



# Postal and Telecommunications Amendment Act 1983

No. 147 of 1983

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**An Act to amend the *Postal Services Act 1975* and the  
*Telecommunications Act 1975*, and for other purposes**

[Assented to 22 December 1983]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

## PART I—PRELIMINARY

### Short title, &c.

1. (1) This Act may be cited as the *Postal and Telecommunications Amendment Act 1983*.

(2) The *Postal Services Act 1975*<sup>1</sup> is in this Act referred to as the Principal Act.

### Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

## **PART II—AMENDMENTS OF POSTAL SERVICES ACT**

### **Interpretation**

**3.** Section 3 of the Principal Act is amended—

- (a) by inserting in the definition of “mail” in sub-section (1) “, by courier service or by electronic mail service” after “post”;
- (b) by omitting from sub-section (1) the definition of “postal article” and substituting the following definition:

“ ‘postal article’ means an article transmissible by—

- (a) the post;
  - (b) the courier service; or
  - (c) an electronic mail service;”;
- (c) by omitting from paragraph (2) (c) “through the post”.

### **Powers of the Commission**

**4.** Section 9 of the Principal Act is amended—

- (a) by omitting from paragraph (3) (d) “but not required for the purposes of the Commission”; and
- (b) by omitting from paragraph (3) (e) “the use of which is not for the time being required by the Commission”.

**5.** After section 9 of the Principal Act the following sections are inserted:

### **Courier Service**

“10. (1) The Commission may operate a courier service, being a service that provides for the collection, at the request of a person using the service, of an article, being an article transmissible by courier service, from a place in Australia specified by or on behalf of the person and the conveyance and delivery of the article to another place in Australia that is so specified.

“(2) The courier service may, subject to and in accordance with the By-laws, provide for—

- (a) the collection from an office of the Commission of a postal article transmitted by post to the office of the Commission and the conveyance and delivery of the article to a place other than an office of the Commission; and
- (b) the collection of a postal article from a place other than an office of the Commission and the conveyance and delivery of the article to an office of the Commission and the lodging of the article (on behalf of the person using the service) for transmission by post to another place.

“(3) In this section, ‘article transmissible by courier service’ means an article transmissible by post and any other article that, under the By-laws, is transmissible by courier service.

**Electronic mail**

“10A. (1) The Commission may operate electronic mail services, being services for the transmission of information—

- (a) in part by means of electromagnetic energy; and
- (b) in part by means of any one or more of the following:
  - (i) accepting delivery of or collecting;
  - (ii) carrying or conveying;
  - (iii) delivering or making available for collection,a document containing that information.

“(2) Subject to sub-section (5), the Commission may operate electronic mail services, being services for the transmission of information solely by means of electromagnetic energy, if—

- (a) in the case of a transmission of information solely within Australia—it has obtained the consent of the Australian Telecommunications Commission; or
- (b) in the case of a transmission of information that originates from, or has as its final destination, a person or body in a foreign country—it has obtained the consent of the Overseas Telecommunications Commission (Australia).

“(3) For the purposes of sub-section (2), a consent may be given in respect of a specified transmission or a specified class of transmissions.

“(4) In conjunction with the operation of electronic mail services, the Commission may—

- (a) enhance, sort or modify the presentation or addressing of the information; and
- (b) transfer to a document or documents the information transmitted by electromagnetic energy, and make such preparation of the document or documents for delivery as it thinks fit.

“(5) The Commission shall not operate an electronic mail service in which information is transmitted between Australia and a foreign country by means of electromagnetic energy unless the person or body in the foreign country to whom or from whom the transmission takes place is a prescribed user.

“(6) No action for defamation (whether civil or criminal), breach of confidence or infringement of copyright lies against the Commission, an officer or an employee in respect of anything done in accordance with this section.

“(7) The transmission of information to a person in accordance with this section shall not be taken, for the purposes of the law relating to defamation, breach of confidence or copyright, to constitute an authorization or approval of anything done in respect of that information by that person.

“(8) In this section—

‘document’ includes—

- (a) a book, plan, paper, parchment or other material on which there is writing or printing, or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them; and
- (b) a disc, tape, paper or other device from which sounds or messages are capable of being reproduced;

‘prescribed user’ means—

- (a) a postal administration of a foreign country; or
- (b) a person or body declared by the Minister, by notice published in the *Gazette*, to be a prescribed user for the purposes of this section.”.

**Commission may act as agent, &c.**

6. Section 12 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(2) Subject to sub-section (3), the Commission may make an arrangement with any person for the Commission to do, on behalf of the person, any acts or things referred to, or any acts or things included in a class or classes of acts or things referred to, in the arrangement, being acts or things that can conveniently be done in conjunction with the performance of the functions of the Commission.

“(3) Sub-section (2) does not authorize the Commission to make an arrangement for the Commission to do any acts or things unless—

- (a) the acts or things are to be done in a Territory;
- (b) the acts or things are to be done in a Commonwealth place as defined by the *Commonwealth Places (Application of Laws) Act 1970*;
- (c) the acts or things to be done are to take place in the course of, or in relation to—
  - (i) trade or commerce between Australia and places outside Australia;
  - (ii) trade or commerce among the States;
  - (iii) trade or commerce within a Territory, between a State and a Territory or between 2 Territories;
  - (iv) banking, other than State banking within the limits of the State concerned; or
  - (v) insurance, other than State insurance within the limits of the State concerned; or
- (d) the person making the arrangement with the Commission is—
  - (i) a foreign corporation within the meaning of paragraph 51 (xx) of the Constitution;
  - (ii) a trading or financial corporation within the meaning of that paragraph formed within the limits of the Commonwealth; or

(iii) a body corporate incorporated in a Territory.

“(4) The doing by the Commission of any act or thing pursuant to an arrangement under this section shall be subject to such terms and conditions as the Commission determines.”.

**When postage need not be pre-paid**

7. Section 15 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(4) Nothing in this section prevents the Commission from—

- (a) making arrangements with a person under which the fee in respect of the transmission of postal articles by the courier service or by an electronic mail service need not be pre-paid; or
- (b) transmitting and delivering by the courier service or by an electronic mail service postal articles the fee for the transmission of which has not been paid.”.

**Special charges**

8. Section 20 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “of postage”;
- (b) by omitting from sub-section (2) “provide for postage” and substituting “provide for charges”;
- (c) by omitting from sub-section (2) “of postage”;
- (d) by inserting in sub-section (3) “, lodging or handing over” after “posting” (twice occurring); and
- (e) by omitting from sub-section (3) “of postage”.

**Meetings of the Commission**

9. Section 34 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(10) Where a majority of the Commissioners sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a duly constituted meeting of the Commission held on the day on which the document was signed, or, if the Commissioners sign the document on different days, on the day on which the document was last signed by a Commissioner.

“(11) For the purposes of sub-section (10), 2 or more separate documents containing statements in identical terms each of which is signed by one or more Commissioners shall together be deemed to constitute one document containing a statement in those terms signed by those Commissioners on the respective days on which they signed the separate documents.”.

**Tenure of office**

10. Section 57 of the Principal Act is amended by omitting from sub-section (1) “60 years” and substituting “55 years”.

**Letters not to be carried for reward**

**11.** Section 85 of the Principal Act is amended by inserting after paragraph (2) (a) the following paragraphs:

- “(aa) the carriage or conveyance of a letter within Australia where the consideration payable for that carriage or conveyance is an amount that is not less than 10 times the highest postage applicable, at the time of that carriage or conveyance, under paragraph 18 (1) (a) for the transmission of a letter within Australia by post;
- (ab) the carriage or conveyance of a letter from Australia to another country where the consideration payable for that carriage or conveyance is an amount that is not less than 10 times the highest postage applicable, at the time of that carriage or conveyance, under section 18 for the carriage or conveyance by air mail service of a letter of 20 grams in weight from Australia to that other country;”.

**Fraudulently removing stamps**

**12.** Section 88 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “sent by post”;
- (b) by inserting in sub-section (2) “, or committed for transmission by courier service or by electronic mail service,” after “posted”; and
- (c) by adding at the end thereof the following sub-section:

“(3) In this section, ‘postal purposes’ includes the purposes of sending a postal article by the courier service and sending a postal article by an electronic mail service.”.

**Retaining or secreting postal articles**

**13.** Section 89 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In this section, ‘the post’ includes the courier service and an electronic mail service.”.

**Improperly obtaining postal articles**

**14.** Section 90 of the Principal Act is amended by inserting “by courier service or by electronic mail service,” after “post,”.

**Wrongful delivery of postal articles**

**15.** Section 91 of the Principal Act is amended by inserting “, by courier service or by electronic mail service” after “post”.

**Stealing postal articles**

**16.** Section 92 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, the courier service or an electronic mail service” after “post”; and
- (b) by inserting in sub-section (2) “, by courier service or by electronic mail service” after “post”.

**Tampering with the mail**

17. Section 93 of the Principal Act is amended by inserting “, the courier service or an electronic mail service” after “post” (wherever occurring).

**Explosives**

18. Section 100 of the Principal Act is amended by inserting “, by courier service or by electronic mail service” after “post”.

**Hoax explosives**

19. Section 100A of the Principal Act is amended by inserting “, by courier service or by electronic mail service” after “post”.

**Repeal of sections 101 and 101A**

20. Sections 101 and 101A of the Principal Act are repealed.

**Protection from actions**

21. Section 104 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “by post”; and
- (b) by inserting in sub-section (2) “, by courier service or by electronic mail service” after “by post”.

22. After section 105 of the Principal Act the following section is inserted:

**Reward for information as to theft of property, &c.**

“105A. Where the Commission learns, as a result of information furnished to the Commission by a person, the identity of a person who has stolen property belonging to, or under the control of, the Commission, or has broken into premises of the Commission, the Commission may pay to that first-mentioned person, by way of reward, a sum determined by the Commission but not exceeding \$10,000 or such higher amount as may be prescribed by the regulations.”.

**Reward for information as to damage to property**

23. Section 106 of the Principal Act is amended by omitting “\$100” and substituting “\$1,000”.

**By-laws**

24. Section 115 of the Principal Act is amended—

- (a) by adding at the end of paragraph (1) (g) “or other charges fixed under section 18”;
- (b) by omitting from paragraph (1) (m) “through the post”; and
- (c) by inserting after paragraph (1) (o) the following paragraphs:
  - “(p) the establishment, management and operation of the courier service;
  - (pa) the establishment, management and operation of electronic mail services;”.

### **Regulations**

25. Section 116 of the Principal Act is amended—

- (a) by omitting from paragraph (a) “through the post”; and
- (b) by inserting after “sending by post” in paragraph (g) “, by the courier service or by an electronic mail service”.

### **Formal amendments**

26. The Principal Act is amended as set out in the Schedule.

## **PART III—PROVISIONS RELATING TO BY-LAWS UNDER THE POSTAL SERVICES ACT AND THE TELECOMMUNICATIONS ACT 1975**

### **By-laws**

27. Section 115 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) Sections 48, 49 and 50 of the *Acts Interpretation Act 1901* apply in relation to By-laws as if references in those sections to regulations were references to By-laws.

“(3) By-laws shall not be deemed to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but sub-sections 5 (3) to (3C) (inclusive) of that Act apply in relation to By-laws in like manner as they apply in relation to statutory rules.

“(4) For the purposes of the application of sub-section 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with sub-section (3) of this section, the reference in that first-mentioned sub-section to the Minister of State for Administrative Services shall be construed as a reference to the Minister of State administering this Act.”.

### **By-laws**

28. Section 111 of the *Telecommunications Act 1975* is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) Sections 48, 49 and 50 of the *Acts Interpretation Act 1901* apply in relation to By-laws as if references in those sections to regulations were references to By-laws.

“(3) By-laws shall not be deemed to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but sub-sections 5 (3) to (3C) (inclusive) of that Act apply in relation to By-laws in like manner as they apply in relation to statutory rules.

“(4) For the purposes of the application of sub-section 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with sub-section (3) of this section, the reference in that first-mentioned sub-section to the Minister of



State for Administrative Services shall be construed as a reference to the Minister of State administering this Act.”.

**Validation of By-laws**

**29.** The publication in the *Gazette*, before the commencement of this section, of any form of words being, purporting to be, or apparently intended to be—

- (a) a notice or notification of the making of, with respect to the making of, or referring to the making of, By-laws under the Principal Act or under the *Telecommunications Act 1975*; or

- (b) a notice or notification of any such By-laws having been made,

shall be taken to be, and to have always been, a sufficient compliance with sub-section 48 (1) of the *Acts Interpretation Act 1901*, and the date of the publication in the *Gazette* of that form of words shall be deemed, for the purposes of that sub-section, to have been the date on which the By-laws were notified in the *Gazette*.

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# SCHEDULE

Section 26

## FORMAL AMENDMENTS

Provision amended	Omit	Substitute
Sub-section 3 (1) (definition of "organization")	1904-1974	1904
Section 12	Australia (wherever occurring)	the Commonwealth
Sub-section 19 (2)	Australia	the Commonwealth
Sub-section 19 (3)	Australia	the Commonwealth
Sub-section 19 (6)	Australia	the Commonwealth
Sub-section 24 (3)	Australia	the Commonwealth
Sub-section 27 (3)	1973-1974	1973
Sub-section 38 (3)	1973-1974	1973
Sub-paragraph 44 (1) (a) (i)	Australia	the Commonwealth
Sub-paragraph 45 (3) (a) (i)	Australia	the Commonwealth
Paragraph 46 (2) (c)	1922-1975	1922
Paragraph 46 (2) (d)	1904-1974	1904
Paragraph 50 (3) (b)	1965-1973	1965
Sub-section 55 (5)	1973-1974	1973
Paragraph 55 (7) (a)	1922-1975	1922
Sub-section 69 (1) (definition of "Conciliation and Arbitration Commission")	1904-1974	1904
Sub-section 69 (2)	1904-1974	1904
Sub-section 69 (3)	1904-1974	1904
Sub-section 70 (2)	Australia	the Commonwealth
Paragraph 70 (2) (a)	( <i>Australian Government Employees</i> ) Act 1971-1974, the <i>Commonwealth Employees' Furlough Act 1943-1973</i> or the <i>Superannuation Act 1922-1974</i>	( <i>Commonwealth Government Employees</i> ) Act 1971, the <i>Long Service Leave (Commonwealth Employees) Act 1976</i> , the <i>Superannuation Act 1922</i> or the <i>Superannuation Act 1976</i>
Sub-section 71 (1)	1904-1974	1904
Sub-section 71 (2)	(a) 1904-1974 (b) sub-section (1) of this section	1904 sub-section (1)
Section 72	1904-1974	1904
Paragraph 74 (1) (a)	Australia	the Commonwealth
Paragraph 74 (1) (b)	Australia	the Commonwealth
Sub-section 74 (2)	Australia	the Commonwealth
Sub-section 74 (3)	Australia	the Commonwealth
Sub-section 75 (2)	Australia	the Commonwealth
Sub-section 75 (4)	Australia (twice occurring)	the Commonwealth
Paragraph 78 (1) (c)	Australia	the Commonwealth
Paragraph 78 (2) (b)	Australia	the Commonwealth
Section 83	Australia	the Commonwealth
Sub-section 110 (1)	Australia	the Commonwealth
Paragraph 116 (a)	Australia	the Commonwealth

*Postal and Telecommunications Amendment No. 147, 1983*

**NOTE**

1. No. 54, 1975, as amended. For previous amendments, see Nos. 36 and 170, 1978; No. 7, 1979; No. 177, 1980; Nos. 61 and 74, 1981; No. 80, 1982; and No. 39, 1983.