142, 2000
	ad No 47, 2020
s 82.....	rep No 142, 2000

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<b>Provision affected</b>	<b>How affected</b>
	ad No 47, 2020
s 83.....	rep No 142, 2000
	ad No 47, 2020
s 84.....	rep No 142, 2000
	ad No 47, 2020
s 85.....	rep No 142, 2000
	ad No 47, 2020
s 86.....	rep No 142, 2000
	ad No 47, 2020
s 87.....	rep No 142, 2000
	ad No 47, 2020
s 88.....	rep No 142, 2000
	ad No 47, 2020
<b>Division 3</b>	
s 89.....	rep No 142, 2000
	ad No 47, 2020
s 90.....	rep No 142, 2000
	am No 121, 2001 (amdt never applied (Sch 2 item 167))
	ad No 47, 2020
s 91.....	rep No 142, 2000
	ad No 47, 2020
s 92.....	rep No 142, 2000
	ad No 47, 2020
s 92A.....	ad No 47, 2020
<b>Division 4</b>	
s 93.....	am No 44, 2012
	rep No 109, 2014
	ad No 47, 2020
s 94.....	am No 114, 2003; No. 24, 2005; No. 44, 2012
	rep No 109, 2014
	ad No 47, 2020

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<b>Provision affected</b>	<b>How affected</b>
s. 94A.....	ad. No. 114, 2003 am No 103, 2013 rep No 109, 2014
s 95.....	am No 24, 2005; No 44, 2012 rep No 109, 2014 ad No 47, 2020
s 96.....	am No 33, 2000 rs No 24, 2005 rep No 109, 2014 ad No 47, 2020 am No 140, 2021
s 96A.....	ad No 47, 2020
s 96B.....	ad No 47, 2020
<b>Division 5</b>	
s 97.....	am No 24, 2005; No 45, 2005; No 44, 2012 rep No 109, 2014 ad No 47, 2020
<b>Division 6</b>	
s 98.....	am No 44, 2012 rep No 109, 2014 ad No 47, 2020
s 99.....	rs No 142, 2000; No 114, 2003 rep No 109, 2014 ad No 47, 2020
<b>Division 7</b>	
<b>Subdivision A</b>	
s 100.....	am No 33, 2000; No 142, 2000; No 114, 2003; No 24, 2005; No 103, 2013 rep No 109, 2014 ad No 47, 2020
s. 100A.....	ad. No. 114, 2003

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<b>Provision affected</b>	<b>How affected</b>
	am. No. 45, 2005
	rep No 109, 2014
s 101.....	am No 33, 2000; No 45, 2005
	rep No 109, 2014
	ad No 47, 2020
s. 101A.....	ad. No. 142, 2000
	am. Nos. 8 and 45, 2005; No 103, 2013
	rep No 109, 2014
s. 101B.....	ad. No. 142, 2000
	am No 103, 2013
	rep No 109, 2014
s. 101C.....	ad. No. 142, 2000
	am. No. 114, 2003; No. 45, 2005
	rep No 109, 2014
Division 4 .....	rs. No. 8, 2005
	rep No 109, 2014
<b>Subdivision B</b>	
s 102.....	rs No 8, 2005
	am No 24, 2005; No 44, 2012
	rep No 109, 2014
	ad No 47, 2020
	ed C41
s 102A.....	ad No 47, 2020
s 102B.....	ad No 47, 2020
s 102C.....	ad No 47, 2020
<b>Subdivision C</b>	
s 102D.....	ad No 47, 2020
s 102E.....	ad No 47, 2020
	am No 13, 2021
s 102F .....	ad No 47, 2020
s 102G.....	ad No 47, 2020

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<b>Provision affected</b>	<b>How affected</b>
s 102H.....	ad No 47, 2020
s 102J.....	ad No 47, 2020
s 102K.....	ad No 47, 2020
s 102L.....	ad No 47, 2020
<b>Subdivision D</b>	
s 102N.....	ad No 47, 2020 am No 13, 2021
<b>Division 8</b>	
<b>Subdivision A</b>	
s 102P.....	ad No 47, 2020
s 102Q.....	ad No 47, 2020
s 102R.....	ad No 47, 2020
s 102S.....	ad No 47, 2020
s 102T.....	ad No 47, 2020
<b>Subdivision B</b>	
s 102U.....	ad No 47, 2020
s 102V.....	ad No 47, 2020
s 102W.....	ad No 47, 2020
s 102X.....	ad No 47, 2020
s 102Y.....	ad No 47, 2020
<b>Subdivision C</b>	
s 102Z.....	ad No 47, 2020
s 102ZA.....	ad No 47, 2020
<b>Division 9</b>	
s 102ZB.....	ad No 47, 2020
s 102ZC.....	ad No 47, 2020
s 102ZD.....	ad No 47, 2020
s 102ZE.....	ad No 47, 2020
s 102ZF.....	ad No 47, 2020
s 102ZFA.....	ad No 47, 2020
s102ZFB.....	ad No 47, 2020

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<b>Provision affected</b>	<b>How affected</b>
s 102ZG .....	ad No 47, 2020
s 102ZH .....	ad No 47, 2020
<b>Part 4</b>	
s. 106.....	am. Nos. 44 and 169, 2012; No 38, 2015
s. 107.....	am. No. 142, 2000; No 38, 2015
s. 109.....	am. No. 95, 2000; No. 45, 2005; No. 44, 2012; No 38, 2015
<b>Part 5</b>	
<b>Division 1</b>	
Division 1 heading.....	ad. No. 140, 2010
s. 113.....	am. No. 45, 2005; No. 140, 2010
s. 114A.....	ad. No. 140, 2010
<b>Division 2</b>	
Division 2 heading.....	ad. No. 140, 2010
s. 115.....	am. No. 45, 2005; No. 140, 2010
s. 117.....	am. No. 45, 2005; No 103, 2013
s 117A.....	am No 38, 2015
ss. 117B, 117C.....	ad. No. 140, 2010
<b>Division 3</b>	
Division 3 .....	ad. No. 140, 2010
ss. 117D–117F .....	ad. No. 140, 2010
<b>Division 4</b>	
Division 4 heading.....	ad. No. 140, 2010
s. 118.....	am. No. 45, 2005; No. 140, 2010; No 103, 2013
s. 119.....	am. No. 45, 2005; No 38, 2015
s. 120.....	am. No. 45, 2005; No. 140, 2010; No. 44, 2012; No 38, 2015
s. 120A.....	ad. No. 140, 2010
s. 122.....	am. No. 140, 2010
s. 122A.....	ad. No. 140, 2010
s. 123.....	am. No. 140, 2010
s. 124.....	am. No. 45, 2005; No 103, 2013
s. 125.....	am. No. 114, 2003; No. 45, 2005; No 103, 2013

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 6</b>	
s. 127.....	am. No. 8, 2010
s. 128.....	am. No. 46, 2001; No. 114, 2003; No 3, 2014 ed C42 am No 36, 2024
s. 129.....	am No 45, 2005; No 38, 2015
s. 130.....	am No 45, 2005; No 36, 2024
s. 131.....	am No 45, 2005; No 38, 2015; No 36, 2024
s. 133A.....	ad No 3, 2014
Part 7.....	rep No 109, 2014
s. 134.....	am. No. 45, 2005 rep No 109, 2014
s. 135.....	am No 45, 2005 rep No 109, 2014
s. 136.....	am. No. 44, 2012 rep No 109, 2014
s. 137.....	am No 45, 2005; No 103, 2013 rep No 109, 2014
s. 138.....	am No 45, 2005 rep No 109, 2014
s. 139.....	am No 45, 2005; No 103, 2013 rep No 109, 2014
s. 140.....	am No 45, 2005; No 103, 2013 rep No 109, 2014
s. 141.....	am No 45, 2005; No 103, 2013 rep No 109, 2014
s. 142.....	am No 45, 2005; No 103, 2013 rep No 109, 2014
s. 143.....	rep No 109, 2014
s. 144.....	rep No 109, 2014
s. 145.....	am. No. 45, 2005

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Provision affected	How affected
	rep No 109, 2014
<b>Part 8</b>	
s. 146.....	am. No. 45, 2005
s. 147.....	am. No. 155, 2000; No. 45, 2005; No 44 and 197, 2012; No 103, 2013; No 38, 2015; No 120, 2019
s. 150.....	am. No. 140, 2010; No 103, 2013
<b>Part 9</b>	
Part 9 heading.....	am No 140, 2021
s 152.....	am No 140, 2021
s 153.....	am No 140, 2021
s 154.....	am No 103, 2013
s 155.....	am No 103, 2013; No 140, 2021
s 156.....	am No 140, 2021
s 157.....	am No 103, 2013
s 158.....	am No 140, 2021
Part 9A.....	rep No 38, 2015
s. 158A.....	rs. No. 124, 2007 rep No 38, 2015
s. 158B.....	am. No. 124, 2007 rep No 38, 2015
s. 158C.....	am. No. 103, 2010 rep No 38, 2015
s. 158D.....	am. No. 45, 2005 rep. No. 124, 2007
s. 158E.....	am. No. 124, 2007 rep No 38, 2015
s. 158F.....	am. No. 45, 2005 rep No 38, 2015
s. 158G.....	rep. No. 124, 2007
s. 158H.....	am. No. 45, 2005; No 103, 2013 rep No 38, 2015

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<b>Provision affected</b>	<b>How affected</b>
s 158J .....	rep No 38, 2015
s 158K .....	rep No 38, 2015
s 158L .....	rep No 38, 2015
s 158M .....	rep No 38, 2015
s. 158N .....	am. No. 124, 2007 rep No 38, 2015
<b>Part 9B</b>	
Part 9B .....	ad. No. 117, 2005
<b>Division 1</b>	
s. 158P .....	ad. No. 117, 2005 am. No. 124, 2007; No 62, 2014; No 126, 2015
s. 158Q .....	ad. No. 117, 2005
<b>Division 2</b>	
ss. 158R, 158S .....	ad. No. 117, 2005
s. 158T .....	ad. No. 117, 2005 am. No. 124, 2007
s. 158U .....	ad. No. 117, 2005
s. 158V .....	ad. No. 117, 2005 am. No. 46, 2011
ss. 158W–158Z .....	ad. No. 117, 2005
ss. 158ZA–158ZD .....	ad. No. 117, 2005
Part 9C .....	ad. No. 117, 2005 rep. No. 155, 2008
ss. 158ZE, 158ZF .....	ad. No. 117, 2005 rep. No. 155, 2008
ss. 158ZG–158ZJ .....	ad. No. 117, 2005 rep. No. 155, 2008
s. 158ZJA .....	ad. No. 152, 2007 rep. No. 155, 2008
ss. 158ZK–158ZN .....	ad. No. 117, 2005 rep. No. 155, 2008

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<b>Provision affected</b>	<b>How affected</b>
ss. 158ZO–158ZR.....	ad. No. 117, 2005 rep. No. 155, 2008
<b>Part 10</b>	
s. 159.....	am. No. 45, 2005 rep No 109, 2014
s. 159A.....	ad. No. 142, 2000 rep. No. 111, 2009
s. 159B.....	ad. No. 117, 2005 am. No. 155, 2008 rep. No. 111, 2009