

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 26

Issued by the Authority of the Minister for Broadband, Communications
and the Digital Economy

Australian Postal Corporation Act 1989

*Australian Postal Corporation (Performance Standards) Amendment Regulations
2008 (No. 1)*

Section 102 of the *Australian Postal Corporation Act 1989* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 28C of the Act provides that the regulations may prescribe performance standards to be met by Australia Post. The prescribed performance standards must relate to certain specified matters, including the speed of mail delivery. The *Australian Postal Corporation (Performance Standards) Regulations 1998*, amongst other things, set performance standards for the delivery of mail by Australia Post.

Section 90UA of the Act, inserted by Schedule 1 to the *Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Act 2007* with effect from 24 March 2008, provides that Australia Post may remove suspected scam mail from the normal course of carriage for inspection by consumer protection agencies (which must then deal with the mail within a specified period or return the articles to Australia Post).

The purpose of the Regulations is to exempt mail which has been removed from the normal course of carriage under subsection 90UA(1) or (3) of the Act, from the performance standards provided in paragraph 6(2)(b) of the *Australian Postal Corporation (Performance Standards) Regulations 1998*.

The Regulations also provide that mail which is removed under subsections 90UA(1) or (3) of the Act, but subsequently returned to the normal course of carriage, will have the performance standards provided by paragraph 6(2)(b) apply from the time that the articles re-enter the normal course of carriage.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA) (see paragraph 6(a) of the LIA). In developing the Regulations, the Department of Broadband, Communications and the Digital Economy consulted with Australia Post.

Details of the accompanying Regulations are set out in the [Attachment](#).

The Regulations commence on 24 March 2008, which is the commencement date of Schedule 1 to the *Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Act 2007*.

ATTACHMENT**Details of the Australian Postal Corporation (Performance Standards) Amendment Regulations 2008 (No. 1)****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Australian Postal Corporation (Performance Standards) Amendment Regulations 2008 (No. 1)*.

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the commencement of Schedule 1 to the *Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Act 2007*.

Table item 2 in subsection 2(1) of this Act provides that Schedule 1 commences on a single day to be fixed by Proclamation or, if no Proclamation has been made, 6 months after the Act received Royal Assent. This Act received Royal Assent on 24 September 2007. No Proclamation has been made. Schedule 1 to this Act therefore commences on 24 March 2008.

Regulation 3 – Amendment of Australian Postal Corporation (Performance Standards) Regulations 1998

This regulation provides that Schedule 1 to the Regulations amends the *Australian Postal Corporation (Performance Standards) Regulations 1998*.

Schedule 1 – Amendments

Item 1 is a consequential amendment. It amends paragraph 6(1)(d) to accommodate the new paragraph 6(1)(e).

Item 2 inserts a new paragraph 6(1)(e) to exempt articles removed from the normal course of carriage by Australia Post under subsection 90UA(1) or (3) of the Act. This amendment will allow Australia Post to remove mail suspected of being scam mail from the mail stream for inspection by consumer protection agencies without breaching the performance standards provided by paragraph 6(2)(b).

Item 3 inserts a new subregulation 6(1A) which will apply the performance standards provided in paragraph 6(2)(b) to mail which was removed from the mail stream under subsection 90UA(1) or (3) of the Act, but which has subsequently been returned to the normal course of carriage.