

Telecommunications (Equipment for the Disabled) Regulations 1998 1998 No. 133

EXPLANATORY STATEMENT

Statutory Rules 1998 No. 133

Issued by the Authority of the Minister for Communications, the Information Economy and the Arts

Telecommunications Act 1997

Telecommunications (Equipment for the Disabled) Regulations 1998

Section 594 of the *Telecommunications Act 1997* (the Act) provides that the Governor-General may make regulations:

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

Part 7 of the Act establishes a universal service regime for Australian telecommunications. The main object of the regime is to ensure that all people in Australia, wherever they reside or carry on business, should have reasonable access, on an equitable basis, to standard telephone services. To achieve this object, the universal service provider, Telstra Corporation Limited, is required to supply standard telephone services to people in Australia on request. Paragraph 142(2)(a) of the Act provides that a reference in Part 7 of the Act to the supply of a standard telephone service includes a reference to the supply, to a person with a disability, of customer equipment of a kind specified in the regulations where the equipment is for use in connection with the standard telephone service.

The purpose of the accompanying regulations is to specify the kind of customer equipment that is to be supplied to a person with a disability for use in connection with the standard telephone service.

Where several people with a disability live in the same dwelling, provided each of those persons has a telephone service in their name then, if requested, each would be supplied with the disability equipment necessary to communicate with the hearing and speaking community.

The arrangements for providing the appropriate kinds of equipment will become part of the supply of a standard telephone service and do not require explicit support in the accompanying regulations. Whether the equipment is supplied directly or by subsidy, its supply will, by force of section 142 of the Act, be part of the supply of a standard telephone service.

The approach taken in the accompanying regulations is intended to take account of improvements in technology by giving flexibility for equipment provision to vary as technology changes or reduces in price and becomes more available, rather than tying the system to specific models and versions of equipment.

It is also intended that the universal service provider, in administering the provision of rented disability customer equipment, will put in place a disability consultation process to identify new disability equipment as technology develops and the need is identified for people with a disability.

Details of the accompanying regulations are as follows.

Regulation 1 - Name of Regulations

Regulation 1 provides that the name of the accompanying regulations is the

Telecommunications (Equipment for the Disabled) Regulations 1998.

Regulation 2 - Commencement

Regulation 2 provides for the accompanying regulations to commence on gazettal.

Regulation 3 - Definitions

Regulation 3 provides for the key definitions used in the accompanying regulations.

One of these key definitions is the definition of the National Relay Service, which is used in regulation 7. The National Relay Service is a service that provides persons who are deaf, or who have a hearing and/or speech impairment, with access to a standard telephone service on terms, and in circumstances, that are comparable to those on which other Australians have access to a standard telephone service.

Regulation 4 - Universal service regime

Regulation 4 outlines the universal service regime for Australian telecommunications under Part 7 of the Act. The main object of the regime is to ensure that all people in Australia, wherever they reside or carry on business, should have reasonable access, on an equitable basis, to standard telephone services. Standard telephone services are defined in section 17 of the Act. The concept of the standard telephone service reflects the practical reality that there is a basic carriage service, based on voice telephony, that the community expects to be available (with this goal being achieved through the universal service obligation under Part 7 of the Act) and to which certain attributes (eg. untimed local calls, directory assistance, etc) attach.

To achieve the main object of the universal service regime, the universal service provider, Telstra Corporation Limited, is required to supply standard telephone services to people in Australia on request.

Regulation 5 - Supply of standard telephone services

Regulation 5 outlines the operation of subsection 142(2) of the Act. Under this subsection, a reference in Part 7 of the Act to the supply of a standard telephone service includes a reference to the supply, to a person with a disability, of customer equipment and other goods and services of a kind specified in the regulations where the equipment, goods or services, as the case may be, are for use in connection with the standard telephone service.

Regulation 6 Purpose of Part 3

Regulation 6 provides that Part 3 of the accompanying regulations, dealing with customer equipment, specifies kinds of customer equipment for paragraph 142(2)(a) of the Act. Paragraph 142(2)(a) of the Act provides that a reference in Part 7 of the Act to the supply of a standard telephone service includes a reference to the supply, to a person with a disability, of customer equipment of a kind specified in the regulations where the equipment is for use in connection with the standard telephone service.

Regulation 7 - Customer equipment-communications using the National Relay Service

Regulation 7 specifies customer equipment for the purposes of paragraph 142(2)(a) of the Act that allows a person with a disability having access to the National Relay Service to communicate in spite of the disability.

The National Relay Service is a service that provides persons who are deaf, or who have a hearing and/or speech impairment, with access to a standard telephone service on terms, and in circumstances, that are comparable to those on which other Australians have access to a standard telephone service. It is proposed that from 1 July 1998 this Service be provided by Australian Communication Exchange Limited (ACE) under a contract with the Commonwealth. ACE currently conducts a similar service.

Examples of equipment specified in subregulation 7(2) include a teletypewriter (TTY), a computer modem (for those who already have a computer) and a telebraille (for those who are blind and also deaf, hearing or speech impaired).

Other equipment may need to be provided for a person to have access to the standard telephone service. Such equipment is dealt with in regulation 8. For example:

* a person who uses voice carry over in relation to the TTY will need both a handset and a TTY, or a unit that combines both;

* a person with Ushers Syndrome may not see a flashing light at all and may require a device (for example, a vibrating mechanism) to alert them that the TTY is ringing.

The effect of subregulation 7(3) is that the equipment specified in subregulation 7(2) need not be supplied in circumstances where to supply the equipment would impose unjustifiable hardship (within the meaning of the *Disability Discrimination Act 1992*) on the universal service provider.

Regulation 8 - Other customer equipment

Regulation 8 specifies other customer equipment for the purposes of paragraph 142(2)(a) of the Act that allows a person with a disability having access to a standard telephone service to communicate effectively with a person without a disability and in spite of the disability.

The effect of subregulation 8(2) is that the equipment specified in subregulation 8(1) need not be supplied in circumstances where to supply the equipment would impose unjustifiable hardship (within the meaning of the *Disability Discrimination Act 1992*) on the universal service provider.