



Telecommunications Code of Practice (Temporary Facilities) Amendment Determination 2020

I, PAUL FLETCHER, Minister for Communications, Cyber Safety and the Arts,
make the following instrument.

Dated 24 March 2020

PAUL FLETCHER
Minister for Communications, Cyber Safety and the Arts

1 Name

This instrument is the *Telecommunications Code of Practice (Temporary Facilities) Amendment Determination 2020*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under subclause 15(1) of Schedule 3 to the *Telecommunications Act 1997* and subsection 33(3) of the *Acts Interpretation Act 1901*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Telecommunications Code of Practice 2018

1 Section 2.7 (at the end of Note 2)

Add:

- Note 3 Copies of ACMA-recognised standards are available at:
<https://www.acma.gov.au/register-telco-industry-codes-and-standards>

2 Section 2.10 (Note)

Omit:

- Note See Act, Schedule 1, clause 41, which defines the terms *designated overhead line*, *telecommunications transmission tower* and *eligible underground facility*.

Substitute:

- Note 1 See Act, Schedule 1, clause 41, which defines the terms *designated overhead line*, *telecommunications transmission tower* and *eligible underground facility*.
- Note 2 Section 4.10 of this Code specifies record keeping requirements in relation to the installation of certain temporary facilities.
- Note 3 Section 6.10 of this Code specifies record keeping requirements in relation to maintenance activities involving the installation of certain temporary facilities.

3 Heading to Division 1, Part 4 of Chapter 2

Repeal the heading.

4 Section 2.14

Repeal the section.

5 Section 3.7 (at the end of Note 2)

Add:

- Note 3 Copies of ACMA-recognised standards are available at
<https://www.acma.gov.au/register-telco-industry-codes-and-standards>

6 At paragraph 3.32(8)(b)

Omit “Nature Conservation Director or Heritage Chairperson”, substitute “Director of National Parks”.

7 After section 4.3

Insert:

4.3A Carrier to remove temporary facilities

- (1) If:
- (a) a carrier installs a low-impact facility; and
 - (b) the installation is to minimise disruption to the supply of a carriage service that might result from the maintenance of another facility;

the carrier must remove the facility within 28 days after the completion of the maintenance.

Note See Items 1, 2 and 8 of Part 6A of the Schedule to the LIFD.

(2) If:

- (a) a carrier installs a low-impact facility; and
- (b) the installation is to minimise disruption to the supply of a carriage service that might result from carrying out the replacement of another facility;

the carrier must remove the facility within 28 days after the completion of the replacement.

Note See Items 3, 4 and 8 of Part 6A of the Schedule to the LIFD.

(3) If:

- (a) a carrier installs a low-impact facility; and
- (b) the installation is for the purpose of providing additional capacity to supply carriage services to persons who are attending an event at a venue;

the carrier must remove the facility within 28 days after the end of the event.

Note See Items 5 and 8 of Part 6A of the Schedule to the LIFD.

(4) If:

- (a) a carrier installs a low-impact facility; and
- (b) the installation is for the purpose of providing additional capacity to supply carriage services to persons who are attending any or all of 2 or more events at a venue;

the carrier must remove the facility within 28 days after the end of the last of the events.

Note See Items 6 and 8 of Part 6A of the Schedule to the LIFD.

(5) If:

- (a) a carrier installs a low-impact facility; and
- (b) the installation is for the purpose of providing additional capacity to supply carriage services to persons who are physically present in a particular area during a high-demand holiday period;

the carrier must remove the facility within 28 days after the end of the high-demand holiday period.

Note 1 The term 'high-demand holiday period' has the same meaning as in clause 2 of Schedule 3 to the Act.

Note 2 See Items 7 and 8 of Part 6A of the Schedule to the LIFD.

(6) If:

- (a) a carrier installs a low-impact facility; and

-
- (b) the installation is wholly or partly to provide capacity to supply carriage services to one or more emergency services organisations so that those organisations can deal with an emergency or natural disaster;

the carrier must remove the facility within 28 days after the facility ceases to be needed to provide capacity to supply carriage services to one or more emergency services organisations so that those organisations can deal with an emergency or natural disaster.

Note 1 The term ‘emergency services organisation’ is defined in section 1.5 of the LIFD.

Note 2 See Item 2 of Part 7 of the Schedule to the LIFD.

8 Heading to section 4.4

Omit:

4.4 Carrier to restore land

Substitute:

4.4 Carrier to restore land—general

9 After section 4.4

Insert:

4.4A Carrier to restore land—removal of temporary facilities

- (1) If a carrier engages in a low-impact facility activity:
- (a) the activity involves the installation of a low-impact facility for any of the following purposes:
 - (i) to minimise disruption to the supply of a carriage service that might result from carrying out the maintenance of another facility;
 - (ii) to minimise disruption to the supply of a carriage service that might result from carrying out the replacement of another facility;
 - (iii) to provide additional capacity to supply carriage services to persons who are attending an event at a venue;
 - (iv) to provide additional capacity to supply carriage services to persons who are attending any or all of 2 or more events at a venue;
 - (v) to provide additional capacity to supply carriage services to person who are physically present in a particular area during a high-demand holiday period;

-
- (vi) to provide capacity to supply carriage services to one or more emergency service organisations so that the those organisations can deal with an emergency or natural disaster; and
 - (vii) the carrier removes the facility;
- the carrier must take all reasonable steps to ensure:
- (b) that the land is restored to a condition that is similar to its condition before the installation began; and
 - (c) that the restoration begins within 10 business days after the removal of the facility.

Note See Items 1–8 of Part 6A and Item 2 of Part 7 of the Schedule to the LIFD.

- (2) The timeframe in subparagraph 4.4A(1)(c) does not apply if the carrier agrees with:
- (a) the owner of the land; and
 - (b) if the land is occupied by a person other than the owner—the occupier;
- to commence restoration at a time after the end of that period of 10 business days.

4.4B Temporary facility installed at or near a venue—annual limit

- (1) If:
- (a) a carrier installs one or more low-impact facilities at a particular place; and
 - (b) the installation is to provide additional capacity to supply carriage services to persons who are:
 - (i) attending an event at a venue; or
 - (ii) attending any or all of 2 or more events at a venue;

the carrier must ensure that the total number of days in a calendar year on which those facilities remain at that place does not exceed 183.

Note 1 The annual limit relates to the time the facility remains situated on the particular land, not the number of days of the particular event.

Note 2 See Items 5, 6 and 8 of Part 6A to the Schedule of the LIFD.

4.4C Temporary facility installed to provide additional capacity during a high-demand holiday period—annual limit

- (1) If:
- (a) a carrier installs one or more low-impact facilities at a particular place; and
 - (b) the installation is to provide additional capacity to supply carriage services to persons who are physically present in a particular area during a high-demand holiday period;

the carrier must ensure that the total number of days in a calendar year on which those facilities remain at that place does not exceed 90.

Note 1 The annual limit relates to the time the facility remains situated on the particular land, not the number of days comprising the high-demand holiday period.

Note 2 See Items 7 and 8 of Part 6A of the Schedule to the LIFD.

10 Section 4.7 (at the end of Note 2)

Add:

Note 3 Copies of ACMA-recognised standards are available at <https://www.acma.gov.au/register-telco-industry-codes-and-standards>

11 Subsection 4.10(2)

After “towers” insert “(other than facilities mentioned in subsection 4.10(4) or (5) below)”.

12 At the end of section 4.10

Omit:

Note See Act, Schedule 1, clause 41, which defines the terms *designated overhead line*, *telecommunications transmission tower* and *eligible underground facility*.

Substitute:

- (4) If a carrier owns or operates temporary facilities that are installed:
- (a) for any of the following purposes:
- (i) to minimise disruption to the supply of a carriage service that might result from carrying out the maintenance of another facility;
 - (ii) to minimise disruption to the supply of a carriage service that might result from carrying out the replacement of another facility;
 - (iii) to provide additional capacity to supply carriage services to persons who are physically present in a particular area during a high-demand holiday period;
 - (iv) wholly or partly to provide capacity to supply carriage services to one or more emergency services organisations so that those organisations can deal with an emergency or natural disaster;

the carrier must keep and maintain records of:

- (b) each kind of temporary facility;
- (c) the purpose for which the temporary facility was installed;
- (d) the day on which the temporary facility was installed;
- (e) the location where the temporary facility was installed;
- (f) the circumstances which gave rise to the requirement for the temporary facility to be installed;
- (g) the day on which the temporary facility was removed;

-
- (h) where the temporary facility includes a tower—the height of the facility; and
 - (i) where the temporary facility is not a tower, the height and length of the facility.

Note 1 See Items 1, 2, 3, 4, 7 and 8 of Part 6A of the Schedule to the LIFD.

- (5) If a carrier owns or operates temporary facilities that are installed for the purpose of providing additional capacity to supply carriage services to persons who are attending one or more events at a venue, the carrier must maintain keep and records of:
 - (a) each of the matters described in paragraphs 4.10(4)(b)-(i) above;
 - (b) the start time and date of the particular event or events;
 - (c) the end time and date of the particular event or events; and
 - (d) the name and location of the particular venue where the event or events will be held.

Note 1 See Act, Schedule 1, clause 41, which defines the terms *designated overhead line*, *telecommunications transmission tower* and *eligible underground facility*.

Note 2 See Items 5, 6 and 8 of Part 6A of the Schedule to the LIFD.

13 Heading to section 4.16

Omit:

4.16 Notice to Nature Conservation Director

Substitute:

4.16 Notice to Director of National Parks

14 Note after the heading to Division 2 to Part 5, Chapter 4

Omit:

Note This Division is provided for information only: see subsection 4.1 (2). The provisions of the Act should be consulted to decide rights and obligations.

Substitute:

Note Several of the sections in this Division are provided for information only. The provisions of the Act should be consulted to decide rights and obligations.

15 After subsection 4.23A(3)

Insert:

- (3A) Where the low-impact facility activity relates to installing a temporary facility, the notice must also specify:
 - (a) in all circumstances:
 - (i) the particular purpose for which the installation is proposed;
 - (ii) where the temporary facility includes a tower—the height of the tower;

-
- (iii) the physical address at which the temporary facility will be installed;
 - (iv) the day on which the temporary facility is planned to be installed;
 - (v) the day on which the temporary facility is planned to be removed; and
- (b) in a circumstance where the installation of the temporary facility is to provide additional capacity to supply carriage services to persons who are attending one or more events at a venue:
- (i) the matters listed in subparagraphs (a)(i)-(v) above;
 - (ii) the physical address of each venue; and
 - (iii) the days on which each event will take place, including the scheduled start and end time.

Note 1 Where a temporary facility is to be installed to provide additional capacity to supply carriage services to persons who are attending any or all of 2 or more events at a venue, the carrier may provide one notification covering all events at the venue.

Note 2 Where the time limit in any one calendar year has been expended in respect of the location of a temporary facility on a particular parcel of land, that land cannot be used by the carrier for the remainder of that calendar year for siting of another temporary facility of the same kind for the same purpose on any part of that land.

Note 3 For paragraph 4.23(3A)(a), see Items 1–4, 7 and 8 of Part 6A of the Schedule to the LIFD.

Note 4 For paragraph 4.23(3A)(b), see Items 5, 6 and 8 of Part 6A of the Schedule to the LIFD.

16 Section 4.23(5)

Omit:

to (7)

Substitute:

to (8)

17 Section 5.7 (at the end of Note 2)

Add:

Note 3 Copies of ACMA-recognised standards are available at:
<https://www.acma.gov.au/register-telco-industry-codes-and-standards>

18 At the end of section 6.2

Add:

Note 1 The term ‘maintenance’ is defined in the Dictionary.

Note 2 The maintenance of a facility includes a reference to the installation of a temporary facility (other than a tower within the meaning of subclause 6(5) of Schedule 3 to the Act) where certain conditions are satisfied; see subclause 7(3A) of Schedule 3 to the Act.

19 After section 6.3

Insert:

6.3A Carrier to remove temporary facilities within 28 days

If a carrier engages in a maintenance activity in relation to any land and, as part of that maintenance:

- (a) the carrier installs a low-impact facility on particular land; and
- (b) the installation of the facility is for one of the following purposes:
 - (i) to minimise disruption to the supply of a carriage service that might result from the maintenance of another facility; or
 - (ii) to minimise disruption to the supply of a carriage service that might result from carrying out the replacement of another facility;

the carrier must remove the facility within 28 days after the completion of the maintenance of the original facility.

Note See Item 8 of Part 6A of the Schedule to the LIFD.

20 Heading to section 6.4

Omit:

6.4 Carrier to restore land

Substitute:

6.4 Carrier to restore land—general

21 After section 6.4

Insert:

6.4A Carrier to restore land—removal of temporary facilities

- (1) If a carrier engages in a maintenance activity in relation to any land and, as part of that maintenance:
 - (a) the carrier installs a low-impact facility on particular land; and
 - (b) the installation of the facility is on a temporary basis for one of the following purposes:
 - (i) to minimise disruption to the supply of a carriage service that might result from the maintenance of another facility; or
 - (ii) to minimise disruption to the supply of a carriage service that might result from carrying out the replacement of another facility;
 - (c) the carrier removes the facility;
- the carrier must take all reasonable steps to ensure:
- (d) that the land is restored to a condition that is similar to its condition before the installation began; and

-
- (e) that the restoration begins within 10 business days after the removal of the facility.
- (2) The timeframe in subsection 6.4A(1)(e) does not apply if the carrier agrees with:
- (a) the owner of the land; and
 - (b) if the land is occupied by a person other than the owner—the occupier;
- to commence restoration at a time after the end of that period of 10 business days.

Note See Item 8 of Part 6A of the Schedule to the LIFD.

22 Section 6.7 (at the end of Note 2)

Add:

Note 3 Copies of ACMA-recognised standards are available at <https://www.acma.gov.au/register-telco-industry-codes-and-standards>

23 Subsection 6.10(2)

After “towers” insert “(other than temporary facilities mentioned in subsection 6.10(4) or (5) below)”.

24 At the end of section 6.10

Add:

- (4) If a carrier owns or operates temporary facilities that are installed to minimise disruption to the supply of a carriage service that might result from the maintenance of another facility, the carrier must keep and maintain records of:
- (a) the kind of temporary facility and height;
 - (b) the location where the temporary facility was installed;
 - (c) the day on which each temporary facility was installed;
 - (d) the purpose for which the temporary facility was installed, including:
 - (i) details of the other facility (including height and type) that is the subject of maintenance activity;
 - (ii) the day on which maintenance of the other facility commenced; and
 - (iii) the day on which maintenance of the other facility ceased; and;
 - (iv) the day on which each temporary facility was removed.

Note See Item 8 of Part 6A of the Schedule to the LIFD.

- (5) If a carrier owns or operates temporary facilities that are installed to minimise disruption to the supply of a carriage service that might result from carrying out the replacement of another facility, the carrier must keep and maintain records of:
- (a) the kind of temporary facility and height;

-
- (b) the location where the temporary facility was installed;
 - (c) the days on which the temporary facility was installed;
 - (d) the purpose for which the temporary facility was installed, including:
 - (i) details of the other facility (including height and type) that is being replaced;
 - (ii) the date upon on which replacement of the other facility commenced; and
 - (iii) the day on which replacement of the other facility ceased; and
 - (iv) the day on which each temporary facility was removed.

Note See Item 8 of Part 6A of the Schedule to the LIFD.

25 Heading to Division 1, Part 4 of Chapter 6

Repeal the heading.

26 Section 6.14

Repeal the section.

27 Glossary (Schedule)

Insert:

high-demand holiday period has the same meaning as in clause 2 of Schedule 3 to the Act.

LIFD means the *Telecommunications (Low-impact Facilities) Determination 2018*.

public land has the same meaning as in clause 2 of Schedule 3 to the Act.

28 Definition of *low-impact facility* in the Glossary (Schedule)

Omit:

Note 1 For specification by class, see subsection 33 (3A) of the *Acts Interpretation Act 1901*.

Substitute:

Note 1 For specification by class, see subsection 13(3) of the *Legislation Act 2003*.