



Communications Legislation Amendment Act 1987

No. 69 of 1987

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Communications Legislation Amendment Act 1987

No. 69 of 1987

An Act to amend the law relating to communications

[Assented to 5 June 1987]

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 1987*.

Commencement

2. (1) Section 8 and Part V shall be deemed to have come into operation on 24 June 1986.

(2) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.

**PART II—AMENDMENTS OF THE OVERSEAS
TELECOMMUNICATIONS ACT 1946**

Principal Act

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

4. After section 34 of the Principal Act the following section is inserted:

Commission may, with approval of Minister, engage in other activities relating to telecommunications

“34AA. (1) In this section, ‘telecommunications service’ has the same meaning as in the *Telecommunications Act 1975*.

“(2) With the approval of the Minister, the Commission may engage, in Australia, in activities relating to telecommunications (other than the establishment, operation, provision or maintenance of telecommunications services) in which the Commission is not otherwise authorised to engage.

“(3) Where, under subsection (2), the Minister authorises the Commission to engage in certain activities, the Commission may, subject to this Act, do all things necessary or convenient to be done for or in connection with its engaging in those activities.”.

Commission’s powers exercisable outside Australia

5. Section 34A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) Subject to subsection (4), the powers of the Commission conferred by section 34 and subsection 34AA (3) may be exercised within or outside Australia.”.

Commission may enter into consultancy agreement

6. Section 34B of the Principal Act is amended by omitting from subsection (1) “With the approval of the Minister, the” and substituting “The”.

7. After section 34B of the Principal Act, the following section is inserted:

Commission may establish etc. telecommunications services for foreign countries

“34C. (1) With the approval of the Minister, the Commission may engage in activities relating to the establishment, operation, provision or maintenance of domestic or international telecommunications services in or for a foreign country.

“(2) Where, under subsection (1), the Minister authorises the Commission to engage in certain activities, the Commission may do all things necessary or convenient to be done for or in connection with its engaging in those activities.

“(3) The powers of the Commission conferred by subsection (2) may be exercised in the foreign country or in any other place (including Australia or another country).

“(4) The Commission shall not do any act or thing in a country that is not in accordance with the law of the country.”.

Hedging contracts etc.

8. Section 38AAA of the Principal Act is amended by omitting “45” from the definition of “proposed borrowing or raising of money” in subsection (5) and substituting “45A”.

Policy of Commission

9. Section 38A of the Principal Act is amended by adding at the end of subsection (3) “or with the approval of the Minister under subsection 34C (1)”.

Alterations in rates, services etc.

10. Section 75 of the Principal Act is amended:

- (a) by omitting from paragraph (2) (a) “messages or communications” and substituting “telephone calls or telegrams”;
- (b) by omitting from paragraph (2) (b) “overseas message or communication” and substituting “overseas telephone call or overseas telegram”; and
- (c) by omitting from paragraphs (2) (c) and (d) “overseas telecommunications service” and substituting “overseas telephone service or overseas telegram service”.

PART III—AMENDMENT OF THE POSTAL SERVICES ACT 1975

Principal Act

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

12. After section 82 of the Principal Act the following section is inserted:

Hedging contracts etc.

“82A. (1) Subject to subsection (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 powers under subsection (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 subsection.

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

“(4) A contract, dealing or other arrangement under subsection (1) does not require the approval of the Minister under section 82.

“(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 75A;

‘proposed contract’ means:

- (a) a proposed contract that has been approved by the Minister under section 82; 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 82.”.

PART IV—AMENDMENTS OF THE RADIOCOMMUNICATIONS ACT 1983

Principal Act

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

Standards

14. Section 9 of the Principal Act is amended:

- (a) by omitting subsection (4); and
- (b) by omitting from subsection (9) “(2), (3) and (4)” and substituting “(2) and (3)”.

Interpretation

15. Section 17 of the Principal Act is amended by omitting the definition of “spectrum plan” and substituting the following definition:

“‘spectrum plan’ means:

- (a) in relation to a time before the first plan prepared by the Minister under section 18 comes into effect—the table of frequency allocations for Australia set out in the document entitled ‘Australian Table of Frequency Allocations (9kHz–400GHz)’ and published in 1982 by the Australian Government Publishing Service; and
- (b) in relation to a time after the first plan prepared by the Minister under section 18 comes into effect—a plan prepared by the Minister under section 18;”.

Spectrum plan

16. Section 18 of the Principal Act is amended by omitting from subsection (2) “spectrum plan” and substituting “plan prepared by the Minister under subsection (1)”.

Publication and tabling of plans

17. Section 20 of the Principal Act is amended:

- (a) by omitting subsection (3);
- (b) by omitting from subsection (4) “(1), (2) and (3)” and substituting “(1) and (2)”; and
- (c) by adding at the end the following subsection:

“(7) This section does not apply in relation to the spectrum plan referred to in paragraph (a) of the definition of ‘spectrum plan’ in section 17.”.

Transmitter licence

18. Section 24 of the Principal Act is amended by omitting from subsection (1) “Upon” and substituting “Subject to section 24A, upon”.

19. After section 24 of the Principal Act the following section is inserted:
Transmitter licences not to permit transmission of certain pay-television programs

“24A. (1) In this section:

‘domestic pay-television agreement’ means a pay-television agreement the terms of which permit, or do not preclude, the use of a television receiver to which the agreement relates in domestic premises;

‘pay-television agreement’ means an agreement under which a television receiver in the possession, or under the control, of a person is, for consideration, to be enabled (whether or not by the modification or adaptation of the television receiver) to receive television programs

to be transmitted by a radiocommunications transmitter operated by or on behalf of another person (whether or not a party to the agreement).

“(2) The Minister shall not grant a licence under subsection 24 (1) that would permit the holder of the licence to operate, or to permit the operation of, a radiocommunications transmitter for the purpose of, or for purposes that include the purpose of, the transmission of television programs pursuant to, or the transmission of which is contemplated by, a domestic pay-television agreement.

“(3) The Governor-General may, by Proclamation, determine that this section shall cease to have effect from a day specified in the Proclamation, not being a day before 1 September 1990.”.

Evidentiary certificates

20. Section 84 of the Principal Act is amended by adding at the end the following subsections:

“(3) The Minister, or a person authorised in writing by the Minister to issue certificates under this subsection, may, by writing signed by the Minister or person, issue a certificate stating that at a time, or during a period, specified in the certificate a specified person was, or was not, the holder of a specified kind of radiocommunications instrument.

“(4) In subsection (3), ‘radiocommunications instrument’ means a test permit, compliance statement certificate, licence, frequency reservation certificate, certificate of proficiency or temporary permit.

“(5) A certificate purporting to be issued under subsection (3) and purporting to be signed by the Minister or by a person authorised to issue such a certificate is, in proceedings under or arising out of this Act, *prima facie* evidence of the facts stated in it.”.

PART V—AMENDMENT OF THE TELECOMMUNICATIONS ACT 1975

Principal Act

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

Hedging contracts etc.

22. Section 79A of the Principal Act is amended by omitting “72” from the definition of “proposed borrowing or raising of money” in subsection (5) and substituting “72A”.

Communications Legislation Amendment No. 69, 1987

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); Nos. 18, 63, 72 and 165, 1984; Nos. 65 and 119, 1985; and No. 76, 1986.
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; Nos. 18, 72 and 165, 1984; Nos. 65, 119 and 193, 1985; and Nos. 76 and 168, 1986.
3. No. 130, 1983, as amended. For previous amendments, see No. 165, 1984; Nos. 65, 67 and 119, 1985; and No. 76, 1986.
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; Nos. 18 and 165, 1984; Nos. 67, 119 and 193, 1985; and No. 76, 1986.

*[Minister's second reading speech made in—
House of Representatives on 2 April 1987
Senate on 26 May 1987]*