

Commonwealth of Australia

Telecommunications (Consumer Protection and Service Standards) Act 1999

**Telecommunications Universal Service Obligation
(Standard Telephone Service—Requirements and
Circumstances) Determination (No. 1) 2011
(Amendment No. 1 of 2012)**

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications and the Digital Economy, make the following instrument under subsections 9(2D) and 9(3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and subsection 33(3) of the *Acts Interpretation Act 1901*.

Dated 3 May 2012

STEPHEN CONROY

Minister for Broadband, Communications and the Digital Economy

Part 1 Preliminary

1 Name of Determination

This Determination is the *Telecommunications Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination (No. 1) 2011 (Amendment No. 1 of 2012)*.

2 Commencement

This Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

3 Variation

The *Telecommunications Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination (No. 1) 2011* is amended as set out in the Schedule to this Determination.

Schedule Amendments

(section 3)

[1] Section 3

Insert:

national broadband network has the same meaning as in section 577BA of the *Telecommunications Act 1997*.

NBN Co means NBN Co Limited (ACN 136 533 741), as the company exists from time to time (even if its name is later changed).

NBN Co fibre network means the fibre that is:

- (a) deployed as part of, or which otherwise becomes part of, the national broadband network; and
- (b) accepted into operation by NBN Co; and
- (c) owned, controlled or operated by or on behalf of an NBN corporation.

NBN corporation has the same meaning as in the *National Broadband Network Companies Act 2011*.

specified service has the same meaning as in the CSG Standard.

[2] Subsection 3(2)

Omit “a premises is an *excluded premises* if the premises satisfies”, substitute “premises are *excluded premises* if the premises satisfy”.

[3] Paragraphs 3(2)(a), (b), (d), (e), (f) and (h)

Omit “premises is”, substitute “premises are”.

[4] Paragraphs 3(2)(c) and (g)

Omit “premises does”, substitute “premises do”.

[5] Paragraphs 3(2)(i) and (l)

Omit “is a residential premises but is”, substitute “are residential premises but are”.

[6] Paragraph 3(2)(j)

Omit “is a residential premises but does”, substitute “are residential premises but do”.

[7] Paragraph 3(2)(k)

Repeal the paragraph, substitute:

- (k) the premises are business premises but a person making the request does not intend to carry on business for 6 months or more per annum at the premises; or

[8] Paragraph 3(3)(e)

Omit “to that premises”, substitute “to the premises”.

[9] Subparagraph 7(1)(a)(i)

Omit “is an excluded”, substitute “are excluded”.

[10] Subparagraph 7(1)(b)

Repeal the paragraph, substitute:

- (b) except where subparagraphs (1)(a)(iv) or (1)(a)(v) apply, the primary universal service provider complies with the notification requirements at subsection 8(3); and

[11] After paragraph 7(1)(b)

Insert:

- (c) where subparagraph (1)(a)(iv) applies, the primary universal service provider complies with the notification requirements at subsections 8(3A) and (3B); and
- (d) where subparagraph (1)(a)(v) applies, the primary universal service provider complies with the notification requirements at subsection 8(3C).

[12] Paragraph 7(4)(f)

Repeal the paragraph, substitute:

- (f) the premises specified in the request for the standard telephone service are not sufficiently secure for the housing of telecommunications equipment, taking into consideration the nature of the premises

(including whether the premises are in a remote area and whether the premises are permanently occupied);

[13] Subparagraphs 7(4)(j)(i) and (ii)

Omit “premises is”, substitute “premises are”.

[14] Sub-Subparagraph 7(4)(l)(i)(B)

Omit “a premises”, substitute “premises”.

[15] Paragraph 7(4)(m)

Omit “service is”, substitute “service are”.

[16] Subparagraph 7(4)(m)(ii)

Omit “.”, substitute “;”.

[17] After subsection 7(4)

Insert:

- (4A) For the purposes of subparagraph 7(4)(h)(ii), if the ‘another carriage service provider’ referred to in subsection 21(3) of the CSG Standard is an NBN corporation, then:
- (a) subsection 21(3) of the CSG Standard will not apply; and
 - (b) the circumstances beyond the control of the primary universal service provider referred to in subsection 21(2) of the CSG Standard may include damage to, or failure of, the NBN Co fibre network that:
 - (i) causes mass outages of specified services; and
 - (ii) restricts connection to a specified service or rectification of a fault or service difficulty.

[18] Subsection 8(1)

Omit “Subsection (3) sets”, substitute “Subsections (3), (3A), (3B) and (3C) set”.

[19] Subsection 8(3)

Omit “circumstances in paragraph 7(1)(a) applies to the request, provide to the person”, substitute “circumstances in paragraph 7(1)(a) (except for the circumstances in subparagraphs 7(1)(a)(iv) and (v)) applies to the request, send to the person”.

[20] Subparagraph 8(3)(c)(ii)

Insert:

Note: The Telecommunications Industry Ombudsman will not investigate or facilitate the resolution of a complaint made following a request for reconsideration where it determines that:

- (a) the person making the request is not a person who may make a complaint to the Telecommunications Industry Ombudsman; or
- (b) the Telecommunications Industry Ombudsman does not have the jurisdiction to investigate or facilitate the resolution of that complaint.

[21] After paragraph 8(3)(d)

Insert:

- (3A) The primary universal service provider must, within 10 business days of deciding that the circumstance in subparagraph 7(1)(a)(iv) applies to the request, send to the person making the request a statement in writing setting out:
 - (a) the decision of the primary universal service provider not to provide a service to that person based on:
 - (i) the personal credit history of the person making the request; or
 - (ii) any other relevant grounds; and
 - (b) the entitlement of that person to request that the primary universal service provider reconsider the decision not to provide a service to that person;
- (3B) If a person makes a request under paragraph (3A)(b) that the primary universal service provider reconsider the decision not to provide a service to that person, and the primary universal service provider decides that the circumstance in subparagraph 7(1)(a)(iv) continues to apply to that person's request for a standard telephone service, the primary universal service provider must, within 10 business days of deciding that the circumstance continues to apply, send to the person making the request for a standard telephone service a statement in writing setting out:
 - (a) the decision of the primary universal service provider that the obligation to supply a standard telephone service does not apply to the request; and

- (b) the reliance of the primary universal service provider in basing its decision not to supply a standard telephone service on:
 - (i) the personal credit history of the person making the request; or
 - (ii) any other relevant grounds; and
- (c) the entitlement of the person making the request to dispute that the circumstance in subparagraph 7(1)(a)(iv) applies to the request by:
 - (i) requesting the primary universal service provider to reconsider whether the grounds referred to in paragraph (3B)(b) exist or are a proper basis for the primary universal service provider to form the view that the obligation to supply a standard telephone service does not arise; or
 - (ii) complaining to the Telecommunications Industry Ombudsman, following such a request for reconsideration; and

Note: The Telecommunications Industry Ombudsman will not investigate or facilitate the resolution of a complaint made following a request for reconsideration where it determines that:

- (a) the person making the request is not a person who may make a complaint to the Telecommunications Industry Ombudsman; or
 - (b) the Telecommunications Industry Ombudsman does not have the jurisdiction to investigate or facilitate the resolution of that complaint.
- (d) how the person making the request can contact the primary universal service provider and the Telecommunications Industry Ombudsman.
- (3C) The primary universal service provider must, within 10 business days of deciding that the circumstance in subparagraph 7(1)(a)(v) applies to the request, send to the person making the request a statement in writing setting out:
- (a) the decision of the primary universal service provider that the obligation to supply a standard telephone service does not apply to the request; and
 - (b) the reliance of the primary universal service provider in basing its decision not to supply a standard telephone service on information provided by the person making the request to the primary universal service provider; and

- (c) the entitlement of the person making the request to dispute the decision not to supply a standard telephone service by:
 - (i) requesting the primary universal service provider to reconsider whether the grounds referred to in paragraph (3C)(b) exist or are a proper basis for the primary universal service provider to form the view that the obligation to supply a standard telephone service does not arise; or
 - (ii) complaining to the Telecommunications Industry Ombudsman, following such a request for reconsideration; and

Note: The Telecommunications Industry Ombudsman will not investigate or facilitate the resolution of a complaint made following a request for reconsideration where it determines that:

- (a) the person making the request is not a person who may make a complaint to the Telecommunications Industry Ombudsman; or
 - (b) the Telecommunications Industry Ombudsman does not have the jurisdiction to investigate or facilitate the resolution of that complaint.
- (d) how the person making the request can contact the primary universal service provider and the Telecommunications Industry Ombudsman.

[22] Paragraph 8(4)(a)

Omit “does not arise”, substitute “does not arise for a period”.

[23] After paragraph 8(4)(b)

Insert:

- (ba) if practicable, an estimate by the primary universal service provider of the period of time for which that circumstance, or each of those circumstances, applies to the request; and

[24] Subparagraph 8(4)(c)(ii)

Insert:

Note: The Telecommunications Industry Ombudsman will not investigate or facilitate the resolution of a complaint made following a request for reconsideration where it determines that:

- (a) the person making the request is not a person who may make a complaint to the Telecommunications Industry Ombudsman; or
- (b) the Telecommunications Industry Ombudsman does not have the jurisdiction to investigate or facilitate the resolution of that complaint.

[25] After subsection 8(4)

Insert:

- (5) In estimating, for the purposes of paragraph (4)(ba), the period of time for which the circumstance, or each of the circumstances, applies to the request, the primary universal service provider must have regard to:
 - (a) the effect, on the ability of the provider to comply with the obligation to supply a standard telephone service on request under paragraph 9(1)(a) or subsection 9(2) of the Act, of the grounds identified by the provider in paragraph (4)(b) on which it has based its judgment that the circumstance, or each of the circumstances, applies to the request; and
 - (b) to the extent practicable, the resources that the provider would have to commit, proportionate to that effect, to:
 - (i) mitigate the consequences of those grounds; and
 - (ii) minimise the duration of those grounds.