

## **Explanatory Statement**

Issued by the Authority of the Minister for Communications

*Telecommunications (Consumer Protection and Service Standards) Act 1999*

### **Telecommunications (Consumer Protection and Service Standards) (Accessible Standard Telephone Services) Regulations 2023**

#### **Authority**

The *Telecommunications (Consumer Protection and Service Standards) (Accessible Standard Telephone Services) Regulations 2023* (the instrument) is made under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act).

Subsection 160(1) of the TCPSS Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 9E(2) of the TCPSS Act permits the regulations to specify certain kinds of customer equipment, goods or services for use in connection with a standard telephone service, so that a reference in Part 2 of the TCPSS Act to the **supply** of a standard telephone service will include a reference to supplying the kinds of equipment, goods and services listed in the regulations to a person with disability.

#### **Purpose**

The instrument is made for the purposes of the telecommunications universal service obligation.

Part 2 of the TCPSS Act sets out the universal service obligation for Australian telecommunications. The main object of the universal service obligation is to ensure that all people in Australia, wherever they reside or carry on business, should have reasonable access, on an equitable basis, to standard telephone services and payphones. As part of this obligation, the universal service provider, Telstra Limited, is required to supply standard telephone services to people in Australia on request.

The purpose of the instrument is to specify the kinds of customer equipment that are to be supplied on request to a person with disability for use in connection with a standard telephone service.

#### **Background**

The instrument replaces the *Telecommunications (Equipment for the Disabled) Regulations 1998*, which are due to sunset on 1 April 2024. The instrument provides an important safeguard for people with disability by directing the universal service provider to supply appropriate supportive equipment to deliver equitable access to a standard telephone service for these people.

## **Summary of the Telecommunications (Consumer Protection and Service Standards) (Accessible Standard Telephone Services) Regulations 2023**

Part 1 of the instrument deals with preliminary matters such as commencement and definitions. Part 2 of the instrument specifies customer equipment for the purposes of paragraph 9E(2)(a) of the TCPSS Act. Schedule 1 to the instrument repeals the *Telecommunications (Equipment for the Disabled) Regulations 1998*.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to the default sunseting requirements and disallowance. The instrument commences upon sunset of the *Telecommunications (Equipment for the Disabled) Regulations 1998* on 1 April 2024.

Details of the instrument are set out in [Attachment A](#).

### **Consultation**

The Department consulted Telstra and disability advocacy groups to understand how the instrument could better meet the needs of people who are deaf/hard of hearing and/or have speech communication difficulty to guide the specific technology to be included. The feedback received was supportive of the instrument being technology neutral and flexible to help integrate mainstream technology solutions.

### **Impact Analysis**

The Department consulted the Office of Impact Analysis (OIA). OIA considers this instrument is unlikely to have more than a minor impact on businesses, community and individuals in its operation compared to the status quo, and as such, the preparation of an Impact Analysis was not required.

### **Statement of Compatibility with Human Rights**

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at [Attachment B](#).

**Details of the *Telecommunications (Consumer Protection and Service Standards) (Accessible Standard Telephone Services) Regulations 2023***

**Part 1—Preliminary**

Section 1 – Name

This section provides that the name of the instrument is the *Telecommunications (Consumer Protection and Service Standards) (Accessible Standard Telephone Services) Regulations 2023*.

Section 2 – Commencement

This section provides for the instrument to commence on 1 April 2024.

Section 3 – Authority

This section provides that the instrument is made under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act).

Section 4 – Schedules

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

Section 5 – Definitions

This section sets out definitions of expressions used in the instrument, such as “Act”, “customer equipment”, “disability” and “telecommunications network”.

The note in section 5 explains that a number of expressions used the instrument are defined in the TCPSS Act, including “National Relay Service” and “standard telephone service”.

The National Relay Service (NRS) is a service that provides persons who are deaf, or have a hearing and/or speech communication difficulty, with access to a standard telephone service on terms, and in circumstances, that are comparable to those on which other Australians have access to a standard telephone service.

“Standard telephone service” has the meaning given by section 6 of the TCPSS Act, which is modified slightly for Part 2 of that Act by section 8BA of that Act. Note also that section 9E of the TCPSS Act provides a non-exclusive definition of what it means in Part 2 of that Act to “supply” a standard telephone service.

**Part 2—Customer equipment**

Section 6 – Specified customer equipment

Section 6 specifies customer equipment for the purposes of paragraph 9E(2)(a) of the TCPSS Act for use by a person with disability in connection with a standard telephone service.

Where several people with disability live in the same dwelling, provided each person has a telephone service in their name then, if requested, each should be supplied with accessible equipment to enable communication.

Subsection 6(2) specifies customer equipment that enables a person to use the NRS to access a standard telephone service. Paragraph 6(2)(a) specifies a teletypewriter (TTY) or other equipment which facilitates text to text communication over a telecommunications network. A TTY is expressly referenced as a type of customer equipment as there is a small group of people who continue to use this technology as their preferred way of communicating over the NRS. The reference to other equipment reflects that there could be other customer equipment that could be provided that would facilitate text to text communication.

Paragraph 6(2)(b) specifies equipment which facilitates data transmission over a telecommunications network. An example of this type of equipment is a modem.

Paragraph 6(2)(c) specifies equipment which facilitates both data transmission over a telecommunications network and the transfer of that data into braille. An example of this type of equipment is a telebraille.

Subsection 6(3) specifies other customer equipment that enables a person with disability to use a standard telephone service in spite of the person's disability, to communicate effectively with a person without disability.

Paragraph 6(3)(a) specifies a standard rental telephone handset which includes one-touch dial memory, a lightweight handset and a built-in hearing aid coupler. This piece of equipment may assist people who have a frailty and/or are hard of hearing.

Paragraph 6(3)(b) specifies a telephone which amplifies the incoming caller's voice to suit the listener. An example of this type of equipment is a telephone with extra loud earpiece volume control. This may assist a listener who is hard of hearing.

Paragraph 6(3)(c) specifies a telephone which amplifies the speaker's voice, allowing the speaker to adjust the speech level to suit the listener. This equipment may assist a person who has a weak voice to be more easily understood.

Paragraph 6(3)(d) specifies a handsfree telephone for a person who cannot hold a telephone handset. For example, a device that is able to make and answer calls while mounted to the wall, desk or bed.

Paragraph 6(3)(e) specifies an ancillary telecommunications product which has adjustable volume, tone and pitch controls to assist the user to hear the telephone ringing. An example of this type of equipment is an extension ringer.

Paragraph 6(3)(f) specifies an ancillary telecommunications product which is a visual alert that there is an incoming call. An example of this type of equipment is a device that flashes when the phone rings.

Paragraph 6(3)(g) specifies an ancillary telecommunications product which allows the connection of a second piece of equipment (such as a visual signal alert) in parallel with the existing telephone. An example of this type of equipment is an alert pendant connected to a telephone.

Paragraph 6(3)(h) specifies an ancillary telecommunications product in which the telephone handset is cradled, providing handsfree operation. An example of this type of equipment is a table stand or wall or bed mount for a telephone handset.

Paragraph 6(3)(i) specifies a telephone adapting device which allows a person with a cochlear implant to use a standard telephone service. An example of this type of equipment is a cochlear implant telephone adaptor that provides a direct connection from the speech processor to the telephone.

The specified kinds of equipment are in most cases described with reference to general features or according to their purpose. The reason for this is so that the descriptions are broad enough to cover equipment that may not currently exist but may be developed over time due to advances in technology. The universal service provider is encouraged to consider the equipment that would be most suitable to individual circumstances, especially as technology changes or reduces in price and becomes more available.

### **Schedule 1—Repeals**

- Item 1 in Schedule 1 repeals the *Telecommunications (Equipment for the Disabled) Regulations 1998* in entirety.

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### Telecommunications (Consumer Protection and Service Standards) (Accessible Standard Telephone Services) Regulations 2023

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### Overview of the Disallowable Legislative Instrument

Telecommunications users with disability may require additional supportive equipment to access a standard telephone service.

This instrument recognises the need for equity for people with disability and specifies the kind of equipment to be provided, on request, to people with disability by the universal services provider for use in connection with a standard telephone service.

### Human rights implications

This Disallowable Legislative Instrument engages the rights of people with disability set out in the Convention on the Rights of Persons with Disabilities (CRPD), in particular:

- Right to non-discrimination on the basis of disability (see e.g. Articles 3, 4 and 5 of the CRPD);
- Right to communications accessibility (see Article 9 of the CRPD).

Likely impact on the rights engaged:

- The right to non-discrimination on the basis of disability means that any distinction, exclusion or restriction on the basis of disability is removed, for example, so that vulnerable persons are able to access a standard telephone service on an equal basis with others
- The right to communications accessibility compels the Commonwealth to take appropriate measures to ensure persons with disability have access, on an equal basis with others, to information and communications technologies and systems
- This instrument promotes human rights by recognising the need for equity and requiring the universal services provider to supply persons with disability with suitable supportive equipment. The instrument removes discrimination that would otherwise restrict the usability of a standard telephone service and instigates measures to ensure persons with disability have access, on an equal basis with others, to this service.

## **Conclusion**

The Disallowable Legislative Instrument is compatible with human rights because it promotes the protection of human rights for people with disability when accessing a standard telephone service.