Australian Postal Corporation Act 1989

Act No. 64 of 1989 as amended

This compilation was prepared on 20 July 2010
taking into account amendments up to Act No. 103 of 2010

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General’s Department, Canberra
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**Notes**

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An Act relating to the Australian Postal Corporation

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the Australian Postal Corporation Act 1989.

2 Commencement [see Note 1]

(1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.

(2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of the period.

3 Interpretation—definitions

In this Act, unless the contrary intention appears:

ACCC means the Australian Competition and Consumer Commission.

article means any matter or thing, and includes, for example:

(a) a letter;
(b) a message or information;
(c) a direction to pay an amount of money;
(d) an envelope, packet, parcel, container or wrapper containing any matter or thing (including a letter, message, information or direction to pay an amount of money); and
(e) a message, information, or direction to pay an amount of money, that is not in written form.

Australia, when used in a geographical sense, includes the external Territories to which this Act extends.

Australia Post means the Australian Postal Corporation.
Board means the Board of Directors of Australia Post.

borrow includes raise money or credit.

carry, in relation to an article, means:
(a) carry the article from one place to another by physical means; or
(b) if the article is an unwritten communication—transmit the article from one place to another by electromagnetic or other non-physical means;
and includes:
(c) in the case of the carriage of an article from one place to another by physical means—collect or receive the article for carriage and deliver the article after carriage; and
(d) in the case of the transmission of an unwritten communication from one place to another by electromagnetic or other non-physical means—collect or receive the communication (whether in written or unwritten form) for transmission and deliver the communication (whether in written or unwritten form) after transmission.

carry by post, in relation to an article, has the meaning given by section 4.

Chairperson means the Chairperson of the Board.

community service obligations means obligations under section 27.

convention means a convention to which Australia is a party or an agreement or arrangement between Australia and a foreign country.

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.

Federal Court means the Federal Court of Australia.

letter means any form of written communication that is directed to a particular person or address, and includes:
(a) any standard postal article;
(b) any envelope, packet, parcel, container or wrapper containing such a communication; and
(c) any unenclosed written communication that is directed to a particular person or address.

Managing Director means the Managing Director of Australia Post.

office, in relation to Australia Post, means an office (in Australia or outside Australia):
(a) established by Australia Post for the supply of postal services; or
(b) conducted by an agent of Australia Post.

ordinary post, in relation to the carrying of an article, has the meaning given by section 5.

postage, in relation to a postal article, means the amount payable for the carrying of the article by post (including any special charge or additional fee payable for special services supplied in relation to the carrying of the article).

postage stamp includes an imprinted or printed mark, label or design authorised by Australia Post for the purpose of paying postage for a postal article.

postal article means an article of a kind that, under the terms and conditions on which Australia Post supplies postal services, may be carried by post.

reserved services means the activities that Australia Post has, because of section 29, the exclusive right to engage in.

standard postal article means, subject to the regulations, a postal article that satisfies all of the following criteria:
(a) it does not weigh more than 250 grams;
(b) it is not more than 5mm thick;
(c) its other 2 dimensions form a rectangle:
   (i) 2 of whose sides are shorter than the other sides; and
   (ii) the shorter sides of which are not more than 122 mm long; and
   (iii) the longer sides of which are not more than 237 mm long; and

Australian Postal Corporation Act 1989 3
(iv) the adjacent sides of which are in the ratio of 1 to at least 1.414.

*subsidiary* has the meaning given by section 6.

*the letter service* means the service supplied by Australia Post under section 27.

*thing* includes a living thing.

*unwritten communication* includes a message, information, or direction to pay an amount of money, that is not in written form.

4 Interpretation—meaning of carry by post

For the purposes of this Act, an article is carried by post if it is carried by or through Australia Post.

5 Interpretation—meaning of carry by ordinary post

For the purposes of this Act, an article is carried by ordinary post if the article is carried by means of the letter service in such a way as will not involve the supply of a special service for which a special charge or additional fee is payable in relation to the carrying of the article.

6 Interpretation—meaning of subsidiary

For the purposes of this Act, a body corporate is a subsidiary of another body corporate if, under the *Corporations Act 2001*, the first body corporate is a subsidiary of the other body corporate.

7 Extraterritorial operation of Act

This Act applies both within and outside Australia.

8 Extension of Act to certain external Territories

This Act extends to the external Territories (other than Norfolk Island).
9 Extension of Act to offshore areas

(1) Subject to subsection (2), this Act applies in relation to the offshore areas of the States and Territories as if references to Australia (when used in a geographical sense) included references to the offshore areas.

(2) The application of this Act in relation to the offshore areas of the States and Territories extends only in relation to acts, matters and things touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia.

(3) Without limiting subsection (2), the application of this Act in relation to the offshore areas of the States and Territories because of subsection (1) extends in relation to all acts done by or in relation to, and all matters, circumstances and things affecting, any person who is in the offshore area of a State or Territory for a reason touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia.

(4) In this section:

offshore area, in relation to a State or Territory, has the same meaning as in the Offshore Petroleum and Greenhouse Gas Storage Act 2006.

Territory does not include Norfolk Island.

10 Act binds the Crown

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

11 Act subject to Radiocommunications Act and Telecommunications Act etc.

This Act has effect subject to the Radiocommunications Act 1992, the Telecommunications Act 1997 and the Telecommunications (Consumer Protection and Service Standards) Act 1999.
Part 1 Preliminary

Section 11A

11A Application of the Criminal Code

Chapter 2 of the Criminal Code applies to all offences against this Act.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.
Part 2—Australia Post and its Board

Division 1—Constitution, functions and powers of Australia Post

12 Australia Post continues in existence

The Australian Postal Corporation continues in existence.

13 Australia Post continues to be body corporate etc.

The Australian Postal Corporation:
(a) continues to be a body corporate;
(b) shall have a seal; and
(c) may sue and be sued in its corporate name.

Note: The Commonwealth Authorities and Companies Act 1997 applies to Australia Post. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

14 Functions—the principal function

The principal function of Australia Post is to supply postal services within Australia and between Australia and places outside Australia.

15 Functions—subsidiary function

A subsidiary function of Australia Post is to carry on, outside Australia, any business or activity relating to postal services.

16 Functions—incidental businesses and activities

(1) The functions of Australia Post include the carrying on, within or outside Australia, of any business or activity that is incidental to:
(a) the supplying of postal services under section 14; or
(b) the carrying on of any business or activity under section 15.
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Section 17

(2) Without limiting subsection (1), the functions of Australia Post include the carrying on, within or outside Australia, of any business or activity that is capable of being conveniently carried on:

(a) by the use of resources that are not immediately required in carrying out Australia Post’s principal or subsidiary function; or

(b) in the course of:

(i) supplying postal services under section 14; or

(ii) carrying on any business or activity under section 15.

17  General powers

(1) Australia Post has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) Subsection (1) is not limited by any other provision of this or any other Act that confers a power on Australia Post.

18  Specific postal and postal related powers

Australia Post has power, for or in connection with the performance of its functions:

(a) to supply packet and parcel carrying services; and

(b) to supply philatelic and associated services; and

(c) to supply courier services; and

(d) to supply electronic mail services; and

(da) to supply:

(i) carriage services (within the meaning of the Telecommunications Act 1997); and

(ii) content services (within the meaning of that Act); and

(e) to supply document exchange services and contract mail management services; and

(ea) to supply mail house services (which may include, for example, the provision of a mail order service and the doing of things incidental to the provision of such a service); and

(f) to supply funds transfer services; and

8  Australian Postal Corporation Act 1989
(g) to supply postal services (including philatelic and associated services) for Norfolk Island, Christmas Island, Cocos (Keeling) Islands and foreign countries; and

(h) to supply any services other than postal services to or on behalf of the Commonwealth, the States and Territories, foreign countries and other persons; and

(j) to manufacture postage stamps and other goods for use in connection with postal services.

19 Other powers

(1) Australia Post has, for or in connection with the performance of its functions, all the powers of a natural person, and may, for example:

(a) enter into contracts;

(b) acquire, hold and dispose of real and personal property;

(c) appoint agents and attorneys, and act as agent for other persons;

(d) form, and participate in the formation of, companies;

(e) subscribe for and purchase shares in, and debentures and other securities of, companies;

(f) participate in partnerships, trusts, unincorporated joint ventures and other arrangements for the sharing of profits;

(g) issue debentures and grant floating charges on its property;

(h) make charges and fix terms and conditions for work done, or services, goods and information supplied, by it;

(j) engage consultants;

(k) accept gifts, grants, bequests and devises made to it, and act as trustee of money and other property vested in it on trust;

(m) offer and pay rewards;

(n) deal in futures and other contracts;

(p) provide consultancy and project management services; and

(q) do such other things as it is authorised to do by or under this Act or any other law of the Commonwealth or any law of a State or Territory.

(2) Australia Post 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 its obligation under section 26, and may, for example:
(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.
Division 2—Australia Post’s Board and Managing Director

20 The Board
There shall be a Board of Directors of Australia Post.

21 The Managing Director
There shall be a Managing Director of Australia Post.

22 Constitution of the Board
The Board consists of:
(a) the Chairperson;
(b) the Deputy Chairperson;
(c) the Managing Director; and
(d) not more than 6 other directors.

23 Role of the Board
It is the role of the Board:
(a) to decide the objectives, strategies and policies to be followed by Australia Post; and
(b) to ensure that Australia Post performs its functions in a manner that is proper, efficient and, as far as practicable, consistent with sound commercial practice.

24 Duties of the Managing Director
(1) The Managing Director shall, under the Board, manage Australia Post.

(2) All acts and things done in the name of, or on behalf of, Australia Post by the Managing Director shall be taken to have been done by Australia Post.
Part 3—Australia Post’s obligations and reserved services

Division 1—Obligations

25 Obligations generally

Australia Post has the following obligations:
(a) its commercial obligation under section 26;
(b) its community service obligations under section 27;
(c) its general governmental obligations under section 28.

26 Commercial obligation

Australia Post shall, as far as practicable, perform its functions in a manner consistent with sound commercial practice.

27 Community service obligations

(1) Australia Post shall supply a letter service.

(2) The principal purpose of the letter service is, by physical means:
(a) to carry, within Australia, letters that Australia Post has the exclusive right to carry; and
(b) to carry letters between Australia and places outside Australia.

(3) Australia Post shall make the letter service available at a single uniform rate of postage for the carriage within Australia, by ordinary post, of letters that are standard postal articles.

(4) Australia Post shall ensure:
(a) that, in view of the social importance of the letter service, the service is reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business; and
(b) that the performance standards (including delivery times) for the letter service reasonably meet the social, industrial and commercial needs of the Australian community.
(5) In this section:

*Australia* includes Christmas Island and Cocos (Keeling) Islands, but does not include any other external Territory to which this Act extends.

28  **General governmental obligations**

Australia Post shall perform its functions in a way consistent with:
(a) any general policies of the Commonwealth Government of which the directors are notified under section 28 of the *Commonwealth Authorities and Companies Act 1997*;
(b) any directions given by the Minister under section 49; and
(c) Australia’s obligations under any convention.

28A  **Australia Post may return letters received from foreign postal authorities**

(1) This section applies to letters and other postal articles received by Australia Post from a foreign postal authority, whether they are for delivery within Australia or not.

(2) Subject to subsection (3), if, under a convention, Australia is permitted to return a letter or postal article, Australia Post may return the article in accordance with the convention despite its obligations under this Division.

(3) The Minister may give written directions to the Board, consistent with the convention, about how the power to return articles should be exercised (including whether that power should be exercised in particular circumstances).

(4) The Board must ensure that Australia Post complies with any directions under subsection (3).

(5) If the Minister gives a direction under subsection (3), the Minister must 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.
Division 1A—Performance standards and audits

28B Interpretation

In this Division:

performance audit report means a report under section 28D.

prescribed performance standards has the meaning given by subsection 28C(1).

28C Performance standards to be met by Australia Post

(1) The regulations may prescribe performance standards (the prescribed performance standards) to be met by Australia Post.

(2) The prescribed performance standards must relate to:

(a) the frequency, speed or accuracy of mail delivery; or

(b) the availability or accessibility of:

   (i) post-boxes or other mail lodgement points; or

   (ii) offices of Australia Post or other places from which Australia Post products or services may be purchased.

(3) Without limiting subsection (1), the prescribed performance standards may relate to methods of determining the level of mail delivery service for a particular area.

28D Auditor-General to report on compliance with prescribed performance standards

(1) The Auditor-General must, in relation to the financial year starting on 1 July 1994 and each later financial year, audit, and report on, the extent to which, during the financial year, Australia Post met the prescribed performance standards that were in force.

(2) The audit must be conducted in accordance with the methodology that the Auditor-General determines is consistent with prevailing performance audit methodology, and a statement of the methodology used in conducting the audit must be included in the report.
(3) The Auditor-General may request Australia Post to supply information that the Auditor-General considers is reasonably necessary to perform the audit, and Australia Post must comply with the request.

(4) The Auditor-General must give the report to the Minister on or before 1 November in the next financial year.

(5) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

28E Service improvement plans

(1) If, in a performance audit report, the Auditor-General reports that Australia Post has not met a prescribed performance standard, Australia Post must, unless the Minister determines, by legislative instrument, that it is unnecessary in the circumstances, prepare a service improvement plan to ensure it meets that prescribed performance standard as soon as practicable.

(2) The service improvement plan must be given to the Minister on or before 1 March in the financial year after the financial year to which the performance audit report relates.

(3) The Minister must cause a copy of the service improvement plan to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.
Division 2—Reserved services

29 Services reserved to Australia Post etc.

(1) Subject to section 30, Australia Post has the exclusive right to carry letters within Australia, whether the letters originated within or outside Australia.

(2) The reservation of services to Australia Post under subsection (1) extends to:
   (a) the collection, within Australia, of letters for delivery within Australia; and
   (b) the delivery of letters within Australia.

(3) Australia Post also has the exclusive right to issue postage stamps within Australia.

30 Exceptions to reserved services

(1) The reserved services do not include any of the following:
   (a) the carriage of a letter weighing more than 250 grams unless the letter consists of an envelope, packet, parcel, container or wrapper containing 2 or more separate letters;
   (b) the carriage of a letter relating to goods that is sent and delivered with the goods;
   (c) the carriage of a newspaper, magazine, book, catalogue or leaflet, whether or not directed to a particular person or address and whether or not enclosed in any sort of cover;
   (d) the carriage of a letter otherwise than for reward;
   (e) the carriage of a letter within Australia for a charge or fee that is at least 4 times the then rate of postage for the carriage within Australia of a standard postal article by ordinary post;
   (g) the carriage of a letter by the sender or an officer or employee of the sender;
   (ga) the carriage of a letter from an office of the individual or organisation sending the letter to another office of that individual or organisation;
   (h) the carriage of a letter to or from:
      (i) the nearest office of Australia Post; or
(ii) another office of Australia Post authorised by it;
(ha) the carriage of a letter to an office of Australia Post where it
   is then lodged for delivery under a bulk interconnection
   service (within the meaning of section 32A);
(hb) the carriage of a letter to the provider of an aggregation
   service, for the purposes of aggregation in order to use a bulk
   interconnection service (within the meaning of section 32A);
(j) the carriage of a letter on behalf of Australia Post under an
   agreement with it;
(k) the carriage of a letter that, under the terms and conditions on
   which Australia Post supplies postal services, is not a postal
   article;
(m) the carriage of writs, warrants or other documents required or
   permitted to be served, given or sent under the practice and
   procedure of any court or tribunal;
(ma) the carriage of a letter, in the course of a document exchange
   service:
      (i) from one service centre of the service to another service
          centre of the service; or
      (ii) within a service centre of the service; or
      (iii) from a member of the service to a service centre of the
           service (subject to subsection (1C)); or
      (iv) from a service centre of the service to a member of the
           service (subject to subsections (1C) and (1D));
(n) the carriage of a letter solely by any electromagnetic or other
    non-physical means;
(p) the carriage of letters by or on behalf of a foreign country
    under a convention;
(q) any service that, under the regulations, is not reserved to
    Australia Post.

(1A) For the purpose of paragraph (1)(ga):

(a) the reference to an office of an individual or organisation
    includes a reference to any place where the individual or
    organisation carries on business or conducts operations; and

(b) a place where a business is conducted under a franchise
    agreement or arrangement is an office of the franchisee but is
    not, merely because that business is conducted there, an
    office of the franchisor; and
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Division 2  Reserved services

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(c) subject to paragraph (d), the reference to an organisation is a reference to:

(i) a body corporate; or
(ii) a partnership; or
(iii) a Department of State of the Commonwealth or of a State; or
(iv) a Department or administrative unit of the Public Service of a Territory; or
(v) a body, authority, agency or service, whether incorporated or not, established by the Commonwealth or a State or Territory, or by or under a law of the Commonwealth or a State or Territory; or
(vi) any other unincorporated body; and

(d) if a body, authority, agency or service covered by subparagraph (c)(v) is also part of a Department or administrative unit covered by subparagraph (c)(iii) or (iv), the body, authority, agency or service is taken to be an organisation that is separate from the organisation constituted by that Department or administrative unit.

(1AA) For the purposes of paragraph (1)(hb), an aggregation service is a service:

(a) that aggregates letters from different senders; and
(b) that is offered in order to allow the senders to use a bulk interconnection service (within the meaning of section 32A).

(1B) For the purposes of paragraph (1)(ma), a service centre of a document exchange service is a place conducted by, or under the control of, the provider of the service where, under the terms of the service, all persons who, under those terms, are entitled to use the service may:

(a) deposit documents for carriage by the service; and
(b) collect documents carried by the service.

(1C) Carriage of a letter between a service centre of a document exchange service and a person who is a member of the service is only covered by subparagraph (1)(ma)(iii) or (iv) if, at the time of the carriage, all of the following apply:

(a) the person chose to become a member of the service by applying directly to the provider of the service;
(b) the terms and conditions on which the service is provided
require the person to pay a fee periodically (at least annually)
to remain a member;

(c) the person has a unique identifier that:
   (i) is not a postal address; and
   (ii) does not include a street name;
   for the purposes of sending and receiving letters carried by
   the service;

(d) the person is entitled to send and receive letters carried by the
service;

(e) there is a separate receptacle at a service centre of the service
for the lodgment and collection of letters carried by the
service that are sent to the person or sent by the person;

(f) the person is a government agency, partnership, educational
   institution, health or community service provider, charity,
   religious institution or other person carrying on a business or
   other undertaking not of a private or domestic nature.

(1D) Carriage of a letter from a service centre of a document exchange
service to a person who is a member of the service is not covered
by subparagraph (1)(ma)(iv) if the sender has addressed the letter
using only a postal address.

(2) A regulation made for the purposes of paragraph (1)(q) may not
take effect earlier than the day after the last day on which the
regulation may be disallowed under section 48 of the Acts
Interpretation Act 1901.

30A Enforcement for infringement of reserved services

(1) A person shall not engage in conduct that involves an infringement
of Australia Post’s exclusive right to undertake the reserved
services.

(2) If the Federal Court is satisfied that a person has contravened
subsection (1), the Court may order the person to pay to the
Commonwealth such pecuniary penalty, in respect of each
contravention, as the Court determines to be appropriate.

(3) In determining the pecuniary penalty, the Court must have regard
to all relevant matters, including:
   (a) the nature and extent of the contravention; and

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(b) the nature and extent of any loss or damage suffered as a result of the contravention; and
(c) the circumstances in which the contravention took place; and
(d) whether the person has previously been found by the Court in proceedings under this Act to have engaged in any similar conduct.

(4) The pecuniary penalty payable under subsection (2) by a body corporate is not to exceed $250,000 for each contravention.

(5) The pecuniary penalty payable under subsection (2) by a person other than a body corporate is not to exceed $50,000 for each contravention.

(6) The Minister or the ACCC may institute a proceeding in the Federal Court for the recovery on behalf of the Commonwealth of a pecuniary penalty referred to in subsection (2).

(7) A proceeding under subsection (6) may be commenced within 6 years after the contravention.

(8) For the avoidance of doubt, the remedy in this section is in addition to that provided in section 31 of this Act.

31 Actions for infringement of reserved services etc.

(1) Where a person has engaged, or is proposing to engage, in conduct that involves, or would involve, an infringement of Australia Post’s exclusive right to undertake the reserved services, Australia Post may apply to the Federal Court for relief.

(2) The relief that may be granted includes an injunction and, at the option of Australia Post, either damages or an account of profits.

(3) Where, in the opinion of the Federal Court, it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).

(4) The power of the Federal Court to grant an injunction restraining a person from engaging in conduct may be exercised:

(a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind;
(b) whether or not the person has previously engaged in conduct of that kind; and

(c) whether or not there is imminent danger of substantial damage to Australia Post if the person engages in conduct of that kind.
Part 4—Australia Post’s operations

Division 1—Terms and conditions applying to services

32 Terms and conditions generally

(1) Subject to any express provision of this or any other Act, the terms and conditions of a service supplied by Australia Post for a person are:

(a) so far as Australia Post and the person agree on terms and conditions for the supply of the service—the agreed terms and conditions; and

(b) so far as Australia Post and the person do not agree on terms and conditions—the terms and conditions determined by the Board that are applicable to the supply of the service.

(2) Without limiting subsection (1), the terms and conditions determined by the Board may make provision with respect to:

(a) the kinds of articles that may be carried by post and the means by which different kinds of articles may be carried; and

(b) the carriage of letters and other postal articles; and

(c) rates of postage; and

(d) the payment of postage, including the issue and sale of postage stamps, the pre-stamping of postal articles and the use of franking machines; and

(e) the carriage of letters to or from an office of Australia Post; and

(f) undelivered letters and other articles (including the forfeiture and destruction of such articles).

(3) The Board shall ensure that copies of a determination made by it under this section are made available for inspection and purchase at all offices of Australia Post as soon as practicable after it is made.

(4) A contravention of subsection (3) in relation to a determination does not affect the validity of the determination.

(5) This section has effect subject to section 33 of this Act and to Part VIIA of the Trade Practices Act 1974.
32A Terms and conditions—bulk interconnection service

(1) This section applies to a service supplied by Australia Post (a bulk interconnection service) under which bulk quantities of letters are delivered within Australia at reduced rates provided that:
   (a) they are lodged at an office of Australia Post specified as mentioned in paragraph (2)(a); and
   (b) they have, before being lodged, been sorted in accordance with the terms and conditions of the service.

(2) The terms and conditions of a bulk interconnection service must:
   (a) specify the offices of Australia Post at which letters must be lodged for delivery under the service; and
   (b) allow letters to be lodged for delivery under the service at any office so specified; and
   (c) provide for the rate reduction mentioned in subsection (1) to include a component that is Australia Post’s estimate of the average transport costs per letter avoided by Australia Post in respect of letters lodged for delivery under the service.

(3) The terms and conditions of a bulk interconnection service are not required to be limited to the matters mentioned in this section.

32B Regulations may provide for inquiries into certain disputes about bulk services

(1) The regulations may provide:
   (a) for the ACCC:
      (i) to inquire into a dispute, between Australia Post and a person who is obtaining or who wishes to obtain a rate reduction for the delivery of bulk quantities of letters by Australia Post in return for performing functions in relation to the letters that may be performed by Australia Post, about the terms and conditions on which a rate reduction is or would be provided to the person (including the amount of the rate reduction); and
      (ii) to make a recommendation to the Minister about those terms and conditions; and
   (b) procedures for persons to notify the ACCC of a dispute of the kind referred to in paragraph (a); and
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Division 1  Terms and conditions applying to services

Section 32C

(c) for the conduct of inquiries, and for the making of recommendations, provided for under paragraph (a); and

(d) for the provision of information by Australia Post to the ACCC in connection with the exercise of powers conferred on the ACCC under paragraph (a); and

(da) for the ACCC to use for the purposes described in paragraph (a) information obtained under Part VlIA of the Trade Practices Act 1974;

(e) for the matters to be taken into account by the ACCC in exercising powers conferred under paragraph (a); and

(f) that, despite section 49, the Minister may, if the Minister thinks fit and after consultation with the Board, direct Australia Post to act in accordance with a recommendation made by the ACCC under subparagraph (a)(ii); and

(g) for the matters to be taken into account by the Minister in deciding whether to give a direction provided for under paragraph (f); and

(h) for the notification of:
   (i) directions given by the Minister as provided for under paragraph (f); and
   (ii) decisions of the Minister not to give such directions; and
   (i) in relation to the operation of directions given by the Minister as provided for under paragraph (f).

(1A) Regulations made under paragraph (1)(f) must not authorise the making of directions that are inconsistent with subsection 32A(2).

(2) The regulations may provide as specified in subsection (1) in spite of anything in the Trade Practices Act 1974.

32C  Terms and conditions—incoming overseas mail service

(1) This section applies to a service supplied by Australia Post (an incoming overseas mail service) under which letters received by Australia Post from a country or place outside Australia are carried and delivered within Australia.

(2) The terms and conditions of an incoming overseas mail service must, so far as they relate to charges for the service, comply with whichever of the following paragraphs applies:
(a) if a convention applies to the service—the charges must be determined in accordance with the convention;
(b) if paragraph (a) does not apply—the charges must be the same as those that would apply to the provision of a like service by Australia Post for the carriage and delivery within Australia of letters collected within Australia.

(3) The terms and conditions of an incoming overseas mail service are not required to be limited to the matters mentioned in this section.

32D  Exemption from Part IIIA of the Trade Practices Act

Part IIIA of the Trade Practices Act 1974 does not apply in relation to the supply of a service (including a bulk interconnection service and an incoming overseas mail service) by Australia Post.

33  Certain postage charges subject to Ministerial review

(1) This section applies to the rate of postage for the carriage within Australia of standard postal articles by ordinary post.

(2) Before making a determination under section 32 fixing or varying rates of postage to which this section applies, the Board shall give the Minister written notice of the proposed determination.

(3) The Minister may, within 30 days after receiving notice of a proposed determination, give the Board written notice disapproving it.

(4) In exercising powers under subsection (3), the Minister shall have regard to:
   (a) Australia Post’s obligations under this Act; and
   (aa) changes in the Consumer Price Index as published by the Australian Statistician from time to time; and
   (b) any other matters the Minister considers appropriate.

(5) The Board may make a determination under section 32 fixing or varying rates of postage to which this section applies only if 30 days have elapsed since the Minister received notice of it and the Minister has not, within that period, given the Board a notice disapproving it.
33A Postage stamps not to be sold etc. for less than usual retail price

(1) A person authorised by Australia Post to sell postage stamps must not:
   (a) sell a valid Australian stamp for less than its usual retail price; or
   (b) give away a valid Australian stamp free of charge.

(2) Australia Post must not sell a valid Australian stamp for less than its usual retail price unless the sale is pursuant to an agreement between Australia Post and another person under which the person buys the stamp for the purpose of re-selling it at its usual retail price.

(3) If a person has engaged, or is proposing to engage, in conduct that involves, or would involve, an infringement of subsection (1), Australia Post may apply to the Federal Court for relief.

(4) The relief that may be granted includes an injunction and, at the option of Australia Post, either damages or an account of profits.

(5) The Federal Court may grant an interim injunction pending determination of an application under subsection (3) if, in the Court’s opinion, it is desirable to do so.

(6) The power of the Federal Court to grant an injunction restraining a person from engaging in conduct may be exercised:
   (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
   (b) whether or not the person has previously engaged in conduct of that kind; and
   (c) whether or not there is imminent danger of substantial damage to Australia Post if the person engages in conduct of that kind.

(6A) The following conduct is authorised for the purposes of subsection 51(1) of the Trade Practices Act 1974:
   (a) making and carrying out an agreement described in subsection (2) of this section;
   (b) applying to the Federal Court under subsection (3) of this section.
(7) For the purposes of the application of this section to a postage stamp that consists of an imprinted or printed mark (for example a mark produced by a franking machine):
   (a) the mark is taken to be issued within Australia by Australia Post if Australia Post has authorised the use of the mark for the purpose of paying postage for postal articles; and
   (b) the mark is sold if a charge is made for the imprinting or printing of the mark onto the cover, or onto a label to be fixed to the cover, of a postal article; and
   (c) the usual retail price of the mark is the amount Australia Post usually charges for the imprinting or printing of the mark.

(8) In this section:

Australia Post does not include an agent of Australia Post.

valid Australian stamp means:
   (a) a postage stamp issued within Australia by Australia Post that is still valid; or
   (b) an envelope, or other postal stationery, issued within Australia by Australia Post on which a postage stamp that is still valid is imprinted.

34 Immunity from certain actions

(1) An action or proceeding does not lie against Australia Post or any other person in relation to any loss or damage suffered, or that may be suffered, by a person because of any act or omission (whether negligent or otherwise) by or on behalf of Australia Post in relation to the carriage of a letter or other article by means of the letter service.

(2) Subsection (1) does not apply if Australia Post provides the sender with a receipt for the article.
Division 2—Corporate plans

38 Matters to be considered in setting financial target

In preparing or revising a financial target for inclusion in a corporate plan under section 17 of the *Commonwealth Authorities and Companies Act 1997*, the Board shall have regard to:

(a) the need to earn a reasonable rate of return on Australia Post’s assets;

(b) the need to maintain the extent of the Commonwealth’s equity in Australia Post;

(c) the expectation of the Commonwealth that Australia Post will pay a reasonable dividend;

(d) the need to maintain Australia Post’s financial viability;

(e) the need to maintain a reasonable level of reserves, especially to make provision for:
   (i) any estimated future demand for postal services; and
   (ii) any need to improve the accessibility of, and performance standards for, the letter service;

(f) any other commercial matters the Board considers appropriate;

(g) the cost of carrying out Australia Post’s community service obligations;

(h) the cost of performing Australia Post’s functions in a manner consistent with the general policies of the Commonwealth Government of which the directors are notified under section 28 of the *Commonwealth Authorities and Companies Act 1997*;

(j) the cost of implementing any directions given by the Minister under section 49; and

(k) the cost of any other obligations of Australia Post under this or any other Act that require it to act otherwise than in accordance with normal commercial practice.

40 Minister may direct certain variations of corporate plans

(1) If the Minister receives a corporate plan for Australia Post under section 17 of the *Commonwealth Authorities and Companies Act*
1997, the Minister may, within 60 days and after consultation with the Board, direct the Board to vary either or both of the following:

(a) the statement included in the plan of the strategies and policies that Australia Post is to follow to carry out its community service obligations;
(b) a financial target under a plan.

(2) In exercising powers under paragraph (1)(b), the Minister shall have regard to:
(a) the matters referred to in section 38 (other than the matter referred to in paragraph (f)); and
(b) any other matters the Minister considers appropriate.

(3) A direction under subsection (1) shall be in writing and shall set out the Minister’s reasons for the direction.

(4) If the Minister gives a direction under subsection (1), the Minister must 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.

(5) Australia Post must comply with a direction under subsection (1) and must inform the Minister of the changes made to the plan to comply with the direction.
Part 4  Australia Post’s operations
Division 3  Other accountability requirements

Section 43

Division 3—Other accountability requirements

43 Extra general matters to be included in annual reports

(1) The annual report on Australia Post under section 9 of the Commonwealth Authorities and Companies Act 1997 must also:

(a) include the objectives of Australia Post and its subsidiaries under the corporate plan; and

(b) include an outline of:

(i) the strategies and policies of Australia Post and its subsidiaries that are set out in the corporate plan; and

(ii) the financial targets and non-financial performance measures that are set out in the corporate plan; and

(c) include an assessment of the extent to which the operations of Australia Post and its subsidiaries during the year have achieved those objectives; and

(d) include an outline of the strategies and policies that Australia Post is following to carry out its community service obligations; and

(e) if the Minister has, under subsection 40(1), directed the Board to vary the statement included in the corporate plan of Australia Post’s strategies and policies to carry out its community service obligations—include an outline of the strategies and policies that the Minister directed the Board to vary; and

(f) include an assessment of the appropriateness and adequacy of the strategies and policies that Australia Post is following to carry out its community service obligations; and

(fa) include a statement about compliance, during the year, with the performance standards referred to in paragraph 27(4)(b) (these standards relate to Australia Post’s community service obligations); and

(g) include particulars of:

(i) any general policies of the Commonwealth Government of which the directors are notified under section 28 of the Commonwealth Authorities and Companies Act 1997 that are applicable to the year; and
(ii) any directions given by the Minister under section 49 that are applicable to the year; and

(h) deal specifically with the effect on Australia Post’s operations during the year of:
   (i) each such policy and direction; and
   (ii) any other obligations of Australia Post under this or any other Act that require it to act otherwise than in accordance with normal commercial practice; and

(j) if the Minister has, under subsection 33(3), disapproved a proposed determination by the Board fixing or varying rates of postage—set out particulars of the proposed determination; and

(k) include particulars of:
   (i) companies that Australia Post and its subsidiaries formed, and companies in whose formation Australia Post and its subsidiaries participated, during the year;
   (ii) companies that became or ceased to be subsidiaries of Australia Post and its subsidiaries during the year; and
   (iii) interests in partnerships, trusts, unincorporated joint ventures and other arrangements for the sharing of profits that Australia Post and its subsidiaries acquired or disposed of during the year; and

(m) include an outline of:
   (i) shares that Australia Post subscribed for, purchased or disposed of during the year;
   (ii) other business interests that Australia Post and its subsidiaries acquired or disposed of during the year; and
   (iii) other activities of Australia Post’s subsidiaries during the year; and

(n) include an outline of the exercise during the year by Australia Post and its employees of any powers to open, or examine the contents of, articles carried by post; and

(o) include, in relation to:
   (i) each subsection of section 90J (other than subsections 90J(2) and (4)); and
   (ii) each subsection of section 90K;
   a record of the number of times during the year that information or documents were disclosed in reliance on that
subsection and of the persons, authorities or bodies to which information or documents were so disclosed.

(2) In this section:

\textit{corporate plan} means the corporate plan for Australia Post under section 17 of the \textit{Commonwealth Authorities and Companies Act 1997}.

\textbf{44 Extra financial matters to be included in annual reports}

(1) The annual report on Australia Post under section 9 of the \textit{Commonwealth Authorities and Companies Act 1997} must also:

\begin{enumerate}
  \item specify the financial targets applicable to the year under the corporate plan; and
  \item if the Minister has, under subsection 40(1), directed the Board to vary a financial target—specify the financial target that the Minister directed the Board to vary and set out the reasons given to the Board by the Minister for the direction; and
  \item include an assessment of Australia Post’s progress in achieving the financial targets under the corporate plan; and
  \item specify the dividend paid or proposed to be paid to the Commonwealth for the year; and
  \item if the Minister has, under subsection 54(3), directed the payment of a dividend, or a different dividend, for the year—specify the recommendation made by the Board to the Minister in relation to the dividend for the year; and
  \item include particulars of any amounts of capital repaid to the Commonwealth during the year; and
  \item include an assessment of:
    \begin{enumerate}
      \item the cost of carrying out Australia Post’s community service obligations;
      \item the cost of performing Australia Post’s functions in a manner consistent with the general policies of the Commonwealth Government of which the directors are notified under section 28 of the \textit{Commonwealth Authorities and Companies Act 1997}; and
      \item the cost of implementing any directions given by the Minister under section 49; and
    \end{enumerate}
\end{enumerate}
(iv) the cost of any other obligations of Australia Post under this or any other Act that require it to act otherwise than in accordance with normal commercial practice; and

(h) include the financial information that the Minister requests in relation to each of the following categories of Australia Post’s activities:
   (i) the reserved services (taken as a whole);
   (ii) its other activities (taken as a whole).

(2) A request under paragraph (1)(h) must be made by notice in writing given to Australia Post.

(3) In this section:

   corporate plan means the corporate plan for Australia Post under section 17 of the Commonwealth Authorities and Companies Act 1997.

49 Minister may give directions to the Board

(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 Australia Post’s functions 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:
   (a) rates of postage; or
   (b) amounts to be charged for work done, or services, goods or information supplied, by Australia Post.

(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.

50 Australia Post and Board not otherwise subject to government direction

Except as otherwise provided by or under this or any other Act, Australia Post and its Board are not subject to direction by or on behalf of the Commonwealth Government.
Part 4A—Monitoring of Australia Post

Division 2—Role of the ACCC

50H ACCC may require Australia Post to keep records

(1) The ACCC may require Australia Post to keep records:
   (a) about the matters specified by the ACCC; and
   (b) in the manner and form specified by the ACCC.

(2) Without limiting subsection (1), the ACCC must require Australia Post to keep records about its reserved services.

(3) Australia Post must give the ACCC:
   (a) copies of records kept under subsections (1) and (2); or
   (b) details about information contained in those records;
   on request by the ACCC:
   (c) in the manner and form specified by the ACCC; and
   (d) within the time specified by the ACCC.

(4) The ACCC may only require Australia Post to keep records under subsection (1) about matters that are relevant to the following:
   (a) the performance of the ACCC’s functions in relation to prices surveillance and to section 32B of this Act;
   (b) the financial relationship between parts of Australia Post’s business that relate to reserved services and parts that do not;
   (c) the financial relationship between different parts of Australia Post’s business that relate to reserved services.

50I ACCC may publish reports analysing records

The ACCC may prepare and publish reports analysing information given to the ACCC under subsection 50H(3).

50J Minister may direct ACCC to report

(1) The Minister may direct the ACCC to do either or both of the following:
   (a) prepare;
(b) publish;
   a report analysing the information in records kept under
   subsections 50H(1) and (2).

(2) The ACCC must comply with a direction under subsection (1).

50K Publication of confidential information

A report published under section 50I or 50J may include
information that Australia Post claims is commercial-in-confidence
information if the ACCC is satisfied:
   (a) that the claim is not justified; or
   (b) that it is in the public interest to publish the information.
Part 5—Finance

51 Determination of Australia Post’s initial capital under Act

(1) The Minister shall, as soon as practicable after the commencement of this Act and after consultation with the Board, determine the amount of Australia Post’s initial capital under this Act.

(2) In making the determination, the Minister shall have regard to any relevant advice that the Board has given to the Minister.

(3) The determination shall be made in writing.

52 Australia Post’s capital

(1) Australia Post’s capital is equal to the sum of:
   (a) the amount of Australia Post’s initial capital under this Act (as determined by the Minister under subsection 51(1));
   (b) any part of Australia Post’s liabilities to the Commonwealth at the commencement of this Act that is subsequently converted into capital at the direction of the Minister;
   (c) any amounts paid to Australia Post after the commencement of this Act out of money appropriated by the Parliament for the purpose of providing capital; and
   (d) any part of Australia Post’s reserves that, after the commencement of this Act, is converted into capital at the direction of the Minister after consultation with the Board; less any amounts of capital repaid under subsection (2).

(2) Interest is not payable to the Commonwealth on Australia Post’s capital, but the capital is repayable to the Commonwealth at such times, and in such amounts, as the Minister directs after consultation with the Board.

(3) In giving such a direction, the Minister shall have regard to any advice that the Board has given to the Minister in relation to Australia Post’s financial affairs.

(4) A direction under this section shall be given in writing.
53 Revaluation of assets

The Board shall ensure that, at least once every 5 years, Australia Post’s assets are revalued in accordance with normal commercial practice.

54 Payments of dividends to Commonwealth

(1) The Board shall, within 4 months after the end of each financial year, by written notice to the Minister, recommend that Australia Post pay a specified dividend, or not pay a dividend, to the Commonwealth for the financial year.

(2) In making the recommendation, the Board shall have regard to the matters referred to in section 38 (other than the matter referred to in paragraph (a)).

(3) The Minister shall, within 45 days after receiving the recommendation, by written notice to the Board, either:
   (a) approve the recommendation; or
   (b) direct the payment of a dividend or a different specified dividend, as the case requires.

(4) In exercising powers under subsection (3), the Minister shall have regard to:
   (a) the matters referred to in section 38 (other than the matters referred to in paragraphs (a) and (f)); and
   (b) any other matters the Minister considers appropriate.

(4A) If the Minister gives a direction under paragraph (3)(b), the Minister must 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.

(5) Australia Post’s dividend for a financial year shall not exceed its profit for the year, after provision has been made for income tax.

(6) Subject to section 55, the dividend payable for a financial year shall be paid within 6 months after the end of the financial year or such further period as the Minister directs after consultation with the Board.
(7) In exercising powers under subsection (6), the Minister shall have regard to any recommendation of the Board in relation to the time of payment of the dividend.

(8) A direction under subsection (6) shall be given in writing.

55 Interim dividends

(1) The Board must, within 60 days after 31 December in each financial year, by written notice to the Minister, recommend that Australia Post pay a specified amount, or not pay any amount, to the Commonwealth on account of the dividend that may become payable under section 54 for the financial year.

(3) The Minister shall, within 45 days after receiving the recommendation, by written notice to the Board, either:
   (a) approve the recommendation; or
   (b) give directions to the Board in relation to the payment of amounts to the Commonwealth on account of the dividend that may become payable under section 54 for the financial year.

(4) In exercising powers under subsection (3), the Minister shall have regard to:
   (a) the matters referred to in section 38 (other than the matters referred to in paragraphs (a) and (f)); and
   (b) any other matters the Minister considers appropriate.

(5) If the Minister gives a direction under paragraph (3)(b), the Minister must 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.

56 Reimbursement of cost of complying with directions

(1) Where Australia Post satisfies the Minister that it has suffered financial detriment as a result of complying with a direction given by the Minister under section 49, Australia Post is entitled to be reimbursed by the Commonwealth the amount that the Minister determines, after consultation with the Board, to be the amount of the financial detriment.
(2) In making such a determination, the Minister shall have regard to any advice that the Board has given to the Minister as to the amount of the financial detriment.

(3) The reference in subsection (1) to suffering financial detriment includes a reference to:
   (a) incurring costs that are greater than would otherwise have been incurred; or
   (b) forgoing revenue that would otherwise have been received.

(4) A determination under subsection (1) shall be made in writing.

56A Recovery of costs incurred by the ACCC

Minister may estimate costs for financial year

(1) The Minister may, during a financial year:
   (a) estimate the ACCC’s costs for that financial year; and
   (b) notify Australia Post of the Minister’s estimate.

Minister may determine actual costs for previous financial year

(2) The Minister may, in a financial year, determine the ACCC’s actual costs for the previous financial year.

Minister may direct Australia Post to pay adjusted estimated costs to ACCC

(3) The Minister may, in a financial year, direct Australia Post to pay to the ACCC, on behalf of the Commonwealth, the Minister’s estimate of the ACCC’s costs for that financial year, adjusted in accordance with subsection (7) or (8).

Adjustment for ACCC

(7) If:
   (a) in the previous financial year, the Minister directed Australia Post to pay an amount to the ACCC; and
   (b) the Minister determines that the ACCC’s actual costs for that previous financial year exceed the costs the Minister estimated for the ACCC that year;

the amount the Minister may direct Australia Post to pay to the ACCC under subsection (3) is increased by that excess.
(8) If:

(a) in the previous financial year, the Minister directed Australia Post to pay an amount to the ACCC; and

(b) the Minister determines that the ACCC’s actual costs for that previous financial year fall short of the costs the Minister estimated for the ACCC that year;

the amount the Minister may direct Australia Post to pay to the ACCC under subsection (3) is reduced by that shortfall.

Note: Because the ACCC is a prescribed agency for the purposes of the Financial Management and Accountability Act 1997, its officials are required to deal with amounts received under subsection (3) in accordance with that Act.

Costs

(9) In this section:

**ACCC’s costs** means the costs of the ACCC in performing its functions under this Act.

**costs** means an amount that, in accordance with accrual-based accounting principles, is treated as a cost.

### 57 Expenditure of Australia Post’s money

(1) Australia Post’s money may be expended only:

(a) in payment of amounts properly payable in the performance of its functions;

(b) in payment of remuneration and allowances payable under this Act; and

(c) in making any other payments that Australia Post is authorised or required to make by or under this or any other Act.

(2) Subsection (1) does not prevent investment of surplus money of Australia Post under section 19 of the Commonwealth Authorities and Companies Act 1997.

### 60 Borrowings from Commonwealth

The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend
money to Australia Post on such terms and conditions as the Minister for Finance determines in writing.

61 Borrowings from persons other than Commonwealth

(1) Australia Post may borrow money from persons other than the Commonwealth.

(2) Money may be borrowed wholly or partly in foreign currency.

62 Security for borrowings

Australia Post may give security over the whole or any part of its assets for the due performance of obligations incurred by it under section 61.

63 Liability to taxation

(1) Australia Post is subject to taxation under the laws of the Commonwealth and the States and Territories.

(2) Australia Post is not a public authority for the purposes of section 50-25 of the Income Tax Assessment Act 1997.

(3) Subsection (1) has effect subject to the regulations and to Division 2 of Part 9 of the Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989.
Part 6—Directors of Australia Post

Division 1—Meetings of the Board

64 Interpretation—meaning of the required minimum number of directors

In this Division:

the required minimum number of directors means:

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

65 Times and places of meetings

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

66 Presiding at meetings

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

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

67 Quorum and voting at meetings

(1) At a meeting of the Board:

(a) subject to subsection (2), the required minimum number of directors constitute a quorum;
(b) a question shall be decided by a majority of votes of the directors present and voting; and
(c) the director presiding has a deliberative vote and, if there is an equality of votes, also has a casting vote.

(2) If, because of section 273 of the *Commonwealth Authorities and Companies Act 1997*, 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.

### 68 Conduct of meetings

(1) The Board may, subject to this Division, regulate its proceedings as it considers appropriate.

(2) Without limiting subsection (1), 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.

(3) A director who participates in a meeting of the Board under a permission under subsection (2) shall be taken to be present at the meeting.

(4) Without limiting subsection (1), the Board may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

### 69 Resolutions without meetings

(1) If 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.

(2) If a resolution is, under subsection (1), 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.
(3) For the purposes of subsection (1), 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.

70 Minutestm

The Board shall keep minutes of its proceedings.

71 Disclosure not required in relation to publicly available goods or services

Sections 27F and 27J of the Commonwealth Authorities and Companies Act 1997 do not apply to a matter relating to the supply of goods or services for a director if the goods or services are, or are to be, available to members of the public on the same terms and conditions.
Division 2—Provisions relating to directors other than the Managing Director

72 Division applies to directors other than Managing Director

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

73 Appointment of directors

(1) The directors are to be appointed by the Governor-General on the nomination of the Minister.

(2) The Minister must consult with the Chairperson before nominating a person for appointment as a director.

(3) In nominating persons for appointment as directors, the Minister must have regard to the need to ensure that the directors collectively possess an appropriate balance of expertise and, in particular, include a person who the Minister, after consultations with representatives of industrial organisations representing employees, is satisfied has an appropriate understanding of the interests of employees.

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

74 Term of appointment

(1) A director holds office, subject to this Act, for such term as is specified in the instrument of appointment.

(2) The term specified must be 5 years or less.

75 Directors hold office on part time basis

Directors hold office on a part time basis.

76 Remuneration and allowances

(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 Tribunal Act 1973*.

### 77 Leave of absence

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

### 78 Resignation

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

### 79 Termination of appointment

(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 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; 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 Australia Post has been unsatisfactory for a significant period of time; and
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Provisions relating to directors other than the Managing Director

Division 2

Section 80

(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) the Minister is of the opinion that the Board has failed to comply with an obligation under section 15 or 16, or subsection 17(5), of the Commonwealth Authorities and Companies Act 1997; and
   (b) the Minister proposes that the appointment of all directors or specified directors be terminated;
the Governor-General is to terminate the appointment of all directors, or the specified directors, as the case may be.

80 Terms and conditions of appointment not provided for by Act

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.

81 Deputy Chairperson

(1) When:
   (a) the office of Chairperson is vacant; 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 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.

82 Acting appointments

(1) The Minister may appoint a director to act as Deputy Chairperson:
   (a) during a vacancy in the office of Deputy Chairperson; 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 22(d):
   (a) during a vacancy in the office of such a director; 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 3—Provisions relating to the Managing Director

83  Appointment

(1) The Managing Director is to be appointed by the Board.

(2) The Board must not appoint the Chairperson, the Deputy Chairperson or a director referred to in paragraph 22(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.

84  Managing Director holds office during Board’s pleasure

The Managing Director holds office during the Board’s pleasure.

85  Managing Director holds office on full time basis

The Managing Director holds office on a full time basis.

86  Terms and conditions of appointment not provided for by Act

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.

87  Disclosure of interests

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.

88  Acting Managing Director

(1) The Board may appoint a director or another person to act as Managing Director:

(a) during a vacancy in the office of Managing Director; or
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(b) during any period, or during all periods, when the Managing Director is absent from duty or from 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.
Part 7—Australia Post’s staff

89  Staff

(1) Australia Post may engage such employees as are necessary for the performance of its functions.

(2) The terms and conditions of employment shall be determined by Australia Post.

90  Australia Post as employer

Australia Post 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.
Part 7A—Application of State and Territory laws

90A Australia Post not entitled to immunities or privileges of Commonwealth

For the purposes of the laws of the Commonwealth, or of a State or Territory, Australia Post is not entitled to any immunity or privilege of the Commonwealth except so far as express provision is made by this Act or any other law of the Commonwealth, or by a law of the State or Territory.

90B Discriminatory laws do not apply

A law of a State or Territory does not apply to Australia Post if, apart from this section, it would:
(a) apply to Australia Post; and
(b) so apply as to discriminate against Australia Post.

90C State or Territory laws do not apply retrospectively before 1 January 1991

A law of a State or Territory that, apart from this section, would:
(a) operate retrospectively back to a time before 1 January 1991; and
(b) as so operating, apply to Australia Post; only applies to Australia Post on and after that day.

90D Laws relating to buildings, structures and facilities do not apply

(1) This section applies to a building that is the property of Australia Post if, immediately before 1 January 1991:
(a) the building was the property of Australia Post and was occupied or in use by Australia Post; or
(b) the building was under construction, alteration or demolition by, or on behalf of, Australia Post.

(2) While this section applies to the building, laws of the States and Territories that deal with any of the following matters do not apply to the building:
(a) the standards applicable to the design or the construction of buildings;
(b) the approval of the construction of buildings;
(c) the occupancy or use of buildings;
(d) the alteration or demolition of buildings.

(3) In this section:

*building* includes a structure or facility.
Part 7B—Dealing with articles and their contents

Division 1—Interpretation

90E Definitions

In this Part:

**ASIO** means the Australian Security Intelligence Organisation.

**ASIO Act** means the *Australian Security Intelligence Organisation Act 1979*.

**authorised ASIO officer** has the meaning given by section 90F.

**authorised discloser** has the meaning given by section 90FA.

**authorised examiner** has the meaning given by section 90FB.

**business day** means a day that is not a Saturday, Sunday or a public holiday in the place concerned.

**compliance agency** means any of the following:

(a) Customs;
(b) the Australian Quarantine and Inspection Service;
(c) an entity for which a quarantine inspection officer of a prescribed State/Territory exercises quarantine powers or performs quarantine functions;
(d) a consumer protection agency;
(e) another prescribed agency.

**consumer protection agency** means any of the following:

(a) the ACCC;
(b) the Australian Securities and Investments Commission;
(c) the Office of Fair Trading of New South Wales;
(d) the Office of Fair Trading and Business Affairs of Victoria;
(e) the Department of Fair Trading of Queensland;
(f) the Department of Consumer and Employment Protection of Western Australia;
(g) the Office of Consumer and Business Affairs of South Australia;
(h) the Office of Consumer Affairs and Fair Trading of Tasmania;
(i) the Office of Fair Trading of the Australian Capital Territory;
(j) the Office of Consumer and Business Affairs of the Northern Territory;
(k) another prescribed agency.

c consumer protection law means:
   (a) the Trade Practices Act 1974; or
   (b) the Australian Securities and Investments Commission Act 2001; or
   (c) the Corporations Act 2001; or
   (d) a State Fair Trading Act; or
   (e) a State Sale of Goods Act; or
   (f) another prescribed Act.

c customs duty means any duty of customs imposed under a law of the Commonwealth.

c customs officer means an Officer of Customs within the meaning of the Customs Act 1901.

c employee of Australia Post, when used in this Division (other than section 90FB) or in Division 2, 4 or 5, includes a person who performs services for or on behalf of Australia Post and an employee of such a person.

c GST has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999.

c information includes suspicions, suppositions or opinions.

in the course of post, in relation to an article, means the article:
   (a) is being carried by post; or
   (b) has been collected or received by Australia Post for carriage by post, but has not been delivered by Australia Post.

prescribed State/Territory means any of the following that is prescribed by regulations:
   (a) a State;
Part 7B Dealing with articles and their contents

Division 1 Interpretation

Section 90E

(b) the Australian Capital Territory;
(c) the Northern Territory.

**quarantine inspection officer** of a prescribed State/Territory means a person who exercises quarantine powers or performs quarantine functions under a law of the prescribed State/Territory.

**quarantine material** means anything in relation to which a quarantine inspection officer of a prescribed State/Territory may exercise quarantine powers or perform quarantine functions under a law of the prescribed State/Territory.

**scam mail** means an article that it is reasonable to suspect is one of a batch sent in breach of a consumer protection law.

**specially protected** has the meaning given by subsections 90G(2) and (3).

**State Fair Trading Act** means the following Acts for each State and Territory or another prescribed Act:

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<thead>
<tr>
<th>Item</th>
<th>State or Territory</th>
<th>Act</th>
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<tbody>
<tr>
<td>1</td>
<td>New South Wales</td>
<td>Fair Trading Act 1987</td>
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<td>2</td>
<td>Victoria</td>
<td>Fair Trading Act 1999</td>
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<tr>
<td>3</td>
<td>Queensland</td>
<td>Fair Trading Act 1989</td>
</tr>
<tr>
<td>4</td>
<td>South Australia</td>
<td>Fair Trading Act 1987</td>
</tr>
<tr>
<td>5</td>
<td>Western Australia</td>
<td>Fair Trading Act 1987</td>
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<td>6</td>
<td>Tasmania</td>
<td>Fair Trading Act 1990</td>
</tr>
<tr>
<td>7</td>
<td>Northern Territory</td>
<td>Consumer Affairs and Fair Trading Act 1990</td>
</tr>
<tr>
<td>8</td>
<td>Australian Capital Territory</td>
<td>Fair Trading Act 1992</td>
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**State Sale of Goods Act** means the following Acts for each State and Territory or another prescribed Act:

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<th>State or Territory</th>
<th>Act</th>
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<tbody>
<tr>
<td>1</td>
<td>New South Wales</td>
<td>Sale of Goods Act 1923</td>
</tr>
<tr>
<td>2</td>
<td>Victoria</td>
<td>Goods Act 1958</td>
</tr>
<tr>
<td>3</td>
<td>Queensland</td>
<td>Sale of Goods Act 1896</td>
</tr>
<tr>
<td>4</td>
<td>South Australia</td>
<td>Sale of Goods Act 1895</td>
</tr>
</tbody>
</table>

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Dealing with articles and their contents  Part 7B  
Interpretation  Division 1  
Section 90F

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<tr>
<th>Item</th>
<th>State or Territory</th>
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<tr>
<td>5</td>
<td>Western Australia</td>
<td>Sale of Goods Act 1895</td>
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<tr>
<td>6</td>
<td>Tasmania</td>
<td>Sale of Goods Act 1896</td>
</tr>
<tr>
<td>7</td>
<td>Northern Territory</td>
<td>Sale of Goods Act 1972</td>
</tr>
</tbody>
</table>

*taxable importation* has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

*Universal Postal Union* means the specialised agency of the United Nations established in accordance with Articles 57 and 63 of the United Nations Charter.

*UPU instrument* means any Act, Additional Protocol, regulation, agreement, resolution, decision, recommendation, formal opinion or other instrument made under the authority of the Congress of the Universal Postal Union.

*wine tax* has the same meaning as in the *A New Tax System (Wine Equalisation Tax) Act 1999*.

**90F Meaning of authorised ASIO officer**

(1) For the purposes of Division 2, an *authorised ASIO officer* is an officer or employee of ASIO authorised in writing by a person mentioned in subsection (2) to receive disclosures under this Part.

(2) These are the persons who may give an authorisation:

(a) the Director-General of Security;

(b) an officer or employee of ASIO authorised in writing by the Director-General of Security to give authorisations for the purposes of this section.

**90FA Meaning of authorised discloser**

For the purposes of a provision of Division 2, an *authorised discloser* is an employee of Australia Post appointed in writing by Australia Post to make disclosures under that provision.
Section 90FB

90FB Meaning of authorised examiner

(1) For the purposes of a provision of Division 3, an authorised examiner is a person appointed under subsection (2) or (3) to exercise powers under that provision.

(2) Australia Post may, by writing, appoint an employee of Australia Post to exercise powers under a provision of Division 3 (including section 90P).

(3) Australia Post may, by writing, appoint a person who is not an employee of Australia Post to exercise powers under section 90P.
Division 2—Limits on use or disclosure of information and
documents

Subdivision A—Use or disclosure by current employees of
Australia Post

90G  Application of Subdivision

(1) This Subdivision applies to a person who is an employee of
Australia Post and to information or a document acquired or
received by the person if:
   (a) the person acquired or received the information or document
in the course of his or her employment as an employee of
Australia Post; and
   (b) the information or document:
      (i) is, or relates to, an article, or some or all of the contents
or substance of an article, that has been carried by post
or is in the course of post; or
      (ii) relates to services supplied, or intended to be supplied,
to another person by Australia Post; or
      (iii) relates to the affairs or personal particulars (including
name or address) of another person.

(2) Subject to subsection (3), the information or document is specially
protected if subparagraph (1)(b)(i) is satisfied in relation to the
information or document, whether or not subparagraph (1)(b)(ii) or
(iii) is also satisfied in relation to it.

(3) The information or document is not specially protected if:
   (a) in the case of information—the information is clearly visible
on, or through, the outside of the cover of the article; or
   (b) in the case of a document—the document consists of the
outside of the cover of the article.

90H  Prohibition on use or disclosure by current employees

(1) For the purposes of this section, the use or disclosure of the
information or document by the person is prohibited conduct if the
use or disclosure is not permitted by section 90J, 90K or 90L.
Part 7B  Dealing with articles and their contents
Division 2  Limits on use or disclosure of information and documents

Section 90J

(2) If the person engages in prohibited conduct, the person is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

(3) For the purposes of a prosecution for an offence against subsection (2) relating to the use or disclosure of the information or document:

(a) the use or disclosure is to be taken not to have been permitted by section 90J, 90K or 90L unless the defendant presents or points to evidence that suggests a reasonable possibility that the use or disclosure was permitted by a provision (the authorising provision) of one of those sections; and

(b) if the defendant does so produce or point to evidence—the use or disclosure is to be taken to be permitted by the section that contains the authorising provision unless the prosecution proves, beyond reasonable doubt, that the use or disclosure was not permitted by the authorising provision.

90J Permitted use or disclosure whether or not information or document is specially protected

Application of section

(1) This section applies to the use or disclosure of the information or document whether or not it is specially protected.

Disclosure in performance of duties

(2) The person may use or disclose the information or document in the performance of duties as an employee of Australia Post.

Disclosure under warrants

(3) The person may disclose the information or document as required by or under a warrant issued under a law of the Commonwealth or of a State or Territory.

Disclosure as a witness

(4) The person may disclose the information or document as a witness summoned to give evidence, or to produce documents, in a court of law.

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Disclosure under a law of the Commonwealth

(5) The person may disclose the information or document as required by or under a law of the Commonwealth.

Disclosure under certain laws establishing Commissions

(6) The person may disclose the information or document as required by or under:
   (a) the New South Wales Crime Commission Act 1985 of New South Wales; or
   (b) the Independent Commission Against Corruption Act 1988 of New South Wales; or
   (c) the Crime and Misconduct Act 2001 of Queensland; or
   (d) any other prescribed law of a State or Territory that establishes a Commission or other body to conduct investigations or inquiries.

Disclosure under Australian Crime Commission legislation

(6A) The person may disclose the information or document as required by or under a law of a State if the Australian Crime Commission performs a duty or function, or exercises a power, under that law in accordance with section 55A of the Australian Crime Commission Act 2002.

Disclosure to reduce threat to life or health

(7) The person may disclose the information or document to an officer or employee of a police force or service, fire service, ambulance service or other organisation providing emergency services if the person believes, on reasonable grounds, that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of a person.

Disclosure of suspicions to authorised ASIO officers

(8) The person may disclose the information to an authorised ASIO officer if:
   (a) the person is an authorised discloser; and
   (b) the information is a reasonable suspicion that an article consists of or contains anything that is or may be relevant to security within the meaning of the ASIO Act.
Part 7B  Dealing with articles and their contents
Division 2  Limits on use or disclosure of information and documents

Section 90K

Disclosure of suspicions where reasonably necessary for enforcement of criminal law

(9) The person may disclose the information if:
(a) the person is an authorised discloser; and
(b) the information is a reasonable suspicion that an article consists of or contains anything that is or may be evidence of an offence.

Disclosure of suspicions to consumer protection agencies

(10) The person may disclose the information to one or more consumer protection agencies if:
(a) the person is an authorised discloser; and
(b) the information is either:
   (i) a reasonable suspicion that an article in the course of post consists of, or contains, scam mail; or
   (ii) any information or document on the basis of which the person forms a reasonable suspicion that an article in the course of post consists of, or contains, scam mail.

Disclosure in circumstances permitted by UPU instrument

(11) The person may disclose the information if the disclosure is:
(a) to a postal administration of a foreign country; and
(b) in circumstances permitted under a UPU instrument and in accordance with that instrument.

90K  Extra situations in which use or disclosure is permitted if information or document is not specially protected

Application of section

(1) This section only applies to the use or disclosure of the information or document if it is not specially protected.

Disclosure to assist in notification of next of kin

(2) The person may disclose the information or document to an officer or employee of a police force or service, fire service, ambulance service or other organisation providing emergency services if the person believes, on reasonable grounds, that the disclosure is
necessary to assist in the notification of the next of kin of a person who is seriously injured or who has died.

Note: See also subsection (6).

Disclosure to customs officers

(3) The person may disclose the information or document to a customs officer if:
   (a) the person is an authorised discloser; and
   (b) there are reasonable grounds for believing that the information or document relates to anything:
      (i) on which customs duty is payable; or
      (ii) the importation of which into Australia is a taxable importation on which GST is payable; or
      (iia) on which wine tax is payable; or
      (iii) that is being carried in contravention of a law of the Commonwealth relating to importing things into, or exporting things from, Australia.

Disclosure to authorised ASIO officers

(4) The person may disclose the information or document to an authorised ASIO officer if the person is an authorised discloser.

Disclosure for the enforcement of laws or protection of public revenue

(5) The person may disclose the information or document if:
   (a) the person is an authorised discloser; and
   (b) the disclosure is reasonably necessary for:
      (i) the enforcement of the criminal law; or
      (ii) the enforcement of a law imposing a pecuniary penalty; or
      (iii) the protection of the public revenue.

Next of kin

(6) In determining for the purposes of subsection (2) whether a person is next of kin of another person, the following persons are also to be taken into account:
Part 7B Dealing with articles and their contents
Division 2 Limits on use or disclosure of information and documents

Section 90L

(a) a de facto partner of the person within the meaning of the Acts Interpretation Act 1901;
(b) someone who is the child of the person, or of whom the person is the child, because of subsection (7);
(c) anyone else who would be a relative of the person because someone mentioned in paragraph (a) or (b) is taken into account.

(7) For the purposes of paragraph (6)(b), someone is the child of a person because of this subsection if he or she is a child of the person within the meaning of the Family Law Act 1975.

90L Disclosure of personal information by consent

If the information relates to the affairs or personal particulars (including name or address) of another person, the person may disclose the information (whether or not it is specially protected) if the disclosure:
(a) is made with the other person’s consent given in writing on a form obtained from an office of Australia Post; and
(b) is made to a person or an organisation covered by the consent; and
(c) is recorded by Australia Post.

Subdivision B—Use or disclosure by former employees of Australia Post

90LA Application of Subdivision

(1) This Subdivision applies to a person who was an employee of Australia Post and to information or a document acquired or received by the person if:
(a) the person acquired or received the information or document in the course of his or her employment as an employee of Australia Post; and
(b) the information or document:
(i) is, or relates to, an article, or some or all of the contents or substance of an article, that has been carried by post or is in the course of post; or
(ii) relates to services supplied, or intended to be supplied, to another person by Australia Post; or
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Limits on use or disclosure of information and documents Division 2

Section 90LB

(iii) relates to the affairs or personal particulars (including name or address) of another person.

(2) Subject to subsection (3), the information or document is {specially protected} if subparagraph (1)(b)(i) is satisfied in relation to the information or document, whether or not subparagraph (1)(b)(ii) or (iii) is also satisfied in relation to it.

(3) The information or document is not {specially protected} if:
   (a) in the case of information—the information is clearly visible on, or through, the outside of the cover of the article; or
   (b) in the case of a document—the document consists of the outside of the cover of the article.

90LB Prohibition on use or disclosure by former employees

(1) For the purposes of this section, the use or disclosure of the information or document by the person is {prohibited conduct} if the use or disclosure is not permitted by section 90LC or 90LCA.

(2) If the person engages in prohibited conduct, the person is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

(3) For the purposes of a prosecution for an offence against subsection (2) relating to the use or disclosure of the information or document:
   (a) the use or disclosure is to be taken not to have been permitted by section 90LC or 90LCA, unless the defendant presents or points to evidence that suggests a reasonable possibility that the use or disclosure was permitted by a provision (the {authorising provision}) of one of those sections; and
   (b) if the defendant does so produce or point to evidence—the use or disclosure is to be taken to be permitted by the section that contains the authorising provision unless the prosecution proves, beyond reasonable doubt, that the use or disclosure was not permitted by the authorising provision.

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Part 7B  Dealing with articles and their contents
Division 2  Limits on use or disclosure of information and documents

Section 90LC

90LC  Permitted use or disclosure whether or not information or document is specially protected

Application of section

(1) This section applies to the use or disclosure of the information or document whether or not it is specially protected.

Disclosure under warrants

(2) The person may disclose the information or document as required by or under a warrant issued under a law of the Commonwealth or of a State or Territory.

Disclosure as a witness

(3) The person may disclose the information or document as a witness summoned to give evidence, or to produce documents, in a court of law.

Disclosure under a law of the Commonwealth

(4) The person may disclose the information or document as required by or under a law of the Commonwealth.

Disclosure under certain laws establishing Commissions

(5) The person may disclose the information or document as required by or under:
   (a) the New South Wales Crime Commission Act 1985 of New South Wales; or
   (b) the Independent Commission Against Corruption Act 1988 of New South Wales; or
   (c) the Crime and Misconduct Act 2001 of Queensland; or
   (d) any other prescribed law of a State or Territory that establishes a Commission or other body to conduct investigations or inquiries.

Disclosure under Australian Crime Commission legislation

(6) The person may disclose the information or document as required by or under a law of a State if the Australian Crime Commission performs a duty or function, or exercises a power, under that law in
accordance with section 55A of the *Australian Crime Commission Act 2002*.

### 90LCA  Extra situations in which use or disclosure is permitted if information or document is not specially protected

*Application of section*

(1) This section only applies to the use or disclosure of the information or document if it is not specially protected.

*Disclosure to authorised ASIO officers*

(2) The person may disclose the information or document to an authorised ASIO officer.

*Disclosure for the enforcement of laws or protection of public revenue*

(3) The person may disclose the information or document if the disclosure is reasonably necessary for:

(a) the enforcement of the criminal law; or

(b) the enforcement of a law imposing a pecuniary penalty.

### Subdivision C—Secondary use or disclosure by other people

### 90LD  Application of Subdivision

(1) Subject to subsection (2), this Subdivision applies to a person and to information or a document acquired or received by the person if:

(a) the person acquired or received the information or document directly, or indirectly through one or more persons, from an employee or former employee of Australia Post who acquired or received the information or document in the course of his or her employment as an employee of Australia Post; and

(b) the information or document:

(i) is, or relates to, some or all of the contents or substance of an article that has been carried by post or is in the course of post; or

(ii) relates to services supplied, or intended to be supplied, to another person by Australia Post; or
Section 90LE

(iii) relates to the affairs or personal particulars (including any address) of another person; and

c) Subdivision A does not apply to the person and the information or document.

(2) This Subdivision does not apply to a person and to information or a document acquired or received by the person if:

a) the person is an officer or employee of ASIO and the information or document is or may be relevant to security within the meaning of the ASIO Act; or

b) the person acquired or received the information as a result, whether direct or indirect, of a disclosure of the information or document to a court.

90LE Prohibition on secondary use or disclosure by other people

(1) For the purposes of this section, the use or disclosure of the information or document by the person is prohibited conduct if the use or disclosure is not permitted by section 90LF.

(2) If the person engages in prohibited conduct, the person is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

90LF Secondary use or disclosure permitted if for same purpose as original disclosure or use

(1) This section applies to the use or disclosure of the information or document if the person acquired or received the information or document as a result, whether direct or indirect, of a disclosure or use (the original disclosure) of the information or document that was permitted under section 90J, 90K, 90LC or 90LCA.

(2) The person may use or disclose the information or document if the use or disclosure is for the same purpose as the purpose for which the original disclosure was made.
Subdivision D—Miscellaneous

90LG  Division does not authorise opening or examining

Nothing in this Division authorises a person to open, or examine the contents of, an article that has been carried by post or that is in the course of post.

90LH  Division does not affect powers etc. in relation to things other than information or documents

This Division only applies to the use or disclosure of information or documents. It does not affect the powers and duties of Australia Post and employees of Australia Post in relation to articles or their contents so far as they consist of or contain things other than information or documents.
Division 3—Limits on opening and examining articles

90M Articles to which Division applies

(1) Subject to subsection (2), this Division applies to an article while it is in the course of post.

(2) This Division does not apply to an article while it is out of the control (whether temporarily or otherwise) of Australia Post.

90N Prohibition on opening or examining article

(1) For the purposes of this section, the opening of the article, or the examination of its contents, is prohibited conduct if:

   (a) the opening or examination is not permitted by any of sections 90P to 90U or section 90UB; or
   (b) the opening or examination is permitted by section 90Q or 90S but occurs otherwise than at a place determined in writing by the Board for the purpose of opening or examining the article, or a class of articles that includes the article.

(2) A person who engages in prohibited conduct is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

90P Examining without opening

An authorised examiner may examine the article or its contents by any means that does not involve unfastening or physically interfering with the cover of the article. For example, the article or its contents may be examined by X-ray, metal detector or odour detector.

90Q Undeliverable articles

(1) This section applies to the article if it:

   (a) cannot be delivered to the intended recipient because it is not addressed, or it is inadequately or incorrectly addressed; and
   (b) cannot be returned to the sender because it does not bear the sender’s address, or because the sender’s address is not shown, or is inadequately or incorrectly shown.
(2) An authorised examiner may open the article and examine its contents for the purpose of obtaining sufficient information to:
   (a) deliver the article to the intended recipient; or
   (b) return the article to the sender.

(3) Subject to section 90X, after an authorised examiner has opened and examined the article, he or she must:
   (a) if sufficient information is found to deliver the article to the intended recipient—close up the article and return it to the normal course of carriage; or
   (b) if paragraph (a) does not apply but sufficient information is found to return the article to the sender—close up the article and return it to the sender; or
   (c) otherwise—deal with the article in accordance with the applicable provisions of the terms and conditions determined under section 32.

90R Repair

(1) An authorised examiner may open the article for the purpose of repairing it or its contents so that the article may be made safe for carriage by post.

(2) Subject to section 90X, after an authorised examiner has made the repairs (if any) to the article or its contents that he or she thinks appropriate, the authorised examiner must close up the article and return it to the normal course of carriage.

90S Articles on which customs duty is payable etc.

(1A) In this section:

   *Australia* does not include the external Territories.

(1) This section applies if:
   (a) the article is in the course of post between Australia and a place outside Australia; and
   (aa) the article is not an article to which section 90T applies; and
   (b) either or both of the following conditions is or are satisfied:
   (i) a customs officer has requested an authorised examiner to open the article;
(ii) there are reasonable grounds for believing that the article consists of, or contains, anything:
   (A) on which customs duty is payable; or
   (B) the importation of which into Australia is a taxable importation on which GST is payable; or
   (BA) on which wine tax is payable; or
   (C) that is being carried in contravention of a law of the Commonwealth relating to the importation into, or exportation from, Australia of that thing.

(2) An authorised examiner may open the article in the presence of a customs officer.

(3) A customs officer in whose presence the article is opened may examine the article to check whether it consists of or contains anything described in sub-subparagraph (1)(b)(ii)(A), (B), (BA) or (C).

(4) Subject to section 90X, if the article is found not to consist of or contain anything referred to in sub-subparagraph (1)(b)(ii)(A), (B), (BA) or (C), the authorised examiner must close up the article and return it to the normal course of carriage.

(5) Subject to section 90X, if the article is found to consist of or contain anything referred to in sub-subparagraph (1)(b)(ii)(A), (B), (BA) or (C), the article and its contents must be dealt with in accordance with any applicable laws of the Commonwealth relating to customs duty, GST, wine tax or imports or exports, as the case requires.

90T Articles reasonably believed to consist of, or contain, certain drugs or other chemical compounds

(1) This section applies to any article weighing 25 grams or more:
   (a) that is in the course of post between Australia and a place outside Australia; and
   (b) that is reasonably believed by a Customs officer to consist of, or contain, drugs or other chemical compounds that are being carried in contravention of a law of the Commonwealth.
relating to their importation into, or exportation from, Australia.

(2) The Customs officer may remove the article to which this section applies from the normal course of carriage and give it to a second Customs officer, following the procedures (if any) that are prescribed for the purposes of this section.

(3) That second Customs officer may open the article if:
   (a) the second Customs officer performs duties at a higher classification than the first Customs officer; and
   (b) the second Customs officer reasonably believes that the article consists of, or contains, drugs or other chemical compounds that are being carried in contravention of a law of the Commonwealth relating to their importation into, or exportation from, Australia; and
   (c) the opening takes place in the presence of a third Customs officer.

(4) Having opened the article, that second Customs officer may, in the presence of that third Customs officer, examine the article to check whether it consists of, or contains, such drugs or other chemical compounds.

(5) Subject to section 90X, if the article is found not to consist of, or contain:
   (a) such drugs or other chemical compounds; or
   (b) any other thing:
      (i) on which Customs duty is payable; or
      (ii) the importation of which into Australia is a taxable importation on which GST is payable; or
      (iii) on which wine tax is payable; or
      (iiia) that is being carried in contravention of a law of the Commonwealth relating to its importation into, or exportation from, Australia;

the Customs officer who opened the article must close up the article, and return it to the normal course of carriage following such procedures (if any) as are prescribed for the purposes of this section.
Part 7B Dealing with articles and their contents
Division 3 Limits on opening and examining articles

Section 90U

(6) Subject to section 90X, if the article is found to consist of, or contain, such drugs or other chemical compounds or such other thing, the article and its contents must be dealt with in accordance with any applicable laws of the Commonwealth relating to customs duty, GST, wine tax or imports or exports, as the case requires.

(7) Regulations may be made for the purposes of this section that determine the procedure:
    (a) for removing an article from the normal course of carriage for the purpose of its examination by a Customs officer; and
    (b) for the return of an article to the normal course of carriage.

(8) Customs must establish and maintain, in accordance with regulations made for the purposes of this section, a record setting out, in respect of each article that is removed from the normal course of carriage and opened for the purpose of its examination by a Customs officer:
    (a) particulars of the article; and
    (b) particulars of the nature of the examination of the article and its contents; and
    (c) whether the article and its contents were, following the examination, dealt with according to law or returned to the normal course of carriage.

(9) Regulations made for the purposes of subsection (8) must specify:
    (a) the place or places at which the record referred to in that subsection is required to be established and maintained; and
    (b) the manner in which the record is to be kept; and
    (c) the uses that can be made of information contained in the record.

90U Articles consisting of, or containing, quarantine material

(1) This section applies if:
    (a) the article is in the course of post to a prescribed State/Territory from a place within Australia but outside the prescribed State/Territory; and
    (b) a quarantine inspection officer of the prescribed State/Territory has reasonable grounds for believing that the article consists of, or contains, quarantine material in relation to the prescribed State/Territory.
(2) However, this section does not apply if the carriage of the article mentioned in paragraph (1)(a) is undertaken by Australia Post engaging in the reserved services.

(3) The quarantine inspection officer may request an authorised examiner to open the article.

(4) If such a request is made, the authorised examiner may remove the article from the normal course of carriage and open the article in the presence of the quarantine inspection officer, following the procedures (if any) that are prescribed for the purposes of this section.

(5) The quarantine inspection officer may then examine the article to check whether it consists of, or contains, quarantine material.

(6) Subject to section 90X, if the article is found not to consist of, or contain, quarantine material, the authorised examiner must close up the article and return it to the normal course of carriage, following the procedures (if any) that are prescribed for the purposes of this section.

(7) Subject to section 90X, if the article is found to consist of, or contain, quarantine material:
   (a) the article and its contents must be dealt with in accordance with the relevant law of the prescribed State/Territory or the Commonwealth, as the case requires; and
   (b) the quarantine inspection officer must, as soon as is practicable after examination of the article, cause written notice to be given to the intended recipient and the sender (if the sender’s name and address is ascertainable):
      (i) advising that the article has been removed from the normal course of carriage; and
      (ii) advising that the article will be dealt with in accordance with the relevant law of the prescribed State/Territory or the Commonwealth, as the case requires; and
      (iii) stating what the article contained.

(8) Regulations may be made for the purposes of this subsection that determine the procedure:
   (a) for removing an article from the normal course of carriage for the purpose of its examination by a quarantine inspection officer; and
(b) for the return of an article to the normal course of carriage.

(9) A prescribed person or body must establish and maintain, in accordance with regulations made for the purposes of this subsection, a record setting out, in respect of each article that has been found to consist of, or contain, quarantine material:
   (a) particulars of the article; and
   (b) particulars of the nature of the examination of the article and its contents; and
   (c) whether the article and its contents were, following the examination, dealt with according to the relevant law of the prescribed State/Territory or the Commonwealth, or returned to the normal course of carriage.

(10) Regulations made for the purposes of subsection (9) must specify:
   (a) the place or places at which the record referred to in that subsection is required to be established and maintained; and
   (b) the manner in which the record is to be kept; and
   (c) the uses that can be made of information contained in the record.

90UA Removing scam mail from the normal course of carriage

Removing scam mail on Australia Post’s initiative

(1) Australia Post may remove a batch of articles from the normal course of carriage if it is reasonable to suspect that the batch consists of, or contains, scam mail.

(2) If a batch of articles is removed from the normal course of carriage under subsection (1), Australia Post must notify one or more of the following agencies of its removal, as soon as is practicable after its removal:
   (a) the ACCC;
   (b) the Australian Securities and Investments Commission;
   (c) the consumer protection agency for the State or Territory in which the batch of articles has been removed from the normal course of carriage;
   (d) another agency that is prescribed by regulations made for the purposes of the definition of consumer protection agency in section 90E.
Removing scam mail on request of consumer protection agencies

(3) Australia Post may remove batches of articles of a particular kind from the normal course of carriage if:
   (a) a consumer protection agency gives written notice to Australia Post that:
       (i) articles of that kind may be in the course of post; and
       (ii) the articles may consist of, or contain, scam mail; and
   (b) the consumer protection agency provides Australia Post with a means of identifying the articles.

(4) If a batch of articles is removed from the normal course of carriage on the request of a consumer protection agency under subsection (3), Australia Post must notify the consumer protection agency of its removal as soon as is practicable after its removal.

90UB Opening and examining scam mail

(1) This section applies if:
   (a) a batch of articles has been removed from the normal course of carriage under section 90UA; and
   (b) a consumer protection agency has been notified of the removal.

(2) The consumer protection agency may:
   (a) make arrangements with Australia Post for access to the batch of articles; and
   (b) open and examine one or more articles within the batch.

(3) If no consumer protection agency opens and examines an article within a batch of articles within the decision period, Australia Post must return the batch to the normal course of carriage, following the procedures (if any) that are prescribed for the purposes of this section.

(4) Subsection (3) has effect subject to section 90X.

(5) In opening and examining articles under subsection (2), a consumer protection agency must comply with any law of the Commonwealth or of the State or Territory that applies to the consumer protection agency and that relates to the performance of functions or the exercise of powers by the consumer protection agency when dealing with the articles.
Part 7B Dealing with articles and their contents
Division 3 Limits on opening and examining articles

Section 90UC

(6) In this section:

_**decision period**_ means the period of 10 business days, or such longer period as is prescribed, starting on the last day on which a consumer protection agency is notified under section 90UA of the removal of the batch of articles from the normal course of carriage.

90UC Dealing with or returning scam mail

(1) If, after opening and examining one or more articles within a batch of articles under section 90UB, a consumer protection agency believes on reasonable grounds that the batch consists of, or contains, scam mail, the agency must deal with the articles within the batch in accordance with the laws of the Commonwealth or of the State or Territory applicable to the articles.

(2) If the consumer protection agency believes on reasonable grounds that the article or articles that have been opened by the consumer protection agency do not consist of, or contain, scam mail, the consumer protection agency must:

(a) close up any article within the batch that has been opened by the consumer protection agency; and

(b) return the batch, as soon as is practicable, to Australia Post.

(3) If the batch is returned to Australia Post, Australia Post must return the batch to the normal course of carriage, following the procedures (if any) that are prescribed for the purposes of this section.

(4) Subsections (1) and (3) have effect subject to section 90X.

90V Articles to carry notice of opening etc.

(1) This section applies if:

(a) an article has been opened as permitted by a provision of this Division; and

(b) the article is to be returned to the normal course of carriage.

(2) If the article is opened by an authorised examiner (whether in the presence of a Customs officer or a quarantine inspection officer or not), then, before the article is returned to the normal course of carriage, Australia Post must cause to be endorsed on the cover of the article, or on a label affixed to its cover, a notification that the

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article has been opened by Australia Post and that explains briefly (by reference to a provision of this Division or otherwise) the purpose for which the article was opened.

(2A) If the article is opened under section 90T by a Customs officer, then, before the article is returned to the normal course of carriage, the Customs officer must cause to be endorsed on the cover of the article, or on a label affixed to its cover, a notification that the article has been opened by Customs and that explains briefly (by reference to section 90T or otherwise) the purpose for which the article was opened.

(2B) If the article is opened and examined by a consumer protection agency under section 90UB, but not dealt with under subsection 90UC(1), then, before the article is returned to Australia Post, the consumer protection agency must cause to be endorsed on the cover of the article, or on a label affixed to its cover, a notification that the article has been opened and examined by the consumer protection agency and that explains briefly (by reference to section 90UB or otherwise) the purposes for which the article was opened and examined.

(3) A failure to comply with subsection (2), (2A) or (2B) does not make the opening of the article an offence.

90W Permitted or required dealings are not prohibited by section 90H, 90LB or 90LE

Nothing that a person does by way of dealing with an article as permitted or required by this Division constitutes a use or disclosure of information or a document to which section 90H, 90LB or 90LE applies.

90X Articles may be dealt with under other provisions despite obligations under this Division

(1) If section 90Z or 90ZA applies to an article opened or examined under this Division, the article may be dealt with under that section despite any provision of this Division that says what must happen to the article after being opened or examined.

(2) If regulations dealing with the forfeiture of articles carried by post apply to an article opened or examined under this Division, the
Part 7B  Dealing with articles and their contents
Division 3  Limits on opening and examining articles

Section 90X

article may be dealt with under those regulations despite any provision of this Division that says what must happen to the article after being opened or examined.
Division 4—Dealing with dangerous, offensive etc. articles

90Y Articles to which Division applies

(1) Subject to subsection (2), this Division applies to an article while it is in the course of post.

(2) This Division does not apply to an article while it is out of the control (whether temporarily or otherwise) of Australia Post.

90Z Dealing with dangerous or deleterious things

If an employee of Australia Post knows, or has reasonable grounds for suspecting, that the article contains something that is or could be explosive, dangerous or deleterious, the article may be dealt with in accordance with the applicable provisions of the terms and conditions agreed or determined under section 32.

90ZA Destruction of physically offensive things

(1) If the article is physically offensive it may be destroyed immediately by an employee of Australia Post.

(2) Australia Post must ensure that, before the article is destroyed, the following information is recorded, to the extent to which it is evident without unfastening or physically interfering with the article’s cover:
   (a) the sender’s name and address;
   (b) the intended recipient’s name and address;
   (c) what the article contains.

(3) If the sender’s name and address has been recorded, Australia Post must, as soon as practicable after the article’s destruction, cause written notice to be given to the sender:
   (a) advising of the article’s destruction and the reasons for its destruction; and
   (b) stating the following information, if it has been recorded:
      (i) the intended recipient’s name and address;
      (ii) what the article contained.
Part 7B Dealing with articles and their contents
Division 4 Dealing with dangerous, offensive etc. articles

Section 90ZB

(4) If the sender’s name and address has not been recorded but the intended recipient’s name and address has been recorded, Australia Post must, as soon as practicable after the article’s destruction, cause written notice to be given to the intended recipient:
   (a) advising of the article’s destruction and the reasons for its destruction; and
   (b) stating what the article contained, if that information has been recorded.

(5) Words, pictures or graphics in the article, regardless of their nature, do not make the article physically offensive for the purposes of this section.

90ZB Permitted dealings are not prohibited by section 90H, 90LB, 90LE or 90N

Nothing that a person does by way of dealing with an article as permitted by this Division constitutes:
   (a) a use or disclosure of information or a document to which section 90H, 90LB or 90LE applies; or
   (b) an opening or examination of the article to which section 90N applies.
Division 5—Miscellaneous

90ZC  Australia Post and employees not liable for actions in good faith under this Part

(1) Neither Australia Post, nor an employee of Australia Post, is liable to an action or other proceeding for damages for or in relation to an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of a power or duty under this Part.

(2) For the avoidance of doubt, the reference in subsection (1) to an act done or omitted to be done in good faith in the exercise or performance, or the purported exercise or performance, of a power or duty under this Part includes a reference to an act done or omitted to be done in good faith by:

(a) a Customs officer in the exercise or performance, or the purported exercise or performance, of a power or duty under section 90T or of a duty under subsection 90V(2A); or

(b) a quarantine inspection officer in the exercise or performance, or the purported exercise or performance, of a power or duty under section 90U; or

(c) a person acting on behalf of a consumer protection agency in the exercise or performance, or purported exercise or performance, of a power or duty under section 90UB or section 90UC or of a duty under subsection 90V(2B).

91  Giving Australia Post information about articles removed from the normal course of carriage

(1) Australia Post may request a compliance agency to give Australia Post some or all of the following information, in relation to an article:

(a) the name and address of the sender of the article;

(b) the name and address of the intended recipient of the article;

(c) a description of the contents of the article;

(d) whether the article was dealt with by the compliance agency and, if so, the reason for dealing with it;

(e) any unique identifier on the article;
(f) any other information in relation to the article that is prescribed in regulations made for the purposes of this paragraph.

(2) The compliance agency may:
   (a) if the compliance agency has examined the article—comply with the request in full or in part despite any other law; or
   (b) refuse the request (whether or not the compliance agency has examined the article).
93 Delegation of Australia Post’s powers

(1) An authorised person may, in writing, delegate all or any of Australia Post’s powers to an employee of Australia Post.

(2) In subsection (1):

*authorised person* means:

(a) the Managing Director; or

(b) an employee of Australia Post who is, for the time being, authorised by the Board for the purposes of this section.

94 Delegation of Board’s powers

(1) The Board may, by resolution, delegate all or any of its powers (other than its powers under section 93 and Division 3 of Part 6) to a director or an employee of Australia Post.

(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.
Section 95

95 Post-boxes

(1) Australia Post may erect, maintain and use post-boxes in any public road, street or highway or in any other public place.

(2) Subject to subsection (3), Australia Post shall keep in good order all post-boxes erected by it.

(3) Australia Post may remove any post-box erected by it.

96 Australia Post’s seal

(1) Australia Post’s seal shall be kept in such custody as the Board directs and shall be used only as authorised by the Board.

(2) All courts, judges and persons acting judicially shall take judicial notice of the imprint of Australia Post’s seal appearing on a document and shall presume that the document was properly sealed.

97 Confirmation of contracts and authentication and execution of documents

(1) So far as concerns the formalities of making, varying or discharging a contract, a person acting under Australia Post’s express or implied authority may make, vary or discharge a contract in the name of, or on behalf of, Australia Post in the same manner as if the contract were made, varied or discharged by a natural person.

(2) The making, varying or discharging of a contract in accordance with subsection (1) is effectual in law and binds Australia Post and other parties to the contract.

(3) A contract or other document executed, or purporting to have been executed, under Australia Post’s seal is not invalid merely because a person attesting the affixing of the seal is in any way (whether directly or indirectly) interested in the contract or other document or in the matter to which the contract or other document relates.

(4) This section does not prevent Australia Post from making, varying or discharging a contract under its seal.
Section 98

(5) This section does not affect the operation of any law that requires some consent or sanction to be obtained, or some procedure to be complied with, in relation to the making, varying or discharging of a contract.

98 Unclaimed money

(1) If:

(a) an amount has been received by Australia Post for carriage to a person; and

(b) the amount has not been claimed within one year after becoming payable to the person;

the amount shall be paid into an account kept by Australia Post called the Unclaimed Money Fund.

(2) If Australia Post is satisfied that a person is entitled to an amount that is in the Unclaimed Money Fund, Australia Post shall pay the amount to the person from the Fund.

(3) Amounts that have remained in the Unclaimed Money Fund for a period of 2 years shall be paid out of the Fund into Australia Post’s general money.

(4) If an amount has, under subsection (3), been paid out of the Unclaimed Money Fund, Australia Post is not required to pay the amount to any person, but may, if it is satisfied that special reasons exist for doing so, pay the amount to any person who satisfies Australia Post that, but for this subsection, he or she would be entitled to the amount.

99 Lands Acquisition Act

(1) The Lands Acquisition Act 1989 does not apply in relation to the acquisition of land, or an interest in land, by Australia Post by agreement.

(1A) The Lands Acquisition Act 1989 does not apply in relation to the disposal of, or other dealing in, land, or an interest in land, by Australia Post.
(2) In this section:

*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.

100 Public Works Committee Act

The *Public Works Committee Act 1969* does not apply in relation to Australia Post.

101 Articles carried by post to be taken to be Australia Post’s property

For the purpose of any legal proceeding or action in relation to an article carried by post or under the control of Australia Post, the article shall be taken to be, while it is being carried by post or under the control of Australia Post, the property of Australia Post.

102 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

(a) required or permitted by this Act to be prescribed; or
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and may, for example, make regulations:

(c) with respect to the arrangements for collecting duties of customs and other duties payable in relation to articles carried by post; and

(d) with respect to dealing with articles that may contain goods on which duties of customs or other duties are payable; and

(da) prescribing Acts for the purposes of the following definitions in section 90E:

(i) *consumer protection law*;
(ii) *State Fair Trading Act*;
(iii) *State Sale of Goods Act*; and

(db) prescribing agencies for the purposes of the following definitions in section 90E:

(i) *compliance agency*;

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(ii) *consumer protection agency*; and

(d) prescribing States and Territories for the purposes of the definition of *prescribed State/Territory* in section 90E; and

(dd) prescribing a period for the purposes of the definition of *decision period* in subsection 90UB(6); and

(e) with respect to the making of deductions from amounts due to any of Australia Post’s employees on account of judgment debts; and

(g) with respect to the forfeiture and destruction of articles carried by post; and

(h) prescribing fines not exceeding $1,000 for offences against the regulations.
Notes to the *Australian Postal Corporation Act 1989*

**Note 1**

The *Australian Postal Corporation Act 1989* as shown in this compilation comprises Act No. 64, 1989 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 8 July 1997 is not included in this compilation. For subsequent information see Table A.

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Notes to the **Australian Postal Corporation Act 1989**

**Act Notes**

(a) The *Australian Postal Corporation Act 1989* was amended by Part 5 (sections 11–13) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1989*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(b) The *Australian Postal Corporation Act 1989* was amended by Part 4 (section 25) only of the *Telecommunications (Transitional Provisions and Consequential Amendments) Act 1991*, subsection 2(2) of which provides as follows:

(2) Part 2, Part 3 (except section 24) and Part 4 commence on 1 July 1991.

(c) The *Australian Postal Corporation Act 1989* was amended by Part 4 (sections 9–12) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1992*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(d) The *Australian Postal Corporation Act 1989* was amended by sections 32 and 77 only of the *Competition Policy Reform Act 1995*, subsections 2(1)(a) and (2) of which provide as follows:

(1) The following provisions commence on the 28th day after the day on which this Act receives the Royal Assent:

(a) Parts 1, 2 and 7;

(2) Part 3 commences on a day to be fixed by Proclamation. However, if Part 3 does not commence by Proclamation within the period of 6 months beginning on the day on which this Act receives the Royal Assent, then it commences on the first day after the end of that period.

(e) The *Australian Postal Corporation Act 1989* was amended by Schedule 2 (item 18) only of the *Statute Law Revision Act 1996*, subsection 2(2) of which provides as follows:

(2) Each item in Schedule 2 commences or is taken to have commenced (as the case requires) at the time specified in the note at the end of the item.

Item 18 is taken to have commenced immediately after the commencement of section 12 of the *Australian Postal Corporation Amendment Act 1994*. Section 12 commenced on 5 December 1994.

(f) The *Australian Postal Corporation Act 1989* was amended by Schedule 1 (items 5 and 6) only of the *Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997*, subsection 2(2)(d) of which provides as follows:

(2) The following provisions commence on 1 July 1997:

(d) Schedule 1;

(g) The *Australian Postal Corporation Act 1989* was amended by Schedule 3 (item 64) only of the *Tax Law Improvement Act 1997*, subsections 2(1)–(3) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Schedule 1 commences on 1 July 1997 immediately after the commencement of the *Income Tax Assessment Act 1997*.

(3) Each of the other Schedules (except Schedule 12) commences immediately after the commencement of the immediately preceding Schedule.

(h) The *Australian Postal Corporation Act 1989* was amended by Schedule 2 (items 447–474) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:

(2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.

94  **Australian Postal Corporation Act 1989**
(i) The *Australian Postal Corporation Act 1989* was amended by Schedule 2 only of the *Customs and Excise Legislation Amendment Act (No. 1) 1998*, subsection 2(1) of which provides as follows:

Subject to subsections (2) to (5), this Act commences on the day on which it receives the Royal Assent.

(j) The *Australian Postal Corporation Act 1989* was amended by Schedule 3 (item 6) only of the *Telecommunications Legislation Amendment Act 1999*, subsection 2(4) of which provides as follows:

Subject to subsection (5), Schedule 3 commences on the commencement of section 1 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

(k) The *Australian Postal Corporation Act 1989* was amended by Schedule 10 (items 49–52) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:

The following provisions commence on a day or days to be fixed by Proclamation:

(c) the items in Schedules 10, 11 and 12.

(l) The *Australian Postal Corporation Act 1989* was amended by Schedule 3 (items 1, 18 and 19) only of the *Australian Security Intelligence Organisation Legislation Amendment Act 1999*, subsection 2(2) of which provides as follows:

Subject to subsections (3) to (6), Schedule 3 commences immediately after the commencement of the other Schedules to this Act.

The other Schedules to this Act commenced on Royal Assent.

(m) The *Australian Postal Corporation Act 1989* was amended by Schedule 1 (items 13–17) only of the *Communications and the Arts Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(a) of which provides as follows:

Subject to this section, this Act commences at the latest of the following times:

(a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;


(n) The *Australian Postal Corporation Act 1989* was amended by Schedule 3 (item 62) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:

Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*. 
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Note 2

Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010
(No. 103, 2010)

The following amendments commence on the start of 1 January 2011:

Schedule 6

1 Amendment of Acts


Australian Postal Corporation Act 1989

32 Subsection 32(5)

33 Paragraph 32B(1)(da)

34 Subsection 32B(2)

35 Section 32D

Note: The heading to section 32D is altered by omitting “Trade Practices Act” and substituting “Competition and Consumer Act”.

36 Subsection 33A(6A)

37 Section 90E (paragraph (a) of the definition of consumer protection law)

As at 20 July 2010 the amendments are not incorporated in this compilation.
Table A

Application, saving or transitional provisions

Tax Law Improvement Act 1997 (No. 121, 1997)

4 Application of amendments
An amendment made by an item in a Schedule (except Schedule 1) applies to assessments for the 1997-98 income year and later income years, unless otherwise indicated in that Schedule.

Communications and the Arts Legislation Amendment (Application of Criminal Code) Act 2001 (No. 5, 2001)

4 Application of amendments
(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Postal Services Legislation Amendment Act 2004 (No. 69, 2004)

4 Application and saving provision

ACCC’s new obligation
The Australian Competition and Consumer Commission must fulfil its obligation under subsection 50H(2) of the Australian Postal Corporation Act 1989, as inserted by item 21 of Schedule 1, within 12 months of the commencement of this Act.
Schedule 6

1 Application of Schedule 1 and 2 amendments

Except as mentioned in items 2 and 3, the repeals and amendments made by Schedules 1 and 2 apply:

(a) so far as they affect assessments—to assessments for the 2006-07 income year and all later income years; and

(b) otherwise—to acts done or omitted to be done, or states of affairs existing, after the commencement of the repeals and amendments.

5 Application of Schedule 5 amendments

The repeals and amendments made by Schedule 5 apply to acts done or omitted to be done, or states of affairs existing, after the commencement of the amendments.

6 Object

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

(a) any act done or omitted to be done; or

(b) any state of affairs existing; or

(c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

7 Making and amending assessments, and doing other things, in relation to past matters

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the Legislative Instruments Act 2003):

(a) making or amending an assessment (including under a provision that is itself repealed or amended);
Table A

(b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

Example 1: On 31 July 1999, Greg Ltd lodged its annual return under former section 160ARE of the *Income Tax Assessment Act 1936*. The return stated that the company had a credit on its franking account and that no franking deficit tax was payable for the 1998-99 franking year. Under former section 160ARH of that Act, the Commissioner was taken to have made an assessment consistent with the return.

Following an audit undertaken after the repeal of Part IIIAA of that Act, the Commissioner concludes that Greg Ltd fraudulently overfranked dividends it paid during the 1998-99 franking year, and had a franking account deficit for that franking year. As a result, the Commissioner considers that franking deficit tax and a penalty by way of additional tax are payable.

The Commissioner can amend the assessment under former section 160ARN of that Act, because item 7 of this Schedule disregards the repeal of that section for the purposes of making an assessment in relation to the 1998-99 franking year. Item 7 will also disregard the repeal of Division 11 of former Part IIIAA to the extent necessary for the Commissioner to assess Greg Ltd’s liability to a penalty by way of additional tax.

Despite the repeal of sections 160ARU and 160ARV, item 9 will ensure that the general interest charge will accrue on the unpaid franking deficit tax and penalty until they are paid.

Item 7 will also preserve Greg Ltd’s right, under former section 160ART of that Act, to object against the Commissioner’s amended assessment (including the penalty), since the objection is the exercise of a right in relation to a franking year that ended before the repeal of Part IIIAA.

Example 2: During the 1997-98 income year, Duffy Property Ltd withheld amounts from its employees’ wages as required by former Divisions 1AAA and 2 of Part VI of the *Income Tax Assessment Act 1936*. The company failed to notify the Commissioner of those amounts, and failed to remit them to the Commissioner.

Following an audit undertaken after the repeal of those Divisions, the Commissioner discovers that the withheld amounts have not been remitted. The company’s records are incomplete and the Commissioner is unable to completely ascertain the extent of its liability for the withheld amounts. Under section 222AGA of that Act, the Commissioner makes an estimate of the liability.

Item 7 will disregard the repeal of section 220AAZA of that Act (which empowered the Commissioner to recover the amount of the estimate). Even though the estimate is made after the repeal, it relates to amounts withheld before the repeal.
8 Saving of provisions about effect of assessments
If a provision or part of a provision that is repealed or amended by this Act deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal or amendment applies, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

9 Saving of provisions about general interest charge, failure to notify penalty or late reconciliation statement penalty
If:

(a) a provision or part of a provision that is repealed or amended by this Act provides for the payment of:
   (i) general interest charge, failure to notify penalty or late reconciliation statement penalty (all within the meaning of the Income Tax Assessment Act 1936); or
   (ii) interest under the Taxation (Interest on Overpayments and Early Payments) Act 1983; and

(b) in a particular case, the period in respect of which the charge, penalty or interest is payable (whether under the provision or under the Taxation Administration Act 1953) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

10 Repeals disregarded for the purposes of dependent provisions
If the operation of a provision (the subject provision) of any Act or legislative instrument (within the meaning of the Legislative Instruments Act 2003) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

11 Schedule does not limit operation of section 8 of the Acts Interpretation Act 1901
This Schedule does not limit the operation of section 8 of the Acts Interpretation Act 1901.
Table A

Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Act 2007 (No. 156, 2007)

Schedule 1

25 Application

The amendments made by this Schedule apply to articles in the course of post on the date of commencement of this Schedule, regardless of when the articles commenced being in the course of post.