

# **Telecommunications Amendment Regulations 2001 (No. 1)**

## **2001 No. 338**

### **EXPLANATORY STATEMENT**

#### **Statutory Rules 2001 No. 338**

Issued by the authority of the Minister for Communications, Information Technology and the Arts

*Telecommunications Act 1997*

Telecommunications Amendment Regulations 2001 (No. 1)

Section 594 of the *Telecommunications Act 1997* (the Act) allows the Governor-General to make regulations under the Act.

The purpose of the accompanying regulations is to permit the disclosure to or use of information or a document relating to telecommunications by the Royal Commission into the Building and Construction Industry being conducted by Royal Commissioner TRH Cole RFD QC in its investigations, hearings and report.

Section 292 of the Act permits the disclosure or use of information or a document the disclosure or use of which would otherwise be prohibited by sections 276, 277 and 278 of the Act in circumstances specified in the regulations.

The Royal Commission into the Building and Construction Industry was established by Letters Patent on 29 August 2001. The Royal Commission is required to investigate and report upon unlawful conduct including fraud, corruption, coercion and violence in the building and construction industry.

The Royal Commission has identified a need to obtain information from telecommunications carriers concerning such matters as the identification of subscribers and call charge records. This material is required to assist the Royal Commission in its investigations of, inter alia, unlawful conduct of the kind referred to in the Letters Patent and to complement the information that the Royal Commission has received under the *Telecommunications (Interception) Act 1979*.

The accompanying regulations prescribe the Royal Commission for the purposes of section 292 of the Act.

Details of the accompanying regulations appear in the Attachment.

The accompanying regulations commence upon gazettal.

## **ATTACHMENT**

### **DETAILS OF THE TELECOMMUNICATIONS AMENDMENT REGULATIONS 2001 (NO. 1)**

#### **Regulation 1 - Name of Regulations**

Regulation 1 provides that the name of the accompanying regulations is the *Telecommunications Amendment Regulations 2001 (No. 1)*.

#### **Regulation 2 - Commencement**

Regulation 2 provides that the accompanying regulations commence on their publication in the Commonwealth of Australia *Gazette*.

#### **Regulation 3 - Amendment of *Telecommunications Regulations 2001***

Regulation 3 provides that Schedule 1 to the accompanying regulations amends the *Telecommunications Regulations 2001*.

#### **Schedule 1      Amendment**

##### **Item 1 - After regulation 5.2**

##### **Schedule 1 inserts a new regulation 5.3 in the *Telecommunications Regulations 2001*.**

Regulation 5.3 will permit an 'eligible person', an 'eligible number-database person' and an 'emergency call person' to disclose information or a document to the Royal Commission into the Building and Construction Industry that that person would otherwise be prohibited from disclosing under section 276, 277 or 278 of the Act provided the disclosure is made solely for the purposes of the Royal Commission.

An 'eligible person' is defined in section 271 of the Act to include a telecommunications carrier, carriage service provider or telecommunications contractor (defined separately in section 274 as a person performing arm's length services for or on behalf of a carrier or carriage service provider) or an employee of the carrier, provider or contractor.

An 'eligible number-database person' is defined in subsection 272(2) of the Act to include a number-database operator or contractor or an employee of such an operator or contractor.

An 'emergency call person' is defined in section 7 of the Act to mean:

- (a) a 'recognised person' who operates an emergency call service - as a result of the *Telecommunications (Emergency Call Persons) Determination 1999* Telstra Corporation Limited, as a national operator of emergency call services is such a person as is Australian Communication Exchange Limited, to the extent that it operates an emergency call service as part of the National Relay Service (which provides access to a standard telephone service to people who are deaf or who have a hearing and/or speech impairment); and
- (b) an emergency call contractor (defined separately to mean a person who performs services on an arm's length basis for or on behalf of a recognised person who operates an emergency service).

Part 13 of the Act provides that eligible persons, eligible number-database persons and emergency call persons must protect the confidentiality of information that relates to:

- (a) the contents of communications that have been, or are being, carried by carriers or carriage service providers; and
- (b) carriage services supplied by carriers and carriage service providers; and
- (c) the affairs or personal particulars of other persons.

The primary offences in relation to the disclosure or use of such information by eligible persons, eligible number-database persons and emergency call persons are set out in sections 276, 277 and 278 of the Act.

The disclosure or use of such information is authorised in limited circumstances. Section 292 of the Act permits the disclosure or use of information or a document in circumstances specified in the regulations. An authorised recipient of protected information may only disclose or use the information for an authorised purpose.

Regulation 5.3 is made for the purposes of section 292 of the Act.