



Postal Services Amendment Act 1988

No. 126 of 1988

TABLE OF PROVISIONS

Section	
1.	Short title etc.
2.	Commencement
3.	Insertion of new section: 3AA. Application of Act
4.	Omission of heading to Part II and insertion of new heading: PART II—ESTABLISHMENT, FUNCTIONS AND GENERAL POWERS OF CORPORATION
5.	Repeal of section 5 and insertion of new sections: 5. Australian Postal Corporation 5A. Corporation is body corporate etc.
6.	Powers of Commission
7.	Electronic mail
8.	Repeal of section 10B and insertion of new sections: 10B. Management of Commission's land and buildings 10C. Commission to notify Minister of significant business activities
9.	Insertion of new section: 10D. Delegation of Corporation's powers
10.	Repeal of Part IV and insertion of new Part: PART IV—DIRECTORS OF THE CORPORATION <i>Division 1—Board of Directors</i> 24. Establishment 25. Role 26. Directions to Board 27. Constitution 28. Meetings etc. 29. Disclosure of interests 30. Delegation of Board's powers

Section	TABLE OF PROVISIONS—continued
	<i>Division 2—Managing Director</i>
31.	Managing Director
32.	Duties
	<i>Division 3—Provisions relating to directors other than Managing Director</i>
33.	Application of Division
34.	Appointment of directors
35.	Term of appointment
36.	Directors hold office on part time basis
36A.	Remuneration and allowances
36B.	Leave of absence
36C.	Resignation
36D.	Termination of appointment
36E.	Terms and conditions of appointment not provided for by Act
36F.	Deputy Chairperson
36G.	Acting appointments
	<i>Division 4—Provisions relating to Managing Director</i>
	36H. Appointment
	36J. Managing Director to hold office during Board's pleasure etc.
	36K. Managing Director holds office on full time basis
	36L. Terms and conditions of appointment not provided for by Act
	36M. Disclosure of interests
	36N. Acting Managing Director
11.	Repeal of Division 1 of Part V
12.	Repeal of Divisions 2 to 7 of Part V and insertion of new sections:
	41. Staff
	42. Corporation as employer
13.	Borrowings otherwise than from Commonwealth
14.	Financial policy of Commission
15.	Repeal of section 77
16.	Application of money
17.	Repeal of sections 82 and 82A
18.	Annual report
19.	Rewards for information as to damage to property
20.	Insertion of new sections:
	114A. Public Works Committee Act
	114B. Lands Acquisition Act
21.	Consequential and minor amendments of Principal Act
22.	Consequential amendments of other Acts
23.	Transitional provision—charging determinations
24.	Transitional provision—directions
25.	Transitional provisions—delegations
26.	Transitional provisions—existing Managing Director
27.	Transitional provisions—existing Chief General Manager
28.	Employment of staff members to continue
29.	Transitional provision—heading to Division 1 of Part V
30.	Transitional provisions—Divisions 2 to 7 of Part V etc.
31.	Transitional provision—Division 8 of Part V
32.	Transitional provision—by-laws
33.	Transitional provisions—Telecommunications (Interception) Act
34.	Transfer of funds

SCHEDULE 1

CONSEQUENTIAL AND MINOR AMENDMENTS OF PRINCIPAL ACT

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS



Postal Services Amendment Act 1988

No. 126 of 1988

An Act to amend the *Postal Services Act 1975* and to amend various other Acts in relation to the provision of postal services, and for related purposes

[Assented to 14 December 1988]

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

Short title etc.

1. (1) This Act may be cited as the *Postal Services Amendment Act 1988*.

(2) In this Act, "Principal Act" means the *Postal Services Act 1975*¹.

Commencement

2. (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(2) Sections 4, 5, 9, 10 and 11 and subsections 21 (2) and 22 (1) commence on a day to be fixed by Proclamation for the purposes of this subsection.

(3) Section 12 and subsections 21 (3) and 22 (2) commence on a day to be fixed by Proclamation for the purposes of this subsection.

3. After section 3 of the Principal Act the following section is inserted:

Application of Act

“3AA. This Act applies both within and outside Australia.”.

Heading to Part II

4. The heading to Part II of the Principal Act is omitted and the following heading is substituted:

“PART II—ESTABLISHMENT, FUNCTIONS AND GENERAL POWERS OF CORPORATION”.

5. Section 5 of the Principal Act is repealed and the following sections are substituted:

Australian Postal Corporation

“5. The Australian Postal Commission is, by this section, preserved, and continued in existence, under the name of the Australian Postal Corporation.

Corporation is body corporate etc.

“5A. The Corporation:

- (a) continues to be a body corporate;
- (b) shall have a seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.”.

Powers of Commission

6. Section 9 of the Principal Act is amended:

- (a) by omitting from paragraph (3) (f) “and”;
- (b) by omitting paragraph (3) (g) and substituting the following paragraphs:
 - “(g) to form, and participate in the formation of, companies;
 - (h) to subscribe for and purchase shares in, and debentures and other securities of, companies;
 - (j) to enter into partnerships;
 - (k) to participate in joint ventures and arrangements for the sharing of profits;
 - (m) to enter into contracts (including futures contracts);
 - (n) to deal with futures contracts;
 - (o) to appoint agents and attorneys, and act as agent for other persons;

- (p) to accept gifts, grants, bequests and devises made to it, and act as trustee of money and other property vested in it by trust;
- (q) to do such other things as it is authorised to do by or under this Act or any other Act; and
- (r) to do anything incidental to any of its powers.”.

Electronic mail

7. Section 10A of the Principal Act is amended by inserting in subsections (1) and (2) “(including telegram services)” after “electronic mail services”.

8. Section 10B of the Principal Act is repealed and the following sections are substituted:

Management of Commission’s land and buildings

“10B. (1) It is the duty of the Commission to manage its land and buildings, and to meet its requirements for land and buildings, in accordance with sound commercial practice.

“(2) The Commission has, in addition to its other powers, power to do all things necessary or convenient to be done for, or in connection with, the performance of that duty and, in particular, may:

- (a) purchase and otherwise acquire land and buildings that it may require;
- (b) sell and otherwise dispose of land and buildings that it does not require;
- (c) develop land and buildings to enable their more efficient utilisation;
- (d) develop and lease land and buildings not immediately required by it; and
- (e) develop land and buildings for the purpose of sale.

Commission to notify Minister of significant business activities

“10C. (1) If the Commission, or a subsidiary of the Commission, proposes:

- (a) to form, or participate in the formation of, a company;
- (b) to enter into a partnership;
- (c) to enter into a joint venture or an arrangement for the sharing of profits;
- (d) to acquire a major shareholding in a company;
- (e) to acquire a substantial business; or
- (f) to undertake a significant new business activity;

the Commission shall immediately give written notice of particulars of the proposed activity to the Minister.

“(2) The Minister may, by written notice given to the Commission, make guidelines to be applied by the Commission in determining whether an activity is an activity falling within paragraph (1) (d), (e) or (f).

“(3) For the purposes of this section, the question whether a body corporate is a subsidiary of another body corporate shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined under the *Companies Act 1981*.”

“(4) This section does not limit the operation of subsection 103 (2).”.

9. After section 10C of the Principal Act the following section is inserted:

Delegation of Corporation’s powers

“10D. (1) An authorised person may, in writing, delegate to an employee all or any of the powers of the Corporation under this or any other Act.

“(2) In subsection (1):

‘authorised person’ means:

- (a) the Managing Director; or
- (b) an employee who is, for the time being, authorised by the Board for the purposes of this section.”.

10. Part IV of the Principal Act is repealed and the following Part is substituted:

“PART IV—DIRECTORS OF THE CORPORATION

“Division 1—Board of Directors

Establishment

“24. There shall be a Board of Directors of the Corporation.

Role

“25. (1) It is the role of the Board to determine the policies to be pursued by the Corporation.

“(2) In carrying out its role, the Board shall ensure the proper and efficient performance of the Corporation’s functions and duties.

Directions to Board

“26. (1) Subject to subsection (2), the Minister may, after consultation with the Board, give to the Board such written directions in relation to the performance of the Corporation’s functions, and the exercise of the Corporation’s powers, as appear to the Minister to be necessary in the public interest.

“(2) The Minister shall not give a direction under subsection (1) in relation to rates of postage or fees referred to in section 18.

“(3) Where the Minister gives a direction under subsection (1), the Minister shall cause a copy of the direction to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction.

Constitution

“27. The Board consists of:

- (a) the Chairperson;
- (b) the Deputy Chairperson;
- (c) the Managing Director; and
- (d) not more than 6 other directors.

Meetings etc.

“28. (1) Subject to subsection (2), meetings of the Board shall be held at such times and places as the Board, from time to time, determines.

“(2) The Chairperson:

- (a) may at any time convene a meeting; and
- (b) shall convene a meeting when requested by at least the required minimum number of directors.

“(3) The Chairperson shall preside at all meetings at which the Chairperson is present.

“(4) If the Chairperson and Deputy Chairperson are not present at a meeting, the directors present shall appoint one of their number to preside.

“(5) At a meeting of the Board:

- (a) subject to subsection (6), the required minimum number of directors constitute a quorum;
- (b) a question shall be decided by a majority of the votes of the directors present and voting; and
- (c) the director presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

“(6) Where, because of subsection 29 (2), a director is not present at a meeting of the Board during a deliberation of the Board in relation to a matter, but there would be a quorum if the director were present, the remaining directors present constitute a quorum for the purpose of any deliberation or decision of the Board at the meeting in relation to the matter.

“(7) Where at least the required minimum number of directors 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 taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last director signs the document.

“(8) Where a resolution is, under subsection (7), taken to have been passed at a meeting of the Board, each director shall immediately be advised of the matter and given a copy of the terms of the resolution.

Postal Services Amendment No. 126, 1988

“(9) For the purposes of subsection (7), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, shall be taken to constitute one document.

“(10) The Board may, subject to this section and section 29, regulate its proceedings as it considers appropriate.

“(11) Without limiting subsection (10), the Board may permit directors to participate in a particular meeting, or all meetings, by:

- (a) telephone;
- (b) closed-circuit television; or
- (c) any other means of communication.

“(12) A director who participates in a meeting of the Board under a permission under subsection (11) shall be taken to be present at the meeting.

“(13) The Board shall keep minutes of its proceedings.

“(14) Without limiting subsection (10), the Board may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

“(15) In this section:

‘the required minimum number of directors’ means:

- (a) if there are 9 directors—5 directors; and
- (b) in any other case—4 directors.

Disclosure of interests

“29. (1) Where:

- (a) a director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Board; and
- (b) the interest could conflict with the proper performance of the director’s duties in relation to the consideration of the matter;

the director shall, as soon as practicable after the relevant facts have come to the director’s knowledge, disclose the nature of the interest at a meeting of the Board.

“(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting and, unless the Minister or the Board otherwise determines, the director shall not:

- (a) be present during any deliberation of the Board in relation to the matter; or
- (b) take part in any decision of the Board in relation to the matter.

“(3) For the purpose of the making of a determination by the Board under subsection (2) in relation to a director who has made a disclosure under subsection (1), a director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:

- (a) be present during any deliberation of the Board for the purpose of making the determination; or

(b) take part in the making by the Board of the determination.

“(4) Subsection (1) does not apply in relation to a matter relating to the provision of goods or services by the Corporation for the director if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

Delegation of Board’s powers

“30. (1) The Board may, by resolution, delegate all or any of its powers (other than its powers under section 10D and Division 4) to a director.

“(2) The delegate is, in the exercise of a delegated power, subject to the directions of the Board.

“(3) A delegation of a power under subsection (1):

- (a) may be revoked by resolution of the Board (whether or not constituted by the persons who constituted the Board when the power was delegated); and
- (b) continues in force in spite of a change in the membership of the Board.

“(4) A certificate signed by the Chairperson stating any matter in relation to a delegation of a power under subsection (1) is *prima facie* evidence of the matter.

“(5) A document purporting to be a certificate under subsection (4) shall, unless the contrary is established, be taken to be such a certificate and to have been properly given.

“Division 2—Managing Director

Managing Director

“31. There shall be a Managing Director of the Corporation.

Duties

“32. (1) The Managing Director shall, under the Board, manage the Corporation.

“(2) All acts and things done in the name of, or on behalf of, the Corporation by the Managing Director shall be taken to have been done by the Corporation.

“Division 3—Provisions relating to directors other than Managing Director

Application of Division

“33. This Division applies in relation to the directors other than the Managing Director.

Appointment of directors

“34. (1) The directors shall be appointed by the Governor-General.

“(2) In appointing a person as a director, the Governor-General shall have regard to the need to ensure that the directors collectively possess an appropriate balance of expertise, and, in particular, that the directors include a person who the Governor-General, having regard to consultations between the Minister and representatives of industrial organisations representing employees, is satisfied has an appropriate understanding of the interests of employees.

“(3) The appointment of a person as a director is not invalid merely because of a defect or irregularity in relation to the appointment.

Term of appointment

“35. A director:

- (a) shall be appointed with effect from the day specified in the instrument of appointment; and
- (b) holds office, subject to this Act:
 - (i) in the case of a director other than a government director— for such term (not longer than 5 years) as is specified in the instrument of appointment; and
 - (ii) in the case of a government director—during the Governor-General’s pleasure.

Directors hold office on part time basis

“36. Directors hold office on a part time basis.

Remuneration and allowances

“36A. (1) A director shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) If no determination of that remuneration by the Tribunal is in operation, the director shall be paid such remuneration as is prescribed.

“(3) A director shall be paid such allowances as are prescribed.

“(4) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Leave of absence

“36B. The Board may grant leave of absence to a director on such terms and conditions as the Board considers appropriate.

Resignation

“36C. A director may resign by writing signed and delivered to the Governor-General.

Termination of appointment

“36D. (1) The Governor-General may terminate the appointment of a director for misbehaviour or physical or mental incapacity.

“(2) If a director:

- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) without reasonable excuse, contravenes section 29; or
- (c) is absent, without the Board’s leave and without reasonable excuse, from 3 consecutive meetings of the Board;

the Governor-General shall terminate the director’s appointment.

“(3) Where:

- (a) the Minister is of the opinion that the performance of the Board or the Corporation has been unsatisfactory for a significant period of time; and
- (b) the Minister proposes that the appointment of all directors or specified directors be terminated;

the Governor-General shall terminate the appointment of all directors or the specified directors, as the case may be.

“(4) Where:

- (a) the Minister is of the opinion that the performance of a particular director has been unsatisfactory for a significant period of time; and
- (b) the Minister proposes that the appointment of the director be terminated;

the Governor-General shall terminate the appointment of the director.

“(5) If a person who is a government director ceases to be an officer of the Australian Public Service, the person ceases to be a director.

“(6) Subsections (1), (2), (3) and (4) do not apply in relation to a government director.

Terms and conditions of appointment not provided for by Act

“36E. A director holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined by the Minister in writing.

Deputy Chairperson

“36F. (1) When:

- (a) the office of Chairperson is vacant (whether or not an appointment has previously been made to the office); or
- (b) the Chairperson is absent from Australia or is, for any reason, unable to attend meetings of the Board or otherwise unable to perform the duties of the office;

the Deputy Chairperson shall act as Chairperson.

“(2) While the Deputy Chairperson is acting as Chairperson, the Deputy Chairperson has and may exercise all the powers, and shall perform all the functions and duties, of the Chairperson.

“(3) Anything done by or in relation to the Deputy Chairperson while the Deputy Chairperson is purporting to act as Chairperson is not invalid merely because the occasion for the Deputy Chairperson to act as Chairperson had not arisen or had ceased.

Acting appointments

“36G. (1) The Minister may appoint a director to act as Deputy Chairperson:

- (a) during a vacancy in the office of Deputy Chairperson (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Deputy Chairperson is acting as Chairperson or is unable, for any reason, to attend meetings of the Board.

“(2) The Minister may appoint a person to act as a director referred to in paragraph 27 (d):

- (a) during a vacancy in the office of such a director (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when such a director is acting as Deputy Chairperson or is unable, for any reason, to attend meetings of the Board.

“(3) Anything done by or in relation to a person purporting to act under this section is not invalid merely because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in relation to the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased.

“Division 4—Provisions relating to Managing Director

Appointment

“36H. (1) The Managing Director shall be appointed by the Minister after the Minister has received a recommendation from the Board.

“(2) The Minister shall not appoint the Chairperson, the Deputy Chairperson or a director referred to in paragraph 27 (d) as Managing Director.

“(3) The appointment of a person as Managing Director is not invalid merely because of a defect or irregularity in relation to the appointment.

Managing Director to hold office during Board’s pleasure etc.

“36J. The Managing Director:

- (a) shall be appointed with effect from the day specified in the instrument of appointment; and
- (b) holds office during the Board’s pleasure.

Managing Director holds office on full time basis

“36K. The Managing Director holds office on a full time basis.

Terms and conditions of appointment not provided for by Act

“36L. The Managing Director holds office on such terms and conditions (including terms and conditions relating to remuneration and allowances) in relation to matters not provided for by this Act as are determined by the Board.

Disclosure of interests

“36M. The Managing Director shall give written notice to the Chairperson of all direct and indirect pecuniary interests that the Managing Director has or acquires in any business or in any body corporate carrying on any business.

Acting Managing Director

“36N. (1) The Minister may appoint a director or another person to act as Managing Director during a vacancy in the office of Managing Director (whether or not an appointment has previously been made to the office).

“(2) The Board may appoint a director or another person to act as Managing Director during any period, or during all periods, when the Managing Director is absent from duty or Australia or is, for any other reason, unable to perform the duties of the office.

“(3) Anything done by or in relation to a person purporting to act as Managing Director is not invalid merely because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in relation to the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.”.

Repeal of Division 1 of Part V

11. Division 1 of Part V of the Principal Act is repealed.

12. Divisions 2 to 7 (inclusive) of Part V of the Principal Act are repealed and the following sections are substituted:

Staff

“41. (1) The Corporation may engage such employees as are necessary for the performance of its functions and the exercise of its powers.

“(2) The terms and conditions of employment shall be determined by the Corporation.

Corporation as employer

“42. The Corporation shall endeavour to achieve and maintain high standards as an employer in relation to terms and conditions of employment, occupational health, industrial safety, industrial democracy, non-discriminatory employment practices and other matters.”.

Borrowings otherwise than from Commonwealth

13. Section 75A of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

“(1) The Commission may:

(a) borrow money from persons other than the Commonwealth;
and

(b) raise money otherwise than by borrowing.”;

(b) by omitting subsections (4) and (5).

Financial policy of Commission

14. Section 76 of the Principal Act is amended by omitting from subparagraph (3) (b) (i) “, as determined by the Minister for Finance.”.

Repeal of section 77

15. Section 77 of the Principal Act is repealed.

Application of money

16. Section 78 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) Money of the Commission not immediately required for the purposes of the Commission may be invested in any manner that is consistent with sound commercial practice.”.

Repeal of sections 82 and 82A

17. Sections 82 and 82A of the Principal Act are repealed.

Annual report

18. Section 102 of the Principal Act is amended by inserting after subsection (1) the following subsections:

“(1A) The Commission shall include in the report particulars of:

(a) companies that it formed, and companies in whose formation it participated, during the year;

(b) partnerships that it entered into during the year; and

(c) joint ventures, and arrangements for the sharing of profits, that it entered into during the year.

“(1B) The Commission shall include in the report information relating to:

(a) shares and securities that it subscribed for, purchased or disposed of during the year; and

Postal Services Amendment No. 126, 1988

(b) businesses that it acquired during the year.

“(1C) The financial statements of the Commission shall comply with the requirements prescribed under the *Companies Act 1981* for the accounts of a listed corporation so far as those requirements relate to the income of executive officers of a listed corporation.

“(1D) For the purposes of subsection (1C):

- (a) the Commission shall be taken to be a listed corporation; and
- (b) the Managing Director shall be taken to be an executive officer of the Commission.

“(1E) Expressions used in subsections (1C) and (1D) and in the *Companies Act 1981* have the same respective meanings as they have in that Act.”.

Rewards for information as to damage to property

19. Section 106 of the Principal Act is amended by omitting all the words after “Commission” (last occurring).

20. After section 114 of the Principal Act the following sections are inserted:

Public Works Committee Act

“114A. The *Public Works Committee Act 1969* does not apply in relation to the Commission.

Lands Acquisition Act

“114B. (1) The *Lands Acquisition Act 1955* does not apply in relation to the acquisition of land, or an interest in land, by the Commission by agreement.

“(2) In subsection (1):

‘interest’, in relation to land, means:

- (a) a legal or equitable estate or interest in the land; or
- (b) a right, power or privilege over, or in relation to, the land.”.

Consequential and minor amendments of Principal Act

21. (1) The Principal Act is amended as set out in Part I of Schedule 1.

(2) The Principal Act is amended as set out in Part II of Schedule 1.

(3) The Principal Act is amended as set out in Part III of Schedule 1.

Consequential amendments of other Acts

22. (1) The Acts specified in Part I of Schedule 2 are amended as set out in that Part of that Schedule.

(2) The Act specified in Part II of Schedule 2 is amended as set out in that Part of that Schedule.

Transitional provision—charging determinations

23. Determinations made under section 18 of the Principal Act and in force immediately before the commencement of section 10 of this Act have effect, after that commencement, as if they had been made under section 18 of the Principal Act as amended by this Act.

Transitional provision—directions

24. Directions given to the Commission under section 8 of the Principal Act with respect to the performance of its functions and the exercise of its powers (being directions in force immediately before the commencement of section 10 of this Act) have effect, after that commencement, as if they were directions given to the Board under section 26 of the Principal Act as amended by this Act in relation to the performance of the Corporation's functions and the exercise of the Corporation's powers.

Transitional provisions—delegations

25. (1) A delegation given under section 36 of the Principal Act and in force immediately before the commencement of section 10 of this Act has effect, after that commencement, as if it were a delegation given under section 10D of the Principal Act as amended by this Act.

(2) If section 10 of this Act commences before section 12 of this Act, section 10D of the Principal Act as amended by this Act has effect, after the commencement of section 10 of this Act and until the commencement of section 12 of this Act, as if a reference to an employee were a reference to an officer or employee of the Corporation.

Transitional provisions—existing Managing Director

26. (1) The person who, immediately before the commencement of section 10, holds office as Managing Director continues to hold that office.

(2) Subsections 25 (2) and (5) and 26 (1), sections 27, 29 and 30 and subsections 31 (1) and (2) of the Principal Act, and the By-laws made for the purposes of subsection 25 (5) of the Principal Act (being the By-laws in force immediately before the commencement of section 10 of this Act), continue to apply in relation to the person, and so apply as if references to a Commissioner were references to the Managing Director and as if the reference in paragraph 31 (2) (b) of the Principal Act to subsection (3) were a reference to section 29 of the Principal Act as amended by this Act.

(3) Sections 36H to 36L (inclusive) of the Principal Act as amended by this Act do not apply in relation to the person.

(4) Subsections (2) and (3) cease to have effect if the person is appointed as Managing Director after the commencement of section 10 of this Act (whether at the end of the present period of appointment of the person or otherwise).

Transitional provisions—existing Chief General Manager

27. (1) The person who, immediately before the commencement of section 10, holds office as Chief General Manager continues to hold that office.

(2) Sections 37, 38 and 40 of the Principal Act, and the By-laws made for the purposes of subsection 37 (8) of the Principal Act (being the By-laws in force immediately before the commencement of section 10 of this Act), continue to apply in relation to the person.

Employment of staff members to continue

28. Each person who, immediately before the commencement of section 12 of this Act, is an officer or employee of the Corporation continues to be employed by the Corporation as if the person had been engaged by the Corporation under section 41 of the Principal Act as amended by this Act.

Transitional provision—heading to Division 1 of Part V

29. If section 12 of this Act commences before section 10 of this Act, the Principal Act as amended by this Act has effect, after the commencement of section 12 and until the commencement of section 10, as if the heading to Division 1 of Part V were omitted.

Transitional provisions—Divisions 2 to 7 of Part V etc.

30. (1) If section 10 of this Act commences before section 12 of this Act, Divisions 2 to 7 (inclusive) of Part V of the Principal Act as amended by this Act have effect, after the commencement of section 10 of this Act and until the commencement of section 12 of this Act, as if references in those Divisions to the Commission were references to the Corporation.

(2) If section 12 of this Act commences before section 10 of this Act, the definition of “employee” in subsection 3 (1), and Part V, of the Principal Act as amended by this Act, and sections 28 and 31 of this Act, have effect, after the commencement of section 12 of this Act and until the commencement of section 10 of this Act, as if references to the Corporation were references to the Commission.

Transitional provision—Division 8 of Part V

31. If section 12 of this Act commences before section 86 of the *Industrial Relations (Consequential Provisions) Act 1988*, Division 8 of Part V has effect as if:

- (a) references to the Service were references to the employees of the Corporation;
- (b) references to officers were omitted; and
- (c) references to an organization were a reference to an organization registered under the *Conciliation and Arbitration Act 1904*.

Transitional provision—by-laws

32. By-laws made under section 115 of the Principal Act and in force immediately before the commencement of section 10 of this Act have effect, after that commencement, as if they had been made under section 115 of the Principal Act as amended by this Act.

Transitional provisions—Telecommunications (Interception) Act

33. (1) If section 10 of this Act commences before section 12 or 14 of the *Telecommunications Amendment Act 1988*, the *Telecommunications (Interception) Act 1979* has effect, after the commencement of section 10 of this Act and until the commencement of section 12 or 14 of that second-mentioned Act, as if paragraph (b) of the definition of “officer of the Commission” were amended by omitting “Australian Postal Commission” (twice occurring) and substituting “Australian Postal Corporation”.

(2) If section 12 of this Act commences before section 12 or 14 of the *Telecommunications Amendment Act 1988*, the *Telecommunications (Interception) Act 1979* has effect, after the commencement of section 12 of this Act and until the commencement of section 12 or 14 of that second-mentioned Act, as if paragraph (b) of the definition of “officer of the Commission” were amended by omitting “or employee”.

Transfer of funds

34. Where an Act appropriates money for the purposes of, or in connection with the activities of, the Commission, references in that Act to the Commission shall, after the commencement of section 10 of this Act, be read as references to the Corporation.

SCHEDULE 1

Section 21

CONSEQUENTIAL AND MINOR AMENDMENTS OF PRINCIPAL ACT

PART I—AMENDMENTS TO COMMENCE ON ROYAL ASSENT

Subsection 3 (1) (definition of “approved bank”):

Omit the definition.

Subsection 3 (1) (definition of “employee”):

Omit “by the Commission”.

Subsection 3 (1) (definition of “Service”):

Omit “Australian Postal Commission”.

Heading to Part V:

Omit “OF THE COMMISSION”.

Section 75D:

Repeal the section.

Subsection 75E (1):

Omit “sections 75A and 75B”, substitute “section 75B”.

Section 105A:

Omit all the words after “Commission” (last occurring).

PART II—AMENDMENTS RELATING TO CORPORATION AND BOARD

1. The following provisions of the Principal Act are amended by omitting “Commission” (wherever occurring) and substituting “Corporation”:

Sections 3 (1) (definition of “authorized person”) and (2), 6, 7 (3) and (4), 9, 10, 10A, 10B, 10C, 11, 12, 13, 14, 15, 16 (1), 17, 19 (5) and (6), 20 (1), 22 (1), 23 (2) and (4), 74 (2) and (3), 75, 75A (1), (2) and (8), 75B (1) and (2), 75C, 78, 79 (1) and (2), 83, 84 (1) and (4), 85, 86, 87, 89, 91, 92, 93, 94, 95 (2), 96, 97, 99, 100 (2), 102 (1C) and (1D), 104, 105A, 106, 107, 108, 109, 110, 111, 112, 113, 114, 114A and 114B.

2. The following provisions of the Principal Act are amended by omitting “Commission” (wherever occurring) and substituting “Board”:

Sections 18 (1), (4), (5) and (6), 19 (4) and (7), 74 (5), 102 (1A) and (1B) and 115 (1).

3. The Principal Act is further amended as follows:

SCHEDULE 1—continued

Subsection 3 (1) (definitions of “Chairman”, “Chief General Manager”, “Commission”, “Commissioner”, “Deputy Chairman”, “Managing Director” and “part-time Commissioner”):

Omit the definitions.

Subsection 3 (1):

Insert the following definitions:

“‘Board’ means the Board of Directors of the Corporation;

‘Chairperson’ means the Chairperson of the Board;

‘Corporation’ means the Australian Postal Corporation;

‘Deputy Chairperson’ means the Deputy Chairperson of the Board;

‘director’ means a director of the Board, and includes the Chairperson, the Deputy Chairperson and the Managing Director;

‘government director’ means a director who was an officer of the Australian Public Service at the time of his or her appointment;

‘Managing Director’ means the Managing Director of the Corporation;”.

Subsection 7 (1):

Omit the subsection, substitute the following subsection:

“(1) The functions of the Corporation shall be performed in such a manner as will best meet the social, industrial and commercial needs of the Australian people for postal services, and its postal services shall, so far as it is, in the opinion of the Board, reasonably practicable to do so, be made available throughout Australia for all people who reasonably require those services.”.

Subsection 7 (2):

Omit “In performing its functions in accordance with subsection (1), the Commission—”, substitute “In the performance of the Corporation’s functions in accordance with subsection (1):”.

Paragraph 7 (2) (a):

Omit the paragraph, substitute the following paragraph:

“(a) directions given to the Board under section 26 shall be complied with; and”.

Paragraph 7 (2) (b):

Omit “shall have regard to—”, substitute “regard shall be had to:”.

Subparagraphs 7 (2) (b) (i) and (ii):

Omit “its”, substitute “the Corporation’s”.

Section 8:

Repeal the section.

After section 12:

Insert the following section in Part II:

SCHEDULE 1—continued

Seal of Corporation

“12A. (1) The seal of the Corporation shall be kept in such custody as the Board directs and shall be used only as directed by the Board.

“(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Corporation appearing on a document and shall presume that it was properly affixed.”.

Subsection 18 (2):

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (last occurring), substitute “Corporation”.

Subsection 18 (3):

- (a) Omit “Commission” (first, second, fourth and last occurring), substitute “Board”.
- (b) Omit “Commission” (third and fifth occurring), substitute “Corporation”.

Subsection 19 (1):

- (a) Omit “Commission” (first, fourth and fifth occurring), substitute “Corporation”.
- (b) Omit “Commission” (second, third and last occurring), substitute “Board”.

Subsection 19 (2):

- (a) Omit “Commission” (other than second and last occurring), substitute “Corporation”.
- (b) Omit “Commission” (second and last occurring), substitute “Board”.

Subsection 19 (3):

- (a) Omit “Commission” (first and second occurring), substitute “Board”.
- (b) Omit “Commission” (last occurring), substitute “Corporation”.

Subsection 19 (7):

Omit “its”, substitute “the Corporation’s”.

Subsections 21 (1) and (2):

Omit “the Commission” (wherever occurring), substitute “the Corporation”.

Subsection 76 (1):

Omit “Commission” (first occurring), substitute “Board”.

Paragraph 76 (1) (a):

Omit “Commission”, substitute “Corporation”.

SCHEDULE 1—continued

Paragraph 76 (1) (b):

- (a) Omit “Commission” (other than second occurring), substitute “Corporation”.
- (b) Omit “Commission” (second occurring), substitute “Board”.

Subsection 76 (2):

- (a) Omit “The Commission shall”, substitute “The Board shall, consistently with its duty under subsection (1), ensure that the Corporation”.
- (b) Omit “operate”, substitute “operates”.
- (c) Omit “make”, substitute “makes”.
- (d) Omit “Commission” (last occurring), substitute “Corporation”.
- (e) Omit “, consistently with its duty under subsection (1)”.

Subsection 79 (3):

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (last occurring), substitute “Corporation”.

Section 80:

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (second, third and last occurring), substitute “Corporation”.

Section 81:

- (a) Omit “Commission”, substitute “Board”.
- (b) Omit “its receipts and expenditure”, substitute “the receipts and expenditure of the Corporation”.

Before section 102:

Insert the following section in Part VIII:

Application of State and Territory laws to Corporation

“101. Subject to section 83, the Corporation is not subject to any requirement, obligation, liability, penalty or disability under a law of a State or Territory to which the Commonwealth is not subject.”.

Subsection 102 (1):

- (a) Omit “Commission”, substitute “Board”.
- (b) Omit “its operations”, substitute “the Corporation’s operations”.

Subsections 102 (1A) and (1B):

Omit “it” (wherever occurring), substitute “the Corporation”.

Subsection 102 (2):

- (a) Omit “Commission” (first occurring), substitute “Board”.

SCHEDULE 1—continued

- (b) Omit “Commission” (second and last occurring), substitute “Corporation”.

Subsection 102 (4):

Omit the subsection.

Subsection 103 (1):

- (a) Omit “Commission”, substitute “Board”.
(b) Omit “its”, substitute “the Corporation’s”.

Subsection 103 (2):

- (a) Omit “Commission” (first occurring), substitute “Board”.
(b) Omit “Commission” (last occurring), substitute “Corporation”.

PART III—AMENDMENTS RELATING TO STAFF

Subsection 3 (1) (definition of “employee”):

Omit the definition, substitute the following definition:
“ ‘employee’ means an employee of the Corporation;”.

Subsection 3 (1) (definitions of “officer”, “organization” and “Service”):

Omit the definitions.

Paragraph 3 (2) (d):

Omit “and”.

Paragraph 3 (2) (e):

Omit the paragraph.

Subsection 10A (6):

Omit “, an officer”.

Subsection 23 (1):

Omit “officer”, substitute “employee”.

Subparagraph 76 (3) (b) (i):

Omit “officers and”.

Paragraph 85 (2) (e):

Omit “officer or” (first occurring).

Section 91:

Omit “officer or” (first occurring).

Paragraph 92 (1) (a):

Omit “officer or” (first occurring).

SCHEDULE 1—continued

Subsections 95 (1) and (3):

Omit “officer or”.

Subsections 104 (1) and (2):

Omit “officer or”.

Subsections 104A (1) and (2):

Omit “officer or”.

Subsections 109 (1) and (9):

Omit “officer or” (wherever occurring).

Subparagraph 111 (3) (a) (i):

Omit “officer or”.

Paragraph 112 (a):

Omit “officers or”.

Paragraph 112 (b):

Omit “officers and”.

Subsection 113 (1):

Omit “officers and”.

Paragraph 115 (1) (a):

Omit “officers and”.

Paragraph 115 (1) (pa):

Add at the end “and”.

Paragraph 115 (1) (q):

Omit the paragraph.

Paragraph 116 (d):

Omit the paragraph.

Paragraph 116 (f):

Omit “officers”, substitute “employees”.

Paragraph 116 (g):

Add at the end “and”.

Paragraph 116 (h):

Omit the paragraph.

SCHEDULE 2

Section 22

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

PART I—AMENDMENTS RELATING TO CORPORATION

Archives Act 1983

Subsection 62 (5):

Omit “Commission” (twice occurring), substitute “Corporation”.

Australian Security Intelligence Organization Act 1979

Paragraph 27 (1) (a):

Omit “Commission” (twice occurring), substitute “Corporation”.

Paragraph 27 (1) (b):

Omit “Commission” (twice occurring), substitute “Corporation”.

Paragraphs 27 (6) (a) and (b):

Omit “Commission”, substitute “Corporation”.

Subsection 27 (7):

Omit “Commission”, substitute “Corporation”.

Subsection 27 (10) (definition of “agent”):

Omit “Commission” (twice occurring), substitute “Corporation”.

Paragraphs 27A (6) (a) and (b):

Omit “Commission”, substitute “Corporation”.

Subsection 27A (7):

Omit “Commission”, substitute “Corporation”.

Commonwealth Borrowing Levy Act 1987

Schedule:

Omit “Australian Postal Commission”, substitute “Australian Postal Corporation”.

Freedom of Information Act 1982

Schedule 2 (Part II):

Omit “Australian Postal Commission”, substitute “Australian Postal Corporation”.

SCHEDULE 2—continued

Protection of Movable Cultural Heritage Act 1986

Paragraph 9 (4) (b):

Omit “Commission”, substitute “Corporation”.

Sales Tax Assessment Act (No. 1) 1930

Schedule 2:

Omit “Australian Postal Commission”, substitute “Australian Postal Corporation”.

PART II—AMENDMENTS RELATING TO STAFF

Australian Security Intelligence Organization Act 1979

Paragraphs 27 (1) (a) and (b):

Omit “officer,”.

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; Nos. 39, 92, 115 and 147, 1983; Nos. 18, 72 and 165, 1984; Nos. 65, 119 and 193, 1985; Nos. 76 and 168, 1986; No. 69, 1987; and Nos. 36, 55 and 75, 1988.

SECTION HEADINGS NOTES

1. On the commencement of section 10, the headings to the following sections of the Principal Act are altered by omitting “Commission” and substituting “Corporation”: Sections 6, 7, 9, 10B, 10C, 12, 75B, 75C, 76, 96 and 108.
2. On the commencement of section 12, the heading to section 95 of the Principal Act is altered by omitting “officers” and substituting “employees”.
3. On the commencement of section 12, the heading to section 104A of the Principal Act is altered by omitting “officers or”.

*[Minister’s second reading speech made in—
House of Representatives on 28 September 1988
Senate on 24 November 1988]*