



Communications Legislation Amendment Act 1985

No. 119 of 1985

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FURTHER AMENDMENTS OF THE TELECOMMUNICATIONS ACT 1975



Communications Legislation Amendment Act 1985

No. 119 of 1985

An Act to amend the law relating to communications

[Assented to 21 October 1985]

[Date of commencement 18 November 1985]

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

1. This Act may be cited as the *Communications Legislation Amendment Act 1985*.

PART II—AMENDMENTS OF THE OVERSEAS TELECOMMUNICATIONS ACT 1946

Principal Act

2. *The Overseas Telecommunications Act 1946*¹ is in this Part referred to as the Principal Act.

Period of appointment

3. Section 10 of the Principal Act is amended by omitting from sub-section (3) “a Commissioner” (wherever occurring) and substituting “the Managing Director”.

Termination of appointments

4. Section 15 of the Principal Act is amended by adding at the end of sub-section (5) “, being a telecommunications service available to members of the public on the same terms and conditions as those on which it is available to the Commissioner”.

Power to purchase and dispose of assets

5. Section 38 of the Principal Act is amended—

- (a) by adding at the end of paragraph (2) (a) “or”;
- (b) by omitting from paragraph (2) (b) “or” (last occurring); and
- (c) by omitting paragraph (2) (c).

6. After section 38 of the Principal Act the following section is inserted:

Hedging contracts, &c.

“38AAA. (1) Subject to sub-section (3), the Commission may enter into or deal with contracts, and make other arrangements, in respect of financial futures or foreign currency (including foreign currency futures) for the purpose of reducing or eliminating risks of adverse financial consequences to the Commission in relation to—

- (a) any contract (including a contract that may be entered into under this section), or proposed contract, involving the payment or receipt by the Commission of money; or
- (b) a borrowing or raising of money by the Commission or a proposed borrowing or raising of money by the Commission (including a borrowing or raising of money by the Commission by dealing with securities),

being risks that may arise from variations in the rate of currency exchange or rate of interest applicable to the contract or proposed contract, or to the borrowing or raising of money or proposed borrowing or raising of money, as the case may be, referred to in paragraph (a) or (b).

“(2) The Minister may, by determination in writing—

- (a) set guidelines for the purpose of the exercise by the Commission of its power under sub-section (1); and
- (b) revoke or vary guidelines set for that purpose or set new guidelines for that purpose,

and shall give to the Commission a copy of each determination made under this sub-section.

“(3) The Commission shall not enter into a contract, dealing or other arrangement under sub-section (1) otherwise than in accordance with the guidelines having effect from time to time under sub-section (2).

“(4) A contract, dealing or other arrangement under sub-section (1) does not require the approval of the Minister under sub-section 38 (2).

“(5) In this section—

‘proposed borrowing or raising of money’ means a proposed borrowing or raising of money that has been approved by the Treasurer under section 45;

‘proposed contract’ means—

- (a) a proposed contract that has been approved by the Minister under section 38; or
- (b) a proposed contract (including a contract that may be entered into under this section) that does not require the approval of the Minister under section 38.”.

PART III—AMENDMENTS OF THE POSTAL SERVICES ACT 1975

Principal Act

7. *The Postal Services Act 1975*² is in this Part referred to as the Principal Act.

Termination of appointments

8. Section 31 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “, otherwise than as a member, and in common with other members, of an incorporated company which consists of not less than 25 persons and of which he is not a director,”; and
- (b) by omitting sub-section (4) and substituting the following sub-section:

“(4) A disclosure under sub-section (3) shall be recorded in the minutes of the meeting of the Commission and the Commissioner shall not—

 - (a) be present during any deliberation of the Commission with respect to that matter; or
 - (b) take part in any decision of the Commission with respect to that matter.”.

9. Section 82 of the Principal Act is repealed and the following section is substituted:

Contracts

“82. The Commission shall not, except with the approval of the Minister, enter into a contract involving the payment or receipt by the Commission of an amount exceeding \$500,000 or, if a higher amount is prescribed by the regulations, that higher amount.”.

**PART IV—AMENDMENTS OF THE RADIOCOMMUNICATIONS
ACT 1983**

Principal Act

10. The *Radiocommunications Act 1983*³ is in this Part referred to as the Principal Act.

Interpretation

11. Section 3 of the Principal Act is amended by omitting “3” (wherever occurring) from the definition of “radio transmission” in sub-section (1) and substituting “420”.

Offences

12. Section 65 of the Principal Act is amended by omitting paragraph (4) (a) and substituting the following paragraphs:

“(a) a prescribed organization, being—

- (i) a fire-fighting, civil defence or rescue organization;
- (ii) an ambulance service; or
- (iii) any other organization the sole or principal purpose of which involves securing the safety of persons during an emergency;

(aa) the Royal Flying Doctor Service; or”.

**PART V—AMENDMENTS OF THE TELECOMMUNICATIONS
ACT 1975**

Principal Act

13. The *Telecommunications Act 1975*⁴ is in this Part referred to as the Principal Act.

Duties of Commission

14. Section 6 of the Principal Act is amended by adding at the end the following sub-section:

“(5) It is the duty of the Commission, in performing its functions, to use its best endeavours to ensure that no telecommunications system or telecommunications installation belonging to the Commission is used in, or in furtherance of, the commission of an offence against a law of the Commonwealth or of a State or Territory.”.

Termination of appointments

15. Section 28 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “, otherwise than as a member, and in common with other members, of an incorporated company which consists of not less than 25 persons and of which he is not a director,”;

(b) by omitting sub-section (4) and substituting the following sub-section:

“(4) A disclosure under sub-section (3) shall be recorded in the minutes of the meeting of the Commission and the Commissioner shall not—

- (a) be present during any deliberation of the Commission with respect to that matter; or
- (b) take part in any decision of the Commission with respect to that matter.”; and

(c) by adding at the end of sub-section (5) “, being a telecommunications service available to members of the public on the same terms and conditions as those on which it is available to the Commissioner”.

16. Section 79 of the Principal Act is repealed and the following sections are substituted:

Contracts

“79. The Commission shall not, except with the approval of the Minister, enter into a contract involving the payment or receipt by the Commission of an amount exceeding \$500,000 or, if a higher amount is prescribed by the regulations, that higher amount.

Hedging contracts, &c.

“79A. (1) Subject to sub-section (3), the Commission may enter into or deal with contracts, and make other arrangements, in respect of financial futures or foreign currency (including foreign currency futures) for the purpose of reducing or eliminating risks of adverse financial consequences to the Commission in relation to—

- (a) any contract (including a contract that may be entered into under this section), or proposed contract, involving the payment or receipt by the Commission of money; or
- (b) a borrowing or raising of money by the Commission or a proposed borrowing or raising of money by the Commission (including a borrowing or raising of money by the Commission by dealing with securities),

being risks that may arise from variations in the rate of currency exchange or rate of interest applicable to the contract or proposed contract, or to the borrowing or raising of money or proposed borrowing or raising of money, as the case may be, referred to in paragraph (a) or (b).

“(2) The Minister may, by determination in writing—

- (a) set guidelines for the purpose of the exercise by the Commission of its power under sub-section (1); and
- (b) revoke or vary guidelines set for that purpose or set new guidelines for that purpose,

and shall give to the Commission a copy of each determination made under this sub-section.

“(3) The Commission shall not enter into a contract, dealing or other arrangement under sub-section (1) otherwise than in accordance with the guidelines having effect from time to time under sub-section (2).

“(4) A contract, dealing or other arrangement under sub-section (1) does not require the approval of the Minister under section 79.

“(5) In this section—

‘proposed borrowing or raising of money’ means a proposed borrowing or raising of money that has been approved by the Treasurer under section 72;

‘proposed contract’ means—

(a) a proposed contract that has been approved by the Minister under section 79; or

(b) a proposed contract (including a contract that may be entered into under this section) that does not require the approval of the Minister under section 79.”.

17. After section 85 of the Principal Act the following section is inserted:

Use of telecommunications services for menaces, &c.

“86. A person shall not—

- (a) use a telecommunications service for the purpose of menacing or harassing another person;
- (b) send over a telecommunications system a false communication or false information knowing it to be false where the communication or information is likely to cause death or injury to a person, substantial loss of, or substantial damage to, property or substantial financial loss to a person; or
- (c) without reasonable excuse, send over a telecommunications system a communication or information likely to cause reasonable persons, justifiably in all the circumstances, to be seriously alarmed or seriously affronted.

Penalty: \$1,000 or imprisonment for 6 months, or both.”.

18. After section 94 of the Principal Act the following section is inserted:

Unauthorized alteration or modification of equipment, &c.

“94A. A person shall not, without the authority of the Commission—

- (a) alter or modify a line, equipment or apparatus that is attached to a telecommunications system in pursuance of an authority granted by the Commission under paragraph 13 (1) (b); or
- (b) maintain a telecommunications installation belonging to the Commission.

Penalty: \$5,000 or imprisonment for 2 years, or both.”.

19. Section 102 of the Principal Act is repealed and the following section is substituted:

Prosecution of indictable offences

“102. (1) An offence against this Act that, apart from this section, is punishable by imprisonment for a period exceeding 6 months is an indictable offence.

“(2) Notwithstanding that an offence referred to in sub-section (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is appropriate to do so and the defendant and the prosecutor consent.

“(3) Where, in accordance with sub-section (2), a court of summary jurisdiction convicts a person of an offence referred to in sub-section (1), the court shall not impose a penalty exceeding a fine of \$1,000 or imprisonment for a period exceeding 6 months in respect of the offence.”.

20. After section 103 of the Principal Act the following section is inserted:

Ownership of telecommunications installation

“103A. Unless the circumstances indicate otherwise, any telecommunications installation, or part of a telecommunications installation, that is erected or supplied by the Commission remains the property of the Commission, whether or not the installation or any part of the installation has become a fixture.”.

Attachment of salaries

21. Section 104 of the Principal Act is amended by omitting sub-section (7).

Regulations

22. Section 112 of the Principal Act is amended by omitting paragraph (d).

Further amendments

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

SCHEDULE

Section 23

FURTHER AMENDMENTS OF THE TELECOMMUNICATIONS ACT 1975

Sub-section 81 (7)—

Omit “\$200”, substitute “\$1,000”.

Sub-section 82 (1)—

Omit “Imprisonment for 2 years”, substitute “\$5,000 or imprisonment for 2 years”.

SCHEDULE—continued

Section 83—

Omit “Imprisonment for 7 years” (wherever occurring), substitute “\$15,000 or imprisonment for 7 years”.

Section 84—

Omit “Imprisonment for 10 years”, substitute “\$20,000 or imprisonment for 10 years”.

Section 85—

Omit “Imprisonment for 2 years”, substitute “\$5,000 or imprisonment for 2 years”.

Section 87—

Omit “Imprisonment for 5 years”, substitute “\$10,000 or imprisonment for 5 years”.

Section 88—

Omit “Imprisonment for 2 years”, substitute “\$5,000 or imprisonment for 2 years”.

Sub-section 89 (1)—

Omit “Imprisonment for 2 years”, substitute “\$5,000 or imprisonment for 2 years”.

Sub-section 89 (2)—

Omit “\$200”, substitute “\$500”.

Section 90—

Omit “Imprisonment for 2 years”, substitute “\$5,000 or imprisonment for 2 years”.

Section 92—

Omit “\$200”, substitute “\$500”.

Sub-section 93 (1)—

Omit “\$200”, substitute “\$500”.

Sub-section 94 (1)—

Omit “Imprisonment for 2 years”, substitute “\$5,000 or imprisonment for 2 years”.

Section 97A—

Repeal the section.

Paragraph 111 (1) (h)—

Omit “\$200”, substitute “\$1,000”.

Sub-section 111 (4)—

(a) Omit “of State for Administrative Services”, substitute “for Sport, Recreation and Tourism”.

(b) Omit “of State” (last occurring).

Paragraph 112 (e)—

Omit “\$200”, substitute “\$1,000”.

NOTES

1. No. 23, 1946, as amended. For previous amendments, see No. 69, 1952; No. 26, 1958; No. 85, 1963; No. 93, 1966; Nos. 31 and 139, 1968; No. 9, 1971; No. 216, 1973 (as amended by No. 20, 1974); No. 56, 1975; No. 36, 1978; No. 19, 1979; No. 177, 1980; Nos. 61 and 115, 1981; Nos. 66 and 80, 1982; Nos. 39, 92 and 136, 1983 (as amended by No. 121, 1984); and Nos. 18, 63, 72 and 165, 1984.
2. 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; Nos. 39, 92, 115 and 147, 1983; and Nos. 18, 72 and 165, 1984.
3. No. 130, 1983, as amended. For previous amendments, see No. 165, 1984.
4. No. 55, 1975, as amended. For previous amendments, see No. 94, 1976; No. 160, 1977; Nos. 36 and 170, 1978; No. 115, 1979; No. 177, 1980; No. 61, 1981; No. 80, 1982; Nos. 7, 91, 92, 115, 136 and 147, 1983; and Nos. 18 and 165, 1984.

[*Minister's second reading speech made in—
House of Representatives on 8 May 1985
Senate on 28 May 1985*]