



Telecommunications Regulations 2001

Statutory Rules 2001 No. 65 as amended

made under the

Telecommunications Act 1997

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Part 1 Preliminary

1.1 Name of Regulations [see Note 1]

These Regulations are the *Telecommunications Regulations 2001*.

1.2 Commencement [see Note 1]

These Regulations commence on gazettal.

1.3 *Telecommunications Regulations 1998* — repeal

The following Statutory Rules are repealed:

- 1998 No. 72
- 2000 No. 197.

1.4 *Telecommunications (Compliance with International Agreements) Regulations 1997* — repeal

The following Statutory Rules are repealed:

- 1997 No. 175
- 2000 No. 222.

1.5 *Telecommunications (Service Provider Determinations) Regulations 1997* — repeal

The following Statutory Rules are repealed:

- 1997 No. 377
- 2000 No. 246.

1.6 *Telecommunications (Standard Agreements) Regulations* — repeal

Statutory Rules 1997 No. 349 is repealed.

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1.7 Definitions

In these Regulations:

Act means the *Telecommunications Act 1997*.

authorised person, for Part 6, means:

- (a) the Chairman; or
- (b) a member of the staff of the ACA authorised in writing by the Chairman for that Part.

criminal law-enforcement agency has the meaning given by subsection 282 (10) of the Act.

Part 2 Network units

Note Part 2 of the Act deals with network units. Regulations for Part 2 of the Act will be in this Part.

Part 3 Service providers

Division 3.1 Preliminary

3.1 Purpose

This Part sets out the matters about which the ACA may make a service provider determination.

Note 1 Under subsection 99 (1) of the Act, the ACA may make a written **service provider determination** setting out rules that apply to service providers in relation to the supply of either or both of the following:

- (a) specified carriage services;
- (b) specified content services.

Note 2 Under subsection 99 (3) of the Act, the ACA must not make a service provider determination unless it relates to a matter specified in the regulations or in section 346 of the Act.

3.2 Definitions

In this Part:

activate, in relation to a pre-paid carriage service, means to enable the service to be used:

- (a) to make calls other than to the emergency call service or to the carriage service provider; and
- (b) to receive calls.

end-user, of a pre-paid carriage service, means the person who uses the service to make calls.

pre-paid carriage service means a carriage service with the following characteristics:

- (a) it can only be supplied to a customer if the customer is issued with a public number to be used in connection with the supply of the service;
- (b) the customer must pay for the service before using it;
- (c) no service provider or other person gives the customer an account for the service after the customer has used it.

Note The SIM card (Subscriber Identity Module) is an example of current technology that is used to supply a pre-paid carriage service.

public number means a number specified in the numbering plan mentioned in subsection 455 (3) of the Act.

purchaser, of a pre-paid carriage service, means the person who pays for the service at the point of sale of the service.

senior officer, for a criminal law-enforcement agency, has the meaning given by subsection 282 (10) of the Act.

Division 3.2 Pre-paid carriage services

3.3 Collecting information for selling a pre-paid carriage service — purchaser at point of sale

- (1) The ACA may make a determination about a service provider not supplying to a person (the **purchaser**) a pre-paid carriage service, as a sale of the service, unless the service provider collects, at the point of sale, information from the purchaser.
- (2) However, the determination must not relate to a sale to the purchaser of a pre-paid carriage service associated with a public number if:
 - (a) the requirements of the determination have been satisfied for a previous sale (if any) to the purchaser of the same kind of pre-paid carriage service for the public number; or
 - (b) the requirements of the Telecommunications (Conditions for Allocation of Numbers) Determination 1997 have been satisfied for an allocation (if any) of the public number to the purchaser.
- (3) The determination may only mention information for collection if it is:
 - (a) information about the purchaser that the service provider may be required to give a person or association in connection with the person's or association's fulfilment of the obligation to provide and maintain an integrated public number database; or
 - (b) information about how many public numbers are currently issued to the purchaser for use in connection with the supply of the same kind of pre-paid carriage service as the service for sale; or

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- (c) for a purchaser that is not an individual — information identifying the purchaser.

Example

Information that may be collected from a purchaser that is not an individual includes its Australian Business Number, Australian Company Number or Australian Registered Business Number.

3.4 Verification and identity checks for selling a pre-paid carriage service — purchaser at point of sale

- (1) The ACA may make a determination about a service provider not supplying to a person (the *purchaser*) a pre-paid carriage service, as a sale of the service, unless the service provider conducts, at the point of sale, verification and identity checks on the purchaser.
- (2) However, the determination must not relate to a sale to the purchaser of a pre-paid carriage service associated with a public number if:
 - (a) the requirements of the determination have been satisfied for a previous sale (if any) to the purchaser of the same kind of pre-paid carriage service for the public number; or
 - (b) the requirements of the Telecommunications (Conditions for Allocation of Numbers) Determination 1997 have been satisfied for an allocation (if any) of the number to the purchaser.

3.5 Collection of information, verification and identity checks — end-user after sale

- (1) The ACA may make a determination that requires a service provider to do either or both of the following:
 - (a) to collect information from an end-user after the sale of a pre-paid carriage service and before the service is activated;
 - (b) to conduct verification and identity checks on the end-user after the sale of a pre-paid carriage service and before the service is activated.

- (2) However, the determination must not relate to a sale of a pre-paid carriage service associated with a public number if:
 - (a) the requirements of the determination have been satisfied in relation to the end-user for a previous sale (if any) of the same kind of pre-paid carriage service for the public number; or
 - (b) the requirements of the Telecommunications (Conditions for Allocation of Numbers) Determination 1997 have been satisfied for an allocation (if any) of the public number to the end-user.
- (3) A determination under paragraph (1) (a) may only mention information for collection if it is:
 - (a) information about the end-user that the service provider may be required to give a person or association in connection with the person's or association's fulfilment of the obligation to provide and maintain an integrated public number database; or
 - (b) information about how many public numbers are currently issued to the end-user for use in connection with the supply of the same kind of pre-paid carriage service as the service sold; or
 - (c) for an end-user that is not an individual — information identifying the end-user.

Example

Information that may be collected from an end-user that is not an individual includes its Australian Business Number, Australian Company Number or Australian Registered Business Number.

3.6 Verification and identity checks

The verification and identity checks to be mentioned in a determination under regulation 3.4 or paragraph 3.5 (1) (b) may only differ on the basis of 1 or more of the following:

- (a) whether the person is issued with 5 or more public numbers used in connection with the supply of the same kind of pre-paid carriage service as the service for sale;
- (b) how the service is to be, or was, purchased;
- (c) whether the verification and identity checks are conducted at the point of sale or after the sale.

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Examples

1. If a person offers to buy a pre-paid carriage service using a credit card or debit card, the service provider must:
 - (a) see a current credit card or debit card showing the person's name and signature; or
 - (b) obtain from the person the number and expiry date of the credit card or debit card.
2. If a person offers to buy a pre-paid carriage service using a method of payment other than credit card or debit card, the service provider must see 1 or more of the following documents:
 - a current licence or permit issued in the person's name under a law of the Commonwealth, or a State or Territory
 - a current passport issued in the person's name
 - a birth certificate issued in the person's name, or a name the person has previously used
 - a current credit card, debit card or ATM card showing the person's name and signature
 - a current Medicare card issued in the person's name
 - a statement of account for a fixed network telephone service, issued in the last year, showing the name and address used by the person for the purchase.

3.7 Records of information and identifying documents

- (1) The ACA may make a determination about a service provider keeping records of the information, mentioned in regulation 3.3 or paragraph 3.5 (1) (a), that a person offers the provider.
- (2) The ACA may make a determination about a service provider keeping records of documents, used for verification and identity checks mentioned in regulation 3.4 or paragraph 3.5 (1) (b), that a person offers the provider.

3.8 Restriction for giving false information

The ACA may make a determination about a service provider not allowing a person to use a public number for a pre-paid carriage service if the service provider knows that the person has given information, mentioned in a determination made for regulation 3.3, 3.4 or 3.5, that is false or misleading in a material particular.

3.9 Restriction at request of criminal law-enforcement agency

- (1) The ACA may make a determination about a service provider not allowing a person to use a public number for a pre-paid carriage service if subregulations (2) and (3) are satisfied.
- (2) The service provider must:
 - (a) have an incomplete record of information, about the person, mentioned in a determination made for regulation 3.3 or paragraph 3.5 (1) (a); or
 - (b) suspect on reasonable grounds that its record of the information contains incorrect information.
- (3) The service provider must also have been asked in writing by a senior officer of a criminal law-enforcement agency not to allow the person to use the number because:
 - (a) the officer has a suspicion on reasonable grounds that the person has used, or is likely to use, the service to engage in serious criminal conduct; and
 - (b) the action is necessary for a purpose mentioned in subsection 313 (3) or (4) of the Act.

3.10 Telling users about the determination

The ACA may make a determination about service providers telling users of their pre-paid carriage services of the effect of a determination made for regulation 3.3, 3.4, 3.5, 3.8 or 3.9.

3.11 Information in relation to the telecommunications industry

The ACA may make a determination that specifies:

- (a) information in relation to the telecommunications industry that a carriage service provider must publish or distribute; and
- (b) the method or way in which the carriage service provider must distribute or publish that information.

Regulation 3.12

Division 3.3 Premium services

3.12 Service provider determination for premium services

- (1) The ACA may make a determination setting out rules that apply to service providers in relation to the supply of any of the following services (a *premium service*):
 - (a) a carriage service or content service using a number with a prefix starting with '190';
 - (b) a carriage service used to supply:
 - (i) a content service; or
 - (ii) another service by way of a voice call (including a call that involves a recorded or synthetic voice);using a number that includes an international access code;
 - (c) another carriage service or content service determined in writing by the Minister for this paragraph.
- (2) A determination mentioned in paragraph (1)(c) is a disallowable instrument for section 46A of the *Acts Interpretation Act 1901*.
- (3) The ACA's determination may deal with any of the following matters:
 - (a) the terms and conditions on which premium services are offered or supplied;
 - (b) the liability of a customer in respect of the supply of premium services;
 - (c) the limitation of the liability of a customer in respect of the supply of premium services;
 - (d) the obligation of a service provider to notify customers about matters relating to premium services;
 - (e) the advertising of premium services;
 - (f) restrictions on access to premium services, or on access to a particular number used in the supply of premium services supplied using the carriage service provider's service;
 - (g) the barring of calls to premium services, or of calls to a particular number used in the supply of premium services supplied using the carriage service provider's service;

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- (h) the establishment of a registration scheme for service providers that are involved in the supply of premium services;
 - (i) the obligations of a carriage service provider in respect of premium services supplied using the carriage service provider's service;
 - (j) the prohibition or restriction of the imposition or collection of charges relating to the supply of carriage services or other services used in the supply of premium services;
 - (k) the issue of bills or accounts relating to the supply of carriage services or other services used in the supply of premium services;
 - (l) a matter relating to the supply of premium services used to access an Internet service;
 - (m) any other matter that the ACA considers necessary or convenient to:
 - (i) protect the interests of customers and other consumers in relation to the supply of premium services; or
 - (ii) give effect to a matter specified in paragraphs (a) to (l).
- (4) The ACA's determination may provide that a requirement in the determination does not apply to a carriage service provider if the carriage service provider establishes:
- (a) that it did not know that it was contravening the requirement; and
 - (b) that it could not, with reasonable diligence, have ascertained that it was contravening the requirement.

Regulation 4.1

Part 4 Industry codes and industry standards

4.1 ACIF industry codes — application of s 115

- (1) The rule in subsection 115 (1) of the Act does not apply to an industry code developed by the Australian Communications Industry Forum to the extent to which compliance with the code is likely:
 - (a) to have the indirect effect of requiring a telecommunications network or a facility to have particular design features that relate to:
 - (i) interference between telecommunications systems that are operated using the unconditioned local loop service; or
 - (ii) the health and safety of a person operating or working on a telecommunications network or a facility that incorporates, or is used with, the unconditioned local loop service; or
 - (iii) the integrity of a telecommunications network or a facility that incorporates, or is used with, the unconditioned local loop service; or
 - (b) to have the direct or indirect effect of requiring a telecommunications network or a facility to meet performance requirements that relate to:
 - (i) interference between telecommunications systems that are operated using the unconditioned local loop service; or
 - (ii) the health and safety of a person operating or working on a telecommunications network or a facility that incorporates, or is used with, the unconditioned local loop service; or
 - (iii) the integrity of a telecommunications network or a facility that incorporates, or is used with, the unconditioned local loop service.

Regulation 4.1

(2) In subregulation (1):

unconditioned local loop service means the service declared by the ACCC, on 4 August 1999 under subsection 152AL (3) of the *Trade Practices Act 1974*, to be a declared service for the purposes of Part XIC of that Act.

Regulation 5.1

Part 5 Protection of communications

5.1 Criminal law-enforcement agencies (Act s 282 (10))

For paragraph (g) of the definition of ***criminal law-enforcement agency***, each of the following is a prescribed authority:

- (a) the Police Integrity Commission of New South Wales constituted by the *Police Integrity Commission Act 1996* of New South Wales;
- (aa) the Office of Police Integrity established by section 102A of the **Police Regulation Act 1958** (Vic);
- (b) the Crime and Misconduct Commission established by the *Crime and Misconduct Act 2001* of Queensland;
- (c) the Anti-Corruption Commission established by section 5 of the *Anti-Corruption Commission Act 1988* of Western Australia;
- (d) the Corruption and Crime Commission established by section 6 of the *Corruption and Crime Commission Act 2003* of Western Australia.

5.1A Disclosure of information to National Relay Service provider (Act s 292 (1))

- (1) For subsection 292 (1) of the Act, the following circumstances apply to a disclosure or use of information or a document:
 - (a) the disclosure must be made by or on behalf of a carrier or carriage service provider;
 - (b) the disclosure must be made to the NRS provider;
 - (c) the information or document must relate the use of the National Relay Service by a person (the ***third person***);
 - (d) the disclosure must be made for a purpose of, or must be connected with, the supply, or proposed supply, of the National Relay Service to the third person by the NRS provider.

Regulation 5.1B

- (2) In this regulation:

National Relay Service has the meaning given by section 94 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

NRS provider has the meaning given by section 94 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

5.1B Disclosure or use of information for emergency database — threat to life or health (Act s 292 (1))

- (1) The following circumstances are specified for the purposes of subsection 292 (1) of the Act:
- (a) either:
 - (i) the information is contained in an integrated public number database; or
 - (ii) the document consists of, or relates to, information contained in an integrated public number database;
 - (b) an authorised person has:
 - (i) certified to Telstra that the disclosure or use is required:
 - (A) for the purpose of preventing or lessening a serious and imminent threat to the life or health of a person or a class of persons; or
 - (B) for the purpose of ensuring that effective arrangements are in place to deal with such threats; and
 - (ii) identified the person or entity that is to receive the information or document (the **recipient**); and
 - (iii) given an undertaking to Telstra that:
 - (A) any disclosure or use by a person other than Telstra or an employee of Telstra will be for the same purpose; and
 - (B) reasonable steps will be taken to ensure that any disclosure or use by a person other than Telstra or an employee of Telstra will not adversely affect the operation of Telstra's telecommunications network;

Regulation 5.1B

- (c) if certification is given for the purpose of sub-subparagraph (b) (i) (A), and the recipient is not Telstra, the authorised person has given an undertaking to Telstra that the recipient will destroy the information or document when there is no longer an operational need for it;
- (d) if certification is given for the purpose of sub-subparagraph (b) (i) (B), and the recipient is not Telstra:
 - (i) an agreement is in effect between Telstra and the recipient; and
 - (ii) the agreement:
 - (A) provides for the Privacy Commissioner to monitor the use of the information or document by the recipient; and
 - (B) prohibits the disclosure or use of the information or document otherwise than in accordance with the agreement; and
 - (C) requires the information or document to be destroyed when there is no longer an operational need for it; and
 - (D) requires that the information or document will be used by the recipient or any other person only for the purpose mentioned in sub-subparagraph (b) (i) (B); and
 - (E) requires security measures to be in place to prevent the disclosure or use of the information or document except in accordance with the agreement.

- (2) In this regulation:

authorised person means a person who holds, occupies or performs the duties of an office or position specified in writing for the purposes of this regulation by the Minister administering the *Administrative Decisions (Judicial Review) Act 1977*.

Regulation 5.2

certified means certified in writing in a form determined in writing for the purposes of this regulation by the Minister administering the *Administrative Decisions (Judicial Review) Act 1977*.

integrated public number database means an integrated public number database maintained by Telstra in accordance with clause 10 of the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997*.

5.2 Disclosure of information by emergency call persons — research about emergency service numbers (Act s 292 (3))

- (1) For subsection 292 (3) of the Act, the following circumstances apply to a disclosure or use of information or a document:
 - (a) the disclosure must be made by an emergency call person;
 - (b) the disclosure must be made to a person (the ***researcher***) who is engaged by the ACA to conduct research, of a kind specified by the ACA, into the way in which emergency service numbers are dialled or used;
 - (c) the disclosure must be made solely for the purpose of allowing the researcher to conduct the research;
 - (d) the ACA and the researcher must have agreed that:
 - (i) the research for which the researcher is engaged is to be finished not later than 12 months after the researcher starts the research; and
 - (ii) the researcher will not disclose or use any information or document that is disclosed to the researcher except for the purpose of conducting the research.
- (2) Subregulation (1) does not authorise the disclosure or use of information or a document more than 12 months after the researcher starts the research.

Note The effect of this regulation is that section 278 of the Act will not prohibit a disclosure or use of information or a document in the circumstances specified in the regulation.

Regulation 5.3

5.3 Disclosure of information — assistance to Royal Commission into Building and Construction Industry (Act s 292)

- (1) For subsection 292 (1) of the Act, the following circumstances apply to a disclosure or use of information or a document:
- (a) the disclosure is made by an eligible person;
 - (b) the disclosure is made to the Royal Commission into the Building and Construction Industry, created by Letters Patent dated 29 August 2001;
 - (c) the disclosure is made solely for the purposes of the Royal Commission.

Note The effect of this subregulation is that section 276 of the Act will not prohibit a disclosure or use of information or a document in the circumstances specified in the subregulation.

- (2) For subsection 292 (2) of the Act, the following circumstances apply to a disclosure or use of information or a document:
- (a) the disclosure is made by an eligible number-database person;
 - (b) the disclosure is made to the Royal Commission into the Building and Construction Industry, created by Letters Patent dated 29 August 2001;
 - (c) the disclosure is made solely for the purposes of the Royal Commission.

Note The effect of this subregulation is that section 277 of the Act will not prohibit a disclosure or use of information or a document in the circumstances specified in the subregulation.

- (3) For subsection 292 (3) of the Act, the following circumstances apply to a disclosure or use of information or a document:
- (a) the disclosure is made by an emergency call person;
 - (b) the disclosure is made to the Royal Commission into the Building and Construction Industry, created by Letters Patent dated 29 August 2001;
 - (c) the disclosure is made solely for the purposes of the Royal Commission.

Note The effect of this subregulation is that section 278 of the Act will not prohibit a disclosure or use of information or a document in the circumstances specified in the subregulation.

Regulation 5.4

5.4 Disclosure of information — assistance to Royal Commission into whether there has been any corrupt or criminal conduct by Western Australian police officers

- (1) For subsection 292 (1) of the Act, the following circumstances apply to a disclosure or use of information or a document:
- (a) the disclosure is made by an eligible person;
 - (b) the disclosure is made to the Royal Commission created under section 5 of the *Royal Commissions Act 1968* (WA) by instrument of Commission dated 12 December 2001;
 - (c) the disclosure is made solely for the purposes of the Royal Commission.

Note The effect of this subregulation is that section 276 of the Act will not prohibit a disclosure or use of information or a document in the circumstances specified in the subregulation.

- (2) For subsection 292 (2) of the Act, the following circumstances apply to a disclosure or use of information or a document:
- (a) the disclosure is made by an eligible number-database person;
 - (b) the disclosure is made to the Royal Commission created under section 5 of the *Royal Commissions Act 1968* (WA) by instrument of Commission dated 12 December 2001;
 - (c) the disclosure is made solely for the purposes of the Royal Commission.

Note The effect of this subregulation is that section 277 of the Act will not prohibit a disclosure or use of information or a document in the circumstances specified in the subregulation.

- (3) For subsection 292 (3) of the Act, the following circumstances apply to a disclosure or use of information or a document:
- (a) the disclosure is made by an emergency call person;
 - (b) the disclosure is made to the Royal Commission created under section 5 of the *Royal Commissions Act 1968* (WA) by instrument of Commission dated 12 December 2001;
 - (c) the disclosure is made solely for the purposes of the Royal Commission.

Regulation 5.4

Note The effect of this subregulation is that section 278 of the Act will not prohibit the disclosure or use of information or a document in the circumstances specified in the subregulation.

Part 6 Technical regulation

6.1 Purpose of Part

This Part provides a procedure under which a person who is alleged to have committed an offence against a provision mentioned in section 453A of the Act may, as an alternative to having the matter dealt with by a court, dispose of the matter by paying a monetary penalty (an *infringement notice penalty*) specified in a notice (an *infringement notice*) served on the person.

6.2 Use of infringement notices

If there are reasonable grounds for believing that a person has committed an offence against a provision mentioned in section 453A of the Act, an authorised person may issue an infringement notice for that person.

6.3 Contents of infringement notice

- (1) An infringement notice must be signed by the authorised person who issues it and set out the following information:
 - (a) the name of the authorised person who issues it;
 - (b) the nature of the offence, the provision of the Act containing the offence and when and where the offence is alleged to have been committed;
 - (c) a statement to the effect that, if the person on whom the notice is served does not wish the matter to be dealt with by a court, he or she may pay a penalty of the amount mentioned in section 453A of the Act for the alleged offence within 28 days after service of the notice unless the notice is sooner withdrawn;
 - (d) the maximum penalty that a court could impose for the offence;
 - (e) the amount payable as the infringement notice penalty;
 - (f) where and how the infringement notice penalty may be paid;

Regulation 6.4

- (g) a statement setting out the procedures under these Regulations for the withdrawal of notices and the consequences of the withdrawal of a notice;
 - (h) a statement setting out the procedures under these Regulations for extending the period within which the penalty must be paid;
 - (i) a statement that, if the person pays the penalty within the period mentioned in the notice or any further period allowed under regulation 6.5 or subregulation 6.6 (3), or if the notice is withdrawn after the person has paid the penalty:
 - (i) any liability of the person for the alleged offence is regarded as being discharged; and
 - (ii) no further proceedings may be taken for the alleged offence; and
 - (iii) the person is not to be regarded as having been convicted of the alleged offence.
- (2) An infringement notice may contain any other matters that the ACA considers relevant.

6.4 Service of an infringement notice

- (1) An authorised person may serve an infringement notice on an individual:
- (a) by giving it to the individual personally; or
 - (b) by leaving it at, or sending it by post to, the residential or business address of the individual that is last known to the authorised person; or
 - (c) by giving it, at the place of residence or business that is last known to the authorised person, to a person who the authorised person reasonably believes:
 - (i) is over the age of 16 years; and
 - (ii) lives or works at the place.
- (2) An authorised person may serve an infringement notice on a body corporate:
- (a) by sending it by post to the head office, registered office, principal office or other postal address of the body corporate; or

Regulation 6.5

- (b) by giving it, at the head office, registered office, principal office or other place of business of the body corporate, to a person who the authorised person reasonably believes is:
 - (i) over the age of 16 years; and
 - (ii) an officer of, or in the service of, the body corporate.
- (3) An infringement notice may also be served:
 - (a) by another person acting for an authorised person in the manner mentioned in subregulation (1) or (2); or
 - (b) by an authorised person, or by another person acting for an authorised person, by fax to the fax number last known to the person sending the fax as the number at which the person being served receives fax transmissions.
- (4) In the absence of evidence to the contrary, a fax transmission is taken to have been given to a person when the transmission is sent to the number mentioned in paragraph (3) (b).
- (5) An infringement notice must be served not later than 10 months after the alleged commission of the offence.

6.5 Extension of time to pay

- (1) On written application by a person within 28 days after service of an infringement notice on the person, an authorised person may grant, if satisfied that in all the circumstances it is reasonable to do so, a further period of up to 14 days for payment of the infringement notice penalty.
- (2) The authorised person must:
 - (a) grant or refuse a further period; and
 - (b) give the applicant written notice of the decision; and
 - (c) if the decision is a refusal — mention in the notice the reasons for refusal and the period within which the infringement notice penalty must be paid.
- (3) The time for payment of the infringement notice penalty is:
 - (a) if a further period is granted — before the end of that period; or

Regulation 6.6

- (b) if the decision is a refusal — before the later of:
 - (i) the end of 7 days after receiving notice of the refusal; or
 - (ii) the end of the 28-day period; or
- (c) in either case, if time for payment is extended under subregulation 6.6 (3) — the end of the extended time.

6.6 Infringement notice may be withdrawn

- (1) If an infringement notice has been served on a person, an authorised person may at any time before the end of 28 days after the service of the notice, or any further period granted under regulation 6.5 or subregulation (3), by notice in writing served on the person, withdraw the infringement notice.
- (2) Before the end of 28 days after service of an infringement notice on a person, the person may give the authorised person, in the manner set out in the infringement notice, material that the person believes ought to be taken into account in relation to the alleged offence.
- (3) If a person gives the authorised person material under subregulation (2), the authorised person must:
 - (a) extend the time for payment of the penalty to any extent necessary for a decision to be made under paragraph (b); and
 - (b) decide whether to withdraw, or refuse to withdraw, the infringement notice; and
 - (c) give the person written notice of the decision; and
 - (d) if the decision is a refusal — mention in the notice the reasons for refusal.
- (4) If the authorised person decides to refuse to withdraw the infringement notice, notice of that decision must state that:
 - (a) the person will not be prosecuted for the alleged offence if the amount of the infringement notice penalty is paid before the later of:
 - (i) 28 days after service of the infringement notice; or
 - (ii) 7 days after notice of the decision is given to the person; and

Regulation 6.8

- (b) if that amount is not so paid, the person may be prosecuted for the alleged offence.
- (5) In making a decision, the authorised person must consider:
 - (a) the material given under subregulation (2), unless the authorised person thinks that the material does not include any grounds for deciding whether or not to withdraw the infringement notice; and
 - (b) the circumstances in which the offence mentioned in the notice is alleged to have been committed; and
 - (c) whether the person has been convicted previously of an offence against the Act; and
 - (d) whether an infringement notice has previously been given to the person for an offence of the same kind as the offence mentioned in the notice; and
 - (e) any other matter the authorised person considers relevant to the decision.

Note Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

- (6) If an infringement notice is withdrawn after a person pays the infringement notice penalty, the authorised person must refund to the person the amount paid.

6.7 Payment of penalty if infringement notice not withdrawn

If an authorised person refuses to withdraw an infringement notice, the time for payment of the infringement notice penalty is before the later of:

- (a) 28 days after service of the infringement notice; or
- (b) 7 days after notice of the decision not to withdraw the infringement notice is given to the person.

6.8 Effect of payment of infringement notice penalty

If a person who is served with an infringement notice pays the infringement notice penalty in accordance with this Part and the notice is not withdrawn:

Regulation 6.9

- (a) the person's liability for the offence is discharged; and
- (b) no further proceedings may be taken against the person for the offence; and
- (c) the person is not convicted of the offence.

6.9 Payment of penalty by cheque

If all or part of the amount of a penalty is paid by cheque, payment is taken not to have been made unless the cheque is honoured upon presentation.

6.10 Effect of this Part on institution and prosecution of proceedings

- (1) Nothing in this Part:
 - (a) requires an infringement notice to be served for an alleged offence; or
 - (b) affects the liability of a person to be prosecuted for an alleged offence if:
 - (i) an infringement notice is not served on the person for the offence; or
 - (ii) an infringement notice is served, and withdrawn; or
 - (c) limits the penalty that may be imposed by a court on a person convicted of an offence; or
 - (d) prevents the issue of more than 1 infringement notice for a person for the same offence.
- (2) If more than 1 infringement notice is issued for a person for the same offence, regulation 6.8 applies to the person if the person pays the infringement notice penalty for the alleged offence in accordance with any of those notices.

6.11 Matter not to be taken into account in determining sentence

- (1) This regulation applies if a person who is served with an infringement notice:
 - (a) chooses not to pay the infringement notice penalty; and
 - (b) is prosecuted for, and convicted of, the alleged offence mentioned in the infringement notice.

Regulation 6.12

- (2) In determining the penalty to be imposed, the court must not take into account the fact that the person chose not to pay the infringement notice penalty.

6.12 Evidence for hearing

- (1) At the hearing of a prosecution for an offence mentioned in an infringement notice, each of the following certificates is evidence of the facts stated in the certificate:
- (a) a certificate signed by an authorised person that states that:
 - (i) the infringement notice was served on the alleged offender; and
 - (ii) the infringement notice penalty was not paid in accordance with this Part;
 - (b) a certificate signed by an authorised person that states that the notice was withdrawn on a day specified in the certificate;
 - (c) a certificate signed by an authorised person that states that:
 - (i) under regulation 6.5, a further period for payment of the infringement notice penalty was or was not refused; and
 - (ii) the infringement notice penalty was not paid in accordance with this Part;
 - (d) a certificate signed by an authorised person that states that:
 - (i) for regulation 6.5, the further time mentioned in the certificate for payment of the infringement notice penalty was or was not granted; and
 - (ii) the infringement notice penalty was not paid in accordance with the infringement penalty notice or within the further time.
- (2) A certificate that purports to have been signed by an authorised person is taken to have been signed by the authorised person unless the contrary is proved.

Regulation 6.12

Part 7

**Numbering of carriage
services and regulation of
electronic addressing**

Note Part 22 of the Act deals with numbering of carriage services and regulation of electronic addressing. Regulations for Part 22 of the Act will be in this Part.

Part 8 Standard agreements for the supply of carriage services

8.1 Definition

In this Part:

standard agreement means a standard form of agreement formulated by a carriage service provider for section 479 of the Act.

8.2 Carriage services (Act s 479 (1))

For paragraph 479 (1) (b) of the Act, the following kinds of carriage services are specified:

- (a) a carriage service for voice telephony;
- (b) a carriage service for data transmission;
- (c) a carriage service for tone signalling;
- (d) a carriage service for a live or recorded information service.

8.3 Ancillary goods (Act s 479 (1))

For paragraph 479 (1) (c) of the Act, the following kinds of ancillary goods are specified:

- (a) goods for use in connection with a standard telephone service;
- (b) goods for use in connection with a carriage service specified in regulation 8.2.

8.4 Ancillary services (Act s 479 (1))

For paragraph 479 (1) (d) of the Act, the following kinds of ancillary services are specified:

- (a) a service for use in connection with a standard telephone service;
- (b) a service for use in connection with a carriage service specified in regulation 8.2.

Regulation 8.4

**Part 9 Standard carrier licence
 conditions**

Note Schedule 1 to the Act deals with standard carrier licence conditions.
Regulations for Schedule 1 to the Act will be in this Part.

**Part 10 Standard service provider
 rules**

Note Schedule 2 to the Act deals with standard service provider rules.
Regulations for Schedule 2 to the Act will be in this Part.

Part 11 Carriers' powers and immunities

11.1 Listed international agreements (Act, Schedule 3)

For the purposes of the definition of *listed international agreement* in clause 2 of Schedule 3 to the Act, an international agreement mentioned in Schedule 1 is a listed international agreement.

Schedule 1 Listed international agreements

(regulation 11.1)

Item	Agreement	Done at	Date
1	Plant Protection Agreement for the Asia and Pacific Region (as amended in 1979 and by the 1994 Amendment)	Rome	27 February 1956
2	Convention on Wetlands of International Importance especially as Waterfowl Habitat (as amended by the 1982 Protocol and the 1987 Amendment)	Ramsar	2 February 1971
3	Convention for the Protection of the World Cultural and Natural Heritage	Paris	23 November 1972
4	International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (the <i>London Convention</i>)	London, Mexico City, Moscow, Washington	29 December 1972
5	Convention on International Trade in Endangered Species of Wild Fauna and Flora (as amended by the 1979 and 1983 Amendments)	Washington	3 March 1973
6	Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment	Tokyo	6 February 1974
7	Convention on Conservation of Nature in the South Pacific	Apia	12 June 1976
8	Convention on the Conservation of Migratory Species of Wild Animals	Bonn	23 June 1979

Item	Agreement	Done at	Date
9	Treaty Between Australia and the Independent State of Papua New Guinea concerning the Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters	Sydney	18 December 1978
10	Revised Text of the International Plant Protection Convention of 6 December 1951	Rome	28 November 1979
11	United Nations Convention on the Law of the Sea	Montego Bay	10 December 1982
12	Vienna Convention for the Protection of the Ozone Layer	Vienna	22 March 1985
13	Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment	Canberra	20 October 1986
14	Convention for the Protection of the Natural Resources and Environment of the South Pacific Region	Noumea	24 November 1986
15	Protocol for the Prevention of Pollution of the South Pacific Region by Dumping	Noumea	25 November 1986
16	Montreal Protocol on Substances that Deplete the Ozone Layer (as amended by the 1992 and 1994 Amendments)	Montreal	16 September 1987
17	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	Basel	22 March 1989

Item	Agreement	Done at	Date
18	The Timor Sea Treaty (being the Treaty defined by subsection 5 (1) of the <i>Petroleum (Timor Sea Treaty) Act 2003</i>)	Dili	20 May 2002
19	Agreement between the Government of Australia and the Government of the USSR on Cooperation in the Field of Protection and Enhancement of the Environment	Canberra	15 February 1990
20	United Nations Framework Convention on Climate Change	New York	9 May 1992
21	Convention on Biological Diversity	Rio de Janeiro	5 June 1992
22	Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982	New York	5 October 1994

Table of Instruments**Notes to the *Telecommunications Regulations 2001*****Note 1**

The *Telecommunications Regulations 2001* (in force under the *Telecommunications Act 1997*) as shown in this compilation comprise Statutory Rules 2001 No. 65 amended as indicated in the Tables below.

Table of Instruments

Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
2001 No. 65	12 Apr 2001	12 Apr 2001	
2001 No. 338	21 Dec 2001	21 Dec 2001	—
2002 No. 99	23 May 2002	23 May 2002	—
2002 No. 203	6 Sept 2002	6 Sept 2002	—
2002 No. 297	4 Dec 2002	4 Dec 2002	—
2003 No. 346	23 Dec 2003	23 Dec 2003	—
2004 No. 59	13 Apr 2004	13 Apr 2004	—
2005 No. 176	9 Aug 2005 (see F2005L02192)	10 Aug 2005	—
2006 No. 236	8 Sept 2006 (see F2006L02964)	9 Sept 2006	—
2009 No. 31	23 Feb 2009 (see F2009L00697)	24 Feb 2009	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
R. 1.7	am. 2003 No. 346
Part 3	
Division 3.3	
Div. 3.3.....	ad. 2002 No. 297
R. 3.12	ad. 2002 No. 297
Part 5	
R. 5.1	am. 2002 No. 297; 2004 No. 59; 2006 No. 236
R. 5.1A.....	ad. 2002 No. 99
R. 5.1B.....	ad. 2009 No. 31
R. 5.3	ad. 2001 No. 338
R. 5.4	ad. 2002 No. 203
Part 6	
Heading to Part 6.....	rs. 2003 No. 346
Note to Part 6 Heading	rep. 2003 No. 346
R. 6.1	ad. 2003 No. 346
R. 6.2	ad. 2003 No. 346
R. 6.3	ad. 2003 No. 346
R. 6.4	ad. 2003 No. 346
R. 6.5	ad. 2003 No. 346
R. 6.6	ad. 2003 No. 346
R. 6.7	ad. 2003 No. 346
R. 6.8	ad. 2003 No. 346
R. 6.9	ad. 2003 No. 346
R. 6.10	ad. 2003 No. 346
R. 6.11	ad. 2003 No. 346
R. 6.12	ad. 2003 No. 346
Schedule 1	
Schedule 1	am. 2005 No. 176