



Telecommunications (Numbering Fees) Amendment Act 1997

No. 54, 1997

**An Act to amend the *Telecommunications
(Numbering Fees) Act 1991***

Contents

1	Short title	1
2	Commencement	1
3	Schedule(s)	2
Schedule 1—Amendments		3
<i>Telecommunications (Numbering Fees) Act 1991</i>		3



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No. 54, 1997

An Act to amend the *Telecommunications (Numbering Fees) Act 1991*

[Assented to 24 April 1997]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Telecommunications (Numbering Fees) Amendment Act 1997*.

2 Commencement

This Act commences on the twenty-eighth day after the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Telecommunications (Numbering Fees) Act 1991

1 Title

Omit “provide for the payment of fees for the allocation of”,
substitute “impose a charge on”.

2 Section 1

Omit “*Fees*”, substitute “*Charges*”.

3 Sections 3, 4, 5, 6 and 7

Repeal the sections, substitute:

3 Act to bind the Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

4 Extension to eligible Territories

This Act extends to each eligible Territory.

5 Definitions

In this Act:

AMPS means the Advanced Mobile Phone System.

Note: The Advanced Mobile Phone System does not incorporate digital modulation techniques.

AUSTEL means the Australian Telecommunications Authority.

carrier has the same meaning as in the *Telecommunications Act 1991*.

charge means charge imposed by this Act.

class licence has the same meaning as in the *Telecommunications Act 1991*.

eligible service has the same meaning as in the *Telecommunications Act 1991*.

eligible Territory has the same meaning as in the *Telecommunications Act 1991*.

national numbering plan has the same meaning as in the *Telecommunications Act 1991*.

number means a number in respect of telecommunications services to be provided across a public telecommunications network.

Optus means Optus Mobile Pty Ltd.

service provider means a person who provides an eligible service under a class licence.

standard telephone service has the same meaning as in the *Telecommunications Act 1991*.

public telecommunications network has the same meaning as in Division 2 of Part 11 of the *Telecommunications Act 1991*.

telecommunications service has the same meaning as in the *Telecommunications Act 1991*.

Telstra has the same meaning as in the *Telstra Corporation Act 1991*.

6 Holder of a number

- (1) For the purposes of this Act, if a number is allocated to a particular carrier or service provider under subsection 242(1) of the *Telecommunications Act 1991* at a particular time, the carrier or service provider **holds** the number throughout the period:
- (a) beginning at that time; and
 - (b) ending when:
 - (i) the number is subsequently recovered by AUSTEL in accordance with the national numbering plan; or
 - (ii) the number is subsequently returned to AUSTEL in accordance with the national numbering plan; or

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- (iii) in a case where the number is allocated to Telstra—the number is subsequently allocated by Telstra to Optus for use by Optus in connection with the supply of AMPS services;

whichever first happens.
 - (2) For the purposes of this Act, Telstra **holds** a number at a particular time if no allocation of the number to Telstra is in force at that time and:
 - (a) both:
 - (i) before that time, Telstra, or any of its predecessors, allocated the number to a customer; and
 - (ii) that allocation is in force at that time; or
 - (b) at that time, the number is available to be allocated by Telstra to a customer.
 - (3) A reference in subsection (2) to a **customer** does not include a reference to a service provider.
 - (4) Subsection (2) applies to an allocation, whether or not the allocation is under section 242 of the *Telecommunications Act 1991*.
 - (5) For the purposes of this Act, if, at a particular time, a number is allocated by Telstra to Optus for use in connection with the supply of AMPS services, Optus **holds** the number throughout the period:
 - (a) beginning at that time; and
 - (b) ending when:
 - (i) the number is subsequently recovered by AUSTEL in accordance with the national numbering plan; or
 - (ii) the number is subsequently returned to AUSTEL in accordance with the national numbering plan; or
 - (iii) the number is subsequently returned to Telstra;

whichever first happens.
 - (6) Subsections (2) and (5) have effect in addition to subsection (1).
 - (7) For the purposes of subparagraph (1)(b)(iii) and subsection (5), if a number allocated to Telstra under subsection 242(1) of the *Telecommunications Act 1991* is subsequently taken by Optus for use in connection with the supply of AMPS services:
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- (a) the taking of the number by Optus is to be treated as the allocation of the number by Telstra to Optus for use by Optus in connection with the supply of AMPS services; and
 - (b) if Optus subsequently relinquishes the number—the relinquishing of the number is to be treated as the return of the number to Telstra.
- (8) This section applies to an allocation, whether or not the allocation occurs before or after this section commences.
- (9) For the purposes of this section, the renumbering of a number does not affect the continuity of the holding of the number.

7 Imposition of charge

If a carrier or service provider holds a number:

- (a) at the commencement of the *Telecommunications (Numbering Fees) Amendment Act 1997*; or
- (b) at the beginning of an anniversary of that commencement; charge is imposed on the number.

8 By whom charge payable

Charge imposed on a number is payable by the carrier or service provider who holds the number.

9 Amount of charge

- (1) The amount of charge imposed on a number held at a particular time is the amount ascertained in accordance with a written determination made by AUSTEL.
- (2) A determination under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Note: Under section 50 of the *Telecommunications Act 1991*, the Minister may give AUSTEL directions in relation to the performance of its functions and the exercise of its powers.

10 Maximum charge

The amount of charge imposed on a number held at a particular time must not exceed \$100,000.

11 Exemption from charge

- (1) A number is exempt from charge if the number is a geographic number allocated to a carrier or service provider for the purposes of providing a standard telephone service to a customer.
- (2) AUSTEL may, by written determination, exempt a specified number from charge.
- (3) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Note 1: For specification by class, see subsection 46(2) of the *Acts Interpretation Act 1901*.

Note 2: Under section 50 of the *Telecommunications Act 1991*, the Minister may give AUSTEL directions in relation to the performance of its functions and the exercise of its powers.

[Minister's second reading speech made in—
House of Representatives on 30 October 1996
Senate on 10 February 1997]

(147/96)

I HEREBY CERTIFY that the above is a fair print of the Telecommunications (Numbering Fees) Amendment Bill 1997 which originated in the House of Representatives as the Telecommunications (Numbering Fees) Amendment Bill 1996 and has been finally passed by the Senate and the House of Representatives.

Clerk of the House of Representatives

IN THE NAME OF HER MAJESTY, I assent to this Act.

Governor-General
1997