



# **Telecommunications (Carrier Licence Exemption) (ICON, DDTS, Electricity and Water Distribution) (Use for specified purposes) Determination 2023**

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I, Michelle Rowland, Minister for Communications, make the following determination.

Dated 14<sup>th</sup> September 2023

Michelle Rowland  
MINISTER FOR COMMUNICATIONS

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# Contents

<b>Part 1—Preliminary</b>	<b>3</b>
1 Name.....	3
2 Commencement .....	3
3 Authority.....	3
4 Definitions .....	3
5 Schedules .....	5
<b>Part 2—Exemptions and conditions</b>	<b>6</b>
6 Designated ICON Communications Infrastructure .....	6
7 Designated DDTS Communications Infrastructure.....	7
8 Designated ActewAGL Corporation Communications Infrastructure .....	8
9 Designated Water Corporation Communications Infrastructure .....	9
<b>Schedule 1—Repeals</b>	<b>11</b>

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## Part 1—Preliminary

### 1 Name

This instrument is the *Telecommunications (Carrier Licence Exemption) (ICON, DDTS, Electricity and Water Distribution) (Use for specified purposes) Determination 2023*.

### 2 Commencement

This instrument commences on the day after it is registered.

### 3 Authority

This instrument is made under paragraph 51(1)(c) of the *Telecommunications Act 1997*.

### 4 Definitions

Note 1: A number of expressions used in this instrument are defined in section 7 of the Act, including the following:

- (a) ACMA; and
- (b) carriage service.

Note 2: The expression ‘core function’ used in this instrument has the meaning given by subsection 23(11) of the Act.

In this instrument:

**Act** means the *Telecommunications Act 1997*.

**ActewAGL Corporation** means any one or more of the following entities:

- (a) the partnership between Icon Investments Limited (ACN 073 025 224) and Jemena Networks (ACT) Pty Ltd (ACN 008 552 663), trading principally as Evoenergy (ABN 76 670 568 688); or
- (b) Actew Retail Investments Pty Ltd (ACN 157 684 994); or
- (c) a related body corporate of an entity referred to in paragraph (a) or (b) above.

**Designated ActewAGL Corporation Communications Infrastructure** means the telecommunications infrastructure comprising line links that are:

- (a) owned by an ActewAGL Corporation; and
- (b) located within the Australian Capital Territory.

**Designated ICON Communications Infrastructure** means the Intra Government Communications Network telecommunications infrastructure owned by the Commonwealth and located in the Australian Capital Territory.

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**Designated DDTS Communications Infrastructure** means the telecommunications infrastructure comprising line links that are:

- (a) owned by the Crown in right of the Australian Capital Territory; and
- (b) located within the Australian Capital Territory.

**DDTS Government Group** means the Australian Capital Territory Government's Digital Data and Technology Solutions Group or any other replacement group or agency responsible for the Territory's administration of the Designated DDTS Communications Infrastructure from time to time.

**Designated Water Corporation Communications Infrastructure** means the telecommunications infrastructure comprising the line links that are:

- (a) owned by a Water Corporation; and
- (b) located within the Australian Capital Territory.

**ICON Department** means the Commonwealth Department of Finance or other replacement Commonwealth body or agency responsible for the Commonwealth's administration of the Designated ICON Communications Infrastructure from time to time.

**ICON Secretary** means the agency head of the ICON Department.

**Permitted Electricity Services** means any carriage service that is necessary or desirable for managing the generation, transmission, distribution or supply of electricity.

**Permitted Gas Services** means any carriage service that is necessary or desirable for managing the transmission, distribution or supply of natural gas in a pipeline.

**Permitted Water Services** means any carriage service that is necessary or desirable for:

- (a) managing the distribution of water;
- (b) managing the supply of sewerage services;
- (c) managing the supply of storm water drainage services.

**related body corporate** has the same meaning given to it by the *Corporations Act 2001*.

**Water Corporation** means:

- (a) Icon Water Limited, trading as Icon Water (ACN 069 381 960) and wholly owned by the Crown in right of the Australian Capital Territory; and
- (b) a related body corporate of the entity referred to in paragraph (a) above.

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## 5 Schedules

Each instrument that is specified in Schedule 1 to this instrument is repealed as set out in the Schedule 1, and any other item in a Schedule to this instrument has effect according to its terms.

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## Part 2—Exemptions and conditions

### 6 Designated ICON Communications Infrastructure

#### *Exemption*

- (1) Subject to the condition set out in subsection 6(2) of this instrument, section 42 of the Act does not apply in relation to the use of Designated ICON Communications Infrastructure, where the use is by:
  - (a) the Crown in right of the Australian Capital Territory or an authority for any of the following purposes:
    - (i) principally for the exercise or performance of a public function or duty; or
    - (ii) in connection with the preparation for, response to or recovery from, an emergency specified in a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).
  - (b) an authority or institution of the Australian Capital Territory (other than an authority or institution that carries on a business as a core function) for any of the following purposes:
    - (i) principally for the exercise or performance of a public function or duty; or
    - (ii) in connection with the preparation for, response to or recovery from, an emergency specified in a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).
  - (c) an ActewAGL Corporation for the supply of Permitted Gas Services or Permitted Electricity Services; or
  - (d) a Water Corporation for the supply of Permitted Water Services.

#### *Conditions*

- (2) For the purposes of subsection 6(1), the following conditions are specified:
  - (a) the ICON Secretary (or an authorised representative of the ICON Secretary) must provide a report to the ACMA by 30 September of each year during which this instrument is in force, setting out the following:
    - (i) for the Designated ICON Communications Infrastructure used in the reporting period (as permitted under subsection 6(1)):
      - A. the locations (at suburb level or where outside of a built-up areas, the adjacent suburb) of the infrastructure as at the applicable report date; and

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- B. if the Designated ICON Communications Infrastructure relates to infrastructure comprised of line links, the capacity of those links;
- (ii) the legal name and associated identifier (such as an ABN or ACN) of each user (as permitted under subsection 6(1)) of the Designated ICON Communications Infrastructure as at the applicable report date; and
- (b) the uses of the Designated ICON Communications Infrastructure are authorised in writing:
- (i) in respect of each permitted use described in subsection 6(1) above—the ICON Secretary or an authorised representative of the ICON Secretary; and
- (ii) in respect of the permitted use described in paragraph 6(1)(a) above—an authorised representative of the ACT Government.
- (iii) in respect of the permitted use described in paragraph 6(1)(b) and (b) above—an authorised representative of the relevant authority or institution.
- (iv) in respect of the permitted use described in paragraph 6(1)(c) above—an authorised representative of the relevant ActewAGL Corporation;
- (v) in respect of the permitted use described in paragraph 6(1)(d) above—an authorised representative of the relevant Water Corporation.

## **7 Designated DDTS Communications Infrastructure**

### *Exemption*

- (1) Subject to the condition set out in subsection 7(2) of this instrument, section 42 of the Act does not apply in relation to the use of Designated DDTS Communications Infrastructure where the use is:
- (a) by the Commonwealth for any of the following purposes:
- (i) principally for the exercise or performance of a public function or duty; or
- (ii) in connection with the preparation for, response to or recovery from, an emergency specified in a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).

### *Conditions*

- (2) For the purposes of subsection 7(1), the following conditions are specified:

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- (a) an authorised representative of the DDTS Government Group must provide a report to the ACMA by 30 September of each year during which this instrument is in force, setting out the following:
    - (i) for each line link comprising Designated DDTS Communications Infrastructure used in the reporting period (as permitted by subsection 7(1)):
      - A. the geographic locations (at suburb level or where outside of a built-up areas, the adjacent suburb);
      - B. the capacity of those links;
    - (ii) the legal name and associated identifier (such as an ABN or ACN) of each (as permitted by subsection 7(1)) user of the Designated DDTS Communications Infrastructure as at the applicable report date; and
  - (b) the uses of the Designated DDTS Communications Infrastructure (as permitted by subsection 7(1) above) are authorised in writing by:
    - (i) in respect of each permitted use described in subsection 7(1) above—an authorised representative of the ACT Government; and
    - (ii) in respect of each permitted use described in subsection 7(1) above—the ICON Secretary or an authorised representative of the ICON Secretary.

## **8 Designated ActewAGL Corporation Communications Infrastructure**

### *Exemption*

- (1) Subject to the conditions set out in subsection 8(2) of this instrument, section 42 of the Act does not apply in relation to the use of Designated ActewAGL Communications Infrastructure, where the use is by:
  - (a) the Crown in right of the Australian Capital Territory or an authority for any of the following purposes:
    - (i) principally for the exercise or performance of a public function or duty; or
    - (ii) in connection with the preparation for, response to or recovery from, an emergency specified in a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).
  - (b) an authority or institution of the Australian Capital Territory (other than an authority or institution that carries on a business as a core function) for any of the following purposes:
    - (i) principally for the exercise or performance of a public function or duty; or



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- (ii) in connection with the preparation for, response to or recovery from, an emergency specified in a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).
  - (c) a Water Corporation for the supply of Permitted Water Services.

#### *Conditions*

- (2) For the purposes of subsection 8(1), the following conditions are specified:
  - (a) each ActewAGL Corporation must provide a report to the ACMA by 30 September of each year during which this instrument is in force, setting out the following information:
    - (i) for each line link comprising Designated ActewAGL Corporation Communications Infrastructure that it owns and used in the reporting period (as permitted by subsection 8(1)):
      - A. the geographic locations (at suburb level or where outside of a built-up areas, the adjacent suburb);
      - B. the capacity of those links;
    - (ii) the legal name and associated identifier (such as an ABN or ACN) of each user (as permitted by subsection 8(1)) of the Designated ActewAGL Corporation Communications Infrastructure during the reporting period; and
  - (b) the uses of the Designated ActewAGL Corporation Communications Infrastructure (as permitted by subsection 8(1) above) are authorised in writing by:
    - (i) in respect of the permitted use described in paragraph 8(1)(a)—an authorised representative of the ACT Government.
    - (ii) in respect of the permitted use described in paragraph 8(1)(b)—an authorised representative of the relevant authority or institution.
    - (iii) in respect of the permitted use described in paragraph 8(1)(c)—an authorised representative of the relevant Water Corporation.

## **9 Designated Water Corporation Communications Infrastructure**

### *Exemption*

- (1) Subject to the conditions set out in subsection 9(2) of this instrument, section 42 of the Act does not apply in relation to the use of Designated Water Corporation Communications Infrastructure, where the use is by:
  - (a) the Crown in right of the Australian Capital Territory or an authority for any of the following purposes:

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- (i) principally for the exercise or performance of a public function or duty; or
  - (ii) in connection with the preparation for, response to or recovery from, an emergency specified in a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*); and
- (b) an authority or institution of the Australian Capital Territory (other than an authority or institution that carries on a business as a core function) for any of the following purposes:
- (i) principally for the exercise or performance of a public function or duty; or
  - (ii) in connection with the preparation for, response to or recovery from, an emergency specified in a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).

#### *Conditions*

- (2) For the purposes of subsection 9(1), the following conditions are specified:
- (a) each Water Corporation must provide a report to the ACMA by 30 September of each year during which this instrument is in force, setting out the following information:
    - (i) for each line link comprising the Designated Water Corporation Communications Infrastructure that it owns and was used in the reporting period (as permitted by subsection 9(1)):
      - A. the geographic locations (at suburb level or where outside of a built-up areas, the adjacent suburb); and
      - B. the capacity of those links;
    - (ii) the legal name and associated identifier (such as an ABN or ACN) of each user (as permitted by subsection 9(1)) of the Designated Water Corporation Communications Infrastructure during the reporting period; and
  - (b) the uses of the Designated Water Corporation Communications Infrastructure (as permitted by subsection 9(1) above) are authorised in writing by:
    - (i) in respect of each permitted use described in subsection 9(1) above—an authorised representative of the relevant Water Corporation;
    - (ii) in respect of the permitted use described in paragraph 9(1)(a)—an authorised representative of the ACT Government; and
    - (iii) in respect of the permitted use described in paragraph 9(1)(b)—an authorised representative of the relevant authority or institution.

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## **Schedule 1—Repeals**

### ***Telecommunications (Carrier Licence Exemption — ICON, SSICT and ACTEW Networks) Determination 2013 (No. 1)***

#### **1 The whole of the instrument**

Repeal the instrument.