

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

AUSTRALIAN POSTAL CORPORATION BILL 1989

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation—definitions
4. Interpretation—meaning of carry by post
5. Interpretation—meaning of carry by ordinary post
6. Interpretation—meaning of subsidiary
7. Extraterritorial operation of Act
8. Extension of Act to certain external Territories
9. Extension of Act to adjacent areas
10. Act binds the Crown
11. Act subject to Radiocommunications Act and Telecommunications Act

PART 2—AUSTRALIA POST AND ITS BOARD

Division 1—Constitution, functions and powers of Australia Post

12. Australia Post continues in existence
13. Australia Post continues to be body corporate etc.
14. Functions—the principal function
15. Functions—subsidiary function
16. Functions—incidental businesses and activities
17. General powers
18. Specific postal and postal related powers
19. Other powers

TABLE OF PROVISIONS—*continued*

Section

Division 2—Australia Post's Board and Managing Director

- 20. The Board
- 21. The Managing Director
- 22. Constitution of the Board
- 23. Role of the Board
- 24. Duties of the Managing Director

PART 3—AUSTRALIA POST'S OBLIGATIONS AND RESERVED SERVICES

Division 1—Obligations

- 25. Obligations generally
- 26. Commercial obligation
- 27. Community service obligations
- 28. General governmental obligations

Division 2—Reserved services

- 29. Services reserved to Australia Post etc.
- 30. Exceptions to reserved services
- 31. Actions for infringement of reserved services etc.

PART 4—AUSTRALIA POST'S OPERATIONS

Division 1—Terms and conditions applying to services

- 32. Terms and conditions generally
- 33. Certain postage charges subject to Ministerial review
- 34. Immunity from certain actions

Division 2—Corporate plans

- 35. Corporate plans
- 36. General matters to be included in corporate plans
- 37. Financial matters to be included in corporate plans
- 38. Matters to be considered in setting financial target
- 39. Corporate plans to be given to Minister
- 40. Minister may direct certain variations of corporate plans
- 41. Board to notify Minister of significant affecting events etc.

Division 3—Other accountability requirements

- 42. Annual reports and financial statements
- 43. General matters to be included in annual reports
- 44. Financial matters to be included in annual reports
- 45. Requirements for financial statements
- 46. Board to notify Minister of significant business activities
- 47. Board to keep Minister informed
- 48. Minister may notify Board of general policies of Commonwealth Government
- 49. Minister may give directions to the Board
- 50. Australia Post and Board not otherwise subject to government direction

PART 5—FINANCE

- 51. Determination of Australia Post's initial capital under Act
- 52. Australia Post's capital
- 53. Revaluation of assets
- 54. Payments of dividends to Commonwealth
- 55. Interim dividends
- 56. Reimbursement of cost of complying with directions
- 57. Expenditure of Australia Post's money
- 58. Proper accounts and records to be kept

TABLE OF PROVISIONS—*continued*

Section

- 59. Audit
- 60. Borrowings from Commonwealth
- 61. Borrowings from persons other than Commonwealth
- 62. Security for borrowings
- 63. Liability to taxation

PART 6—DIRECTORS OF AUSTRALIA POST

Division 1—Meetings of the Board

- 64. Interpretation—meaning of “the required minimum number of directors”
- 65. Times and places of meetings
- 66. Presiding at meetings
- 67. Quorum and voting at meetings
- 68. Conduct of meetings
- 69. Resolutions without meetings
- 70. Minutes
- 71. Disclosure of interests

Division 2—Provisions relating to directors other than the Managing Director

- 72. Division applies to directors other than Managing Director
- 73. Appointment of directors
- 74. Term of appointment
- 75. Directors hold office on part time basis
- 76. Remuneration and allowances
- 77. Leave of absence
- 78. Resignation
- 79. Termination of appointment
- 80. Terms and conditions of appointment not provided for by Act
- 81. Deputy Chairperson
- 82. Acting appointments

Division 3—Provisions relating to the Managing Director

- 83. Appointment
- 84. Managing Director holds office during Board’s pleasure
- 85. Managing Director holds office on full time basis
- 86. Terms and conditions of appointment not provided for by Act
- 87. Disclosure of interests
- 88. Acting Managing Director

PART 7—AUSTRALIA POST’S STAFF

- 89. Staff
- 90. Australia Post as employer

PART 8—MISCELLANEOUS

- 91. Application of State and Territory laws
- 92. Duty of Australia Post’s employees not to disclose contents of postal articles etc.
- 93. Delegation of Australia Post’s powers
- 94. Delegation of Board’s powers
- 95. Post-boxes
- 96. Australia Post’s seal
- 97. Confirmation of contracts and authentication and execution of documents
- 98. Unclaimed money
- 99. Lands Acquisition Act
- 100. Public Works Committee Act
- 101. Articles carried by post to be taken to be Australia Post’s property
- 102. Regulations

1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 13 April 1989

(Minister for Transport and Communications)

A BILL

FOR

An Act relating to the Australian Postal Corporation

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

5 **1.** This Act may be cited as the *Australian Postal Corporation Act 1989*.

Commencement

2. (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.

10 (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of the period.

Interpretation—definitions

3. In this Act, unless the contrary intention appears:

“article” means any matter or thing, and includes, for example:

- (a) a letter;
- (b) a message or information; 5
- (c) a direction to pay an amount of money;
- (d) an envelope, packet, parcel, container or wrapper containing any matter or thing (including a letter, message, information or direction to pay an amount of money); and
- (e) a message, information, or direction to pay an amount of money, that is not in written form; 10

“Australia”, when used in a geographical sense, includes the external Territories to which this Act extends;

“Australia Post” means the Australian Postal Corporation;

“authorised auditor” means: 15

- (a) the Auditor-General; or
- (b) a person authorised, in writing, by the Auditor-General;

“Board” means the Board of Directors of Australia Post;

“borrow” includes raise money or credit;

“carry”, in relation to an article, means: 20

- (a) carry the article from one place to another by physical means; or
- (b) if the article is an unwritten communication—transmit the article from one place to another by electromagnetic or other non-physical means; 25

and includes:

- (c) in the case of the carriage of an article from one place to another by physical means—collect or receive the article for carriage and deliver the article after carriage; and
- (d) in the case of the transmission of an unwritten communication from one place to another by electromagnetic or other non-physical means—collect or receive the communication (whether in written or unwritten form) for transmission and deliver the communication (whether in written or unwritten form) after transmission; 30 35

“carry by post”, in relation to an article, has the meaning given by section 4;

“Chairperson” means the Chairperson of the Board;

“community service obligations” means obligations under section 27;

“convention” means a convention to which Australia is a party or an agreement or arrangement between Australia and a foreign country; 40

“Deputy Chairperson” means the Deputy Chairperson of the Board;

“director” means a director of the Board and includes the Chairperson, the Deputy Chairperson and the Managing Director;

“Federal Court” means the Federal Court of Australia;

5 “government director” means a director who was an officer of the Australian Public Service at the time of his or her appointment;

“letter” means any form of written communication that is directed to a particular person or address, and includes:

- (a) any standard postal article;
- 10 (b) any envelope, packet, parcel, container or wrapper containing such a communication; and
- (c) any unenclosed written communication that is directed to a particular person or address;

“Managing Director” means the Managing Director of Australia Post;

15 “office”, in relation to Australia Post, means an office established by Australia Post for the supply of postal services, and includes an office conducted by an agent of Australia Post;

“ordinary post”, in relation to the carrying of an article, has the meaning given by section 5;

20 “postage”, in relation to a postal article, means the amount payable for the carrying of the article by post (including any special charge or additional fee payable for special services supplied in relation to the carrying of the article);

25 “postage stamp” includes an imprinted or printed mark, label or design authorised by Australia Post for the purpose of paying postage for a postal article;

“postal article” means an article of a kind that, under the terms and conditions on which Australia Post supplies postal services, may be carried by post;

30 “registered publication” means a copy of an issue of a publication that, under the terms and conditions on which Australia Post supplies postal services, may be carried by post as a registered publication;

“standard postal article” means, subject to the regulations, a postal article (other than a registered publication) that satisfies all of the following criteria:

- 35 (a) it does not weigh more than 500 grams;
- (b) it is not more than 5mm thick;
- (c) its other 2 dimensions form a rectangle:
 - 40 (i) 2 of whose sides are shorter than the other sides;
 - (ii) the shorter sides of which are not less than 88 mm, and not more than 122 mm, long;
 - (iii) the longer sides of which are not less than 138 mm, and not more than 237 mm, long; and
 - (iv) the adjacent sides of which are in the ratio of 1 to at least 1.414;

“subsidiary” has the meaning given by section 6;

“the letter service” means the service supplied by Australia Post under section 27;

“unwritten communication” includes a message, information, or direction to pay an amount of money, that is not in written form.

5

Interpretation—meaning of carry by post

4. For the purposes of this Act, an article is carried by post if it is carried by or through Australia Post.

Interpretation—meaning of carry by ordinary post

5. For the purposes of this Act, an article is carried by ordinary post if the article is carried by means of the letter service in such a way as will not involve the supply of a special service for which a special charge or additional fee is payable in relation to the carrying of the article.

10

Interpretation—meaning of subsidiary

6. For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined under the *Companies Act 1981*.

15

Extraterritorial operation of Act

7. This Act applies both within and outside Australia.

20

Extension of Act to certain external Territories

8. This Act extends to the external Territories (other than Norfolk Island, Christmas Island and Cocos (Keeling) Islands).

Extension of Act to adjacent areas

9. (1) Subject to subsection (2), this Act applies in relation to the adjacent areas of the States and Territories as if references to Australia (when used in a geographical sense) included references to the adjacent areas.

25

(2) The application of this Act in relation to the adjacent areas of the States and Territories extends only in relation to acts, matters and things touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia.

30

(3) Without limiting subsection (2), the application of this Act in relation to the adjacent areas of the States and Territories because of subsection (1) extends in relation to all acts done by or in relation to, and all matters, circumstances and things affecting, any person who is in the adjacent area of a State or Territory for a reason touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia.

35

(4) In this section:

“adjacent area”, in relation to a State or Territory, has the same meaning as in the *Petroleum (Submerged Lands) Act 1967*;

5 “Territory” does not include Norfolk Island, Christmas Island or Cocos (Keeling) Islands.

Act binds the Crown

10. This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

10 **Act subject to Radiocommunications Act and Telecommunications Act**

11. This Act has effect subject to the *Radiocommunications Act 1983* and the *Telecommunications Act 1989*.

PART 2—AUSTRALIA POST AND ITS BOARD

Division 1—Constitution, functions and powers of Australia Post

15 **Australia Post continues in existence**

12. The Australian Postal Corporation continues in existence.

Australia Post continues to be body corporate etc.

13 The Australian Postal Corporation:

- 20 (a) continues to be a body corporate;
(b) shall have a seal; and
(c) may sue and be sued in its corporate name.

Functions—the principal function

14. The principal function of Australia Post is to supply postal services within Australia and between Australia and places outside Australia.

25 **Functions—subsidiary function**

15. A subsidiary function of Australia Post is to carry on, outside Australia, any business or activity relating to postal services.

Functions—incidental businesses and activities

30 16. (1) The functions of Australia Post include the carrying on, within or outside Australia, of any business or activity that is incidental to:

- (a) the supplying of postal services under section 14; or
(b) the carrying on of any business or activity under section 15.

35 (2) Without limiting subsection (1), the functions of Australia Post include the carrying on, within or outside Australia, of any business or activity that is capable of being conveniently carried on:

- (a) by the use of resources that are not immediately required in carrying out Australia Post’s principal or subsidiary function; or

- (b) in the course of:
 - (i) supplying postal services under section 14; or
 - (ii) carrying on any business or activity under section 15.

General powers

17. (1) Australia Post has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions. 5

(2) Subsection (1) is not limited by any other provision of this or any other Act that confers a power on Australia Post.

Specific postal and postal related powers

18. Australia Post has power, for or in connection with the performance of its functions: 10

- (a) to supply packet and parcel carrying services;
- (b) to supply philatelic and associated services;
- (c) to supply courier services;
- (d) to supply electronic mail services (including telegram services) and telecommunications value added services; 15
- (e) to supply mail house, document exchange and contract mail management services;
- (f) to supply funds transfer services;
- (g) to supply postal services (including philatelic and associated services) for Norfolk Island, Christmas Island, Cocos (Keeling) Islands and foreign countries; 20
- (h) to supply any services other than postal services to or on behalf of the Commonwealth, the States and Territories, foreign countries and other persons; and 25
- (j) to manufacture postage stamps and other goods for use in connection with postal services.

Other powers

19. (1) Australia Post has, for or in connection with the performance of its functions, all the powers of a natural person, and may, for example: 30

- (a) enter into contracts;
- (b) acquire, hold and dispose of real and personal property;
- (c) appoint agents and attorneys, and act as agent for other persons;
- (d) form, and participate in the formation of, companies;
- (e) subscribe for and purchase shares in, and debentures and other securities of, companies; 35
- (f) participate in partnerships, trusts, unincorporated joint ventures and other arrangements for the sharing of profits;
- (g) issue debentures and grant floating charges on its property;
- (h) make charges and fix terms and conditions for work done, or services, goods and information supplied, by it; 40

- (j) engage consultants;
 - (k) accept gifts, grants, bequests and devises made to it, and act as trustee of money and other property vested in it on trust;
 - (m) offer and pay rewards;
 - 5 (n) deal in futures and other contracts;
 - (p) provide consultancy and project management services; and
 - (q) do such other things as it is authorised to do by or under this Act or any other law of the Commonwealth or any law of a State or Territory.
- 10 (2) Australia Post has, in addition to its other powers, power to do all things necessary or convenient to be done for, or in connection with, the performance of its obligation under section 26, and may, for example:
- (a) purchase and otherwise acquire land and buildings that it may require;
 - 15 (b) sell and otherwise dispose of land and buildings that it does not require;
 - (c) develop land and buildings to enable their more efficient utilisation;
 - (d) develop and lease land and buildings not immediately required by it; and
 - 20 (e) develop land and buildings for the purpose of sale.

Division 2—Australia Post's Board and Managing Director

The Board

20. There shall be a Board of Directors of Australia Post.

The Managing Director

25 21. There shall be a Managing Director of Australia Post.

Constitution of the Board

22. The Board consists of:

- (a) the Chairperson;
- (b) the Deputy Chairperson;
- 30 (c) the Managing Director; and
- (d) not more than 6 other directors.

Role of the Board

23. It is the role of the Board:

- (a) to decide the objectives, strategies and policies to be followed by Australia Post; and
- 35 (b) to ensure that Australia Post performs its functions in a proper, efficient and economical manner.

Duties of the Managing Director

24. (1) The Managing Director shall, under the Board, manage Australia Post.

(2) All acts and things done in the name of, or on behalf of, Australia Post by the Managing Director shall be taken to have been done by Australia Post. 5

PART 3—AUSTRALIA POST'S OBLIGATIONS AND RESERVED SERVICES

Division 1—Obligations

Obligations generally 10

25. Australia Post has the following obligations:

- (a) its commercial obligation under section 26;
- (b) its community service obligations under section 27;
- (c) its general governmental obligations under section 28.

Commercial obligation 15

26. Australia Post shall, as far as practicable, perform its functions in a manner consistent with sound commercial practice.

Community service obligations

27. (1) Australia Post shall supply a letter service.

(2) The letter service shall be for carrying by physical means (both within Australia and between Australia and places outside Australia) principally letters that Australia Post has the exclusive right to carry. 20

(3) Australia Post shall make the letter service available at a single uniform rate of postage for the carriage within Australia, by ordinary post, of letters that are standard postal articles. 25

(4) Australia Post shall ensure:

- (a) that, in view of the social importance of the letter service, the service is reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business; and
- (b) that the performance standards (including delivery times) for the letter service reasonably meet the social, industrial and commercial needs of the Australian community. 30

(5) In this section:

“Australia” does not include an external Territory to which this Act extends. 35

General governmental obligations

28. Australia Post shall perform its functions in a way consistent with:

- (a) any general policies of the Commonwealth Government notified by the Minister under section 48;
- 5 (b) any directions given by the Minister under section 49; and
- (c) Australia's obligations under any convention.

Division 2—Reserved services

Services reserved to Australia Post etc.

10 29. (1) Subject to section 30, Australia Post has the exclusive right to carry letters within Australia and between Australia and places outside Australia.

(2) The reservation of services to Australia Post under subsection (1) extends to the collection and delivery of letters within, but not outside, Australia, and applies in relation to letters irrespective of whether they
15 originated within or outside Australia.

(3) Australia Post also has the exclusive right to issue postage stamps within Australia.

Exceptions to reserved services

30. (1) The services reserved to Australia Post do not include:

- 20 (a) the carriage of a letter weighing more than 500 grams unless the letter consists of an envelope, packet, parcel, container or wrapper containing 2 or more separate letters;
- (b) the carriage of a letter relating to goods that is sent and delivered with the goods;
- 25 (c) the carriage of newspapers, magazines, books, catalogues and leaflets;
- (d) the carriage of a letter otherwise than for reward;
- (e) the carriage of a letter within Australia for a charge or fee that is at least 10 times the then rate of postage for the carriage within Australia of a standard postal article by ordinary post;
- 30 (f) the carriage of a letter from a place in Australia to a place outside Australia for a charge or fee that is at least 10 times the then rate of postage for the carriage of a standard postal article weighing 20 grams between those places by air;
- (g) the carriage of a letter by the sender or an officer or employee of
35 the sender;
- (h) the carriage of a letter to or from:
 - (i) the nearest office of Australia Post; or
 - (ii) another office of Australia Post authorised by it;
- 40 (j) the carriage of a letter on behalf of Australia Post under an agreement with it;

- (k) the carriage of a letter that, under the terms and conditions on which Australia Post supplies postal services, is not a postal article;
- (m) the carriage of writs, warrants or other documents required or permitted to be served, given or sent under the practice and procedure of any court or tribunal; 5
- (n) the carriage of a letter solely by any electromagnetic or other non-physical means;
- (p) the carriage of letters by or on behalf of a foreign country under a convention; and
- (q) any service that, under the regulations, is not reserved to Australia Post. 10

(2) A regulation made for the purposes of paragraph (1) (q) may not take effect earlier than the day after the last day on which the regulation may be disallowed under section 48 of the *Acts Interpretation Act 1901*.

Actions for infringement of reserved services etc. 15

31. (1) Where a person has engaged, or is proposing to engage, in conduct that involves, or would involve, an infringement of an exclusive right that Australia Post has under this Division, Australia Post may apply to the Federal Court for relief.

(2) The relief that may be granted includes an injunction and, at the option of Australia Post, either damages or an account of profits. 20

(3) Where, in the opinion of the Federal Court, it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).

(4) The power of the Federal Court to grant an injunction restraining a person from engaging in conduct may be exercised: 25

- (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind;
- (b) whether or not the person has previously engaged in conduct of that kind; and 30
- (c) whether or not there is imminent danger of substantial damage to Australia Post if the person engages in conduct of that kind.

PART 4—AUSTRALIA POST'S OPERATIONS

Division 1—Terms and conditions applying to services

Terms and conditions generally 35

32. (1) Subject to any express provision of this or any other Act, the terms and conditions of a service supplied by Australia Post for a person are:

- (a) so far as Australia Post and the person agree on terms and conditions for the supply of the service—the agreed terms and conditions; and 40

(b) so far as Australia Post and the person do not agree on terms and conditions—the terms and conditions determined by the Board that are applicable to the supply of the service.

5 (2) Without limiting subsection (1), the terms and conditions determined by the Board may make provision with respect to:

(a) the kinds of articles that may be carried by post and the means by which different kinds of articles may be carried;

(b) the carriage of letters and other postal articles;

(c) rates of postage;

10 (d) the payment of postage, including the issue and sale of postage stamps, the pre-stamping of postal articles and the use of franking machines;

(e) the carriage of letters to or from an office of Australia Post that is not the nearest office of Australia Post;

15 (f) undelivered letters and other articles (including the forfeiture and destruction of such articles); and

(g) the publications that may be carried by post as registered publications.

20 (3) The Board shall ensure that copies of a determination made by it under this section are made available for inspection and purchase at all offices of Australia Post as soon as practicable after it is made.

(4) A contravention of subsection (3) in relation to a determination does not affect the validity of the determination.

25 (5) This section has effect subject to section 33 of this Act and to the *Prices Surveillance Act 1983*.

Certain postage charges subject to Ministerial review

33. (1) This section applies to the rates of postage for:

(a) the carriage within Australia of standard postal articles by ordinary post; and

30 (b) the carriage within Australia of registered publications.

(2) Before making a determination under section 32 fixing or varying rates of postage to which this section applies, the Board shall give the Minister written notice of the proposed determination.

35 (3) The Minister may, within 30 days after receiving notice of a proposed determination, give the Board written notice disapproving it.

(4) In exercising powers under subsection (3), the Minister shall have regard to:

(a) Australia Post's obligations under this Act; and

(b) any other matters the Minister considers appropriate.

40 (5) The Board may make a determination under section 32 fixing or varying rates of postage to which this section applies only if 30 days have

elapsed since the Minister received notice of it and the Minister has not, within that period, given the Board a notice disapproving it.

Immunity from certain actions

34. (1) An action or proceeding does not lie against Australia Post or any other person in relation to any loss or damage suffered, or that may be suffered, by a person because of any act or omission (whether negligent or otherwise) by or on behalf of Australia Post in relation to the carriage of a letter or other article by means of the letter service. 5

(2) Subsection (1) does not apply if Australia Post provides the sender with a receipt for the article. 10

Division 2—Corporate plans

Corporate plans

35. (1) The Board shall prepare corporate plans.

(2) The first corporate plan shall be for a period of not less than 3 years, and not more than 5 years, beginning on 1 July 1989. 15

(3) Each subsequent corporate plan shall be for a period of not less than 3 years, and not more than 5 years, beginning immediately after the period of the previous corporate plan.

(4) The Board may review and revise a corporate plan at any time.

General matters to be included in corporate plans 20

36. Each corporate plan shall:

- (a) set out the objectives of Australia Post and its subsidiaries;
- (b) outline the overall strategies and policies that Australia Post and its subsidiaries are to follow to achieve the objectives;
- (c) include a statement of the strategies and policies that Australia Post is to follow to carry out its community service obligations; and 25
- (d) include such performance indicators and targets (whether financial or operational) as the Board considers appropriate.

Financial matters to be included in corporate plans

37. Each corporate plan shall: 30

- (a) include a financial target;
- (b) outline the overall financial strategies for Australia Post and its subsidiaries, including pricing, borrowing, investment, and purchasing and disposal, strategies;
- (c) include a forecast of the revenue and expenditure of Australia Post and its subsidiaries, including a forecast of capital expenditure and borrowings; 35
- (d) estimate the cost of carrying out Australia Post's community service obligations; and

- (e) estimate the cost of Australia Post's other obligations under this or any other Act that require it to act otherwise than in accordance with normal commercial practice.

Matters to be considered in setting financial target

- 5 **38.** In preparing or revising a financial target, the Board shall have regard to:
- (a) the need to earn a reasonable rate of return on Australia Post's assets;
 - 10 (b) the need to maintain the extent of the Commonwealth's equity in Australia Post;
 - (c) the expectation of the Commonwealth that Australia Post will pay a reasonable dividend;
 - (d) the need to maintain Australia Post's financial viability;
 - 15 (e) the need to maintain a reasonable level of reserves, especially to make provision for:
 - (i) any estimated future demand for postal services; and
 - (ii) any need to improve the accessibility of, and performance standards for, the letter service;
 - (f) any other commercial matters the Board considers appropriate;
 - 20 (g) the cost of carrying out Australia Post's community service obligations;
 - (h) the cost of performing Australia Post's functions in a manner consistent with the general policies of the Commonwealth Government notified by the Minister under section 48;
 - 25 (j) the cost of implementing any directions given by the Minister under section 49; and
 - (k) the cost of any other obligations of Australia Post under this or any other Act that require it to act otherwise than in accordance with normal commercial practice.

30 **Corporate plans to be given to Minister**

39. When the Board prepares or revises a corporate plan, it shall immediately give a copy of the plan to the Minister.

Minister may direct certain variations of corporate plans

- 35 **40. (1)** When the Board prepares or revises a corporate plan and gives a copy of the plan to the Minister, the Minister may, within 30 days after receiving the copy of the plan and after consultation with the Board, direct the Board to vary either or both of the following:
- 40 (a) the statement included in the plan of the strategies and policies that Australia Post is to follow to carry out its community service obligations;
 - (b) the financial target under the plan.

(2) In exercising powers under paragraph (1) (b), the Minister shall have regard to:

- (a) the matters referred to in section 38 (other than the matter referred to in paragraph (f)); and
- (b) any other matters the Minister considers appropriate. 5

(3) A direction under subsection (1) shall be in writing and shall set out the Minister's reasons for the direction.

Board to notify Minister of significant affecting events etc.

41. If the Board forms the opinion that matters have arisen:

- (a) that may prevent, or significantly affect, achievement of the objectives of Australia Post and its subsidiaries under the corporate plan; 10
- (b) that may significantly affect the strategies and policies that Australia Post is following to carry out its community service obligations; or
- (c) that may prevent, or significantly affect, achievement of the financial target under the plan; 15

the Board shall immediately notify the Minister of its opinion and the reasons for the opinion.

Division 3—Other accountability requirements

Annual reports and financial statements

42. (1) The Board shall, as soon as practicable after the end of each financial year, prepare and give to the Minister a report of Australia Post's operations during that year, together with financial statements for the year. 20

(2) Before submitting financial statements to the Minister, the Board shall submit them to the Auditor-General, who shall report to the Minister and the Board: 25

- (a) whether, in the Auditor-General's opinion, the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and, in the Auditor-General's opinion, show fairly the financial transactions and state of affairs of Australia Post; 30
- (c) whether, in the Auditor-General's opinion, the receipt, expenditure and investment of money, and the acquisition and disposal of assets, by Australia Post during the year have been in accordance with this Act; and
- (d) as to any other matters arising out of the statements the Auditor-General considers should be reported to the Minister. 35

(3) The Minister shall cause a copy of the report and financial statements, together with a copy of the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister. 40

General matters to be included in annual reports

43. The report of Australia Post's operations for a financial year shall:

- (a) include the objectives of Australia Post and its subsidiaries under the corporate plan;
- 5 (b) include an outline of:
 - (i) the overall strategies and policies of Australia Post and its subsidiaries under the corporate plan; and
 - (ii) the performance indicators and targets under the plan;
- 10 (c) include an assessment of the extent to which the operations of Australia Post and its subsidiaries during the year have achieved those objectives;
- (d) include an outline of the strategies and policies that Australia Post is following to carry out its community service obligations;
- 15 (e) if the Minister has, under subsection 40 (1), directed the Board to vary the statement included in the corporate plan of Australia Post's strategies and policies to carry out its community service obligations—include an outline of the strategies and policies that the Minister directed the Board to vary;
- 20 (f) include an assessment of the appropriateness and adequacy of the strategies and policies that Australia Post is following to carry out its community service obligations;
- (g) include particulars of:
 - 25 (i) any general policies of the Commonwealth Government notified under section 48 that are applicable to the year; and
 - (ii) any directions given by the Minister under section 49 that are applicable to the year;
- (h) deal specifically with the effect on Australia Post's operations during the year of:
 - 30 (i) each such policy and direction; and
 - (ii) any other obligations of Australia Post under this or any other Act that require it to act otherwise than in accordance with normal commercial practice;
- 35 (j) if the Minister has, under subsection 33 (3), disapproved a proposed determination by the Board fixing or varying rates of postage—set out particulars of the proposed determination;
- (k) include particulars of:
 - 40 (i) companies that Australia Post and its subsidiaries formed, and companies in whose formation Australia Post and its subsidiaries participated, during the year;
 - (ii) companies that became or ceased to be subsidiaries of Australia Post and its subsidiaries during the year; and
 - (iii) interests in partnerships, trusts, unincorporated joint ventures and other arrangements for the sharing of profits that

Australia Post and its subsidiaries acquired or disposed of during the year;

- (m) include an outline of:
 - (i) shares that Australia Post subscribed for, purchased or disposed of during the year; 5
 - (ii) other business interests that Australia Post and its subsidiaries acquired or disposed of during the year; and
 - (iii) other activities of Australia Post's subsidiaries during the year; and
- (n) include an outline of the exercise during the year by Australia Post and its employees of any powers to open, or examine the contents of, articles carried by post. 10

Financial matters to be included in annual reports

44. The report of Australia Post's operations for a financial year shall:

- (a) specify the financial target applicable to the year under the corporate plan; 15
- (b) if the Minister has, under subsection 40 (1), directed the Board to vary the financial target—specify the financial target that the Minister directed the Board to vary and set out the reasons given to the Board by the Minister for the direction; 20
- (c) include an assessment of Australia Post's progress in achieving the financial target under the corporate plan;
- (d) specify the dividend payable to the Commonwealth for the year;
- (e) if the Minister has, under subsection 54 (3), directed the payment of a dividend, or a different dividend, for the year—specify the recommendation made by the Board to the Minister in relation to the dividend for the year; 25
- (f) include particulars of any amounts of capital repaid to the Commonwealth during the year; and
- (g) include an assessment of: 30
 - (i) the cost of carrying out Australia Post's community service obligations;
 - (ii) the cost of performing Australia Post's functions in a manner consistent with the general policies of the Commonwealth Government notified by the Minister under section 48; 35
 - (iii) the cost of implementing any directions given by the Minister under section 49; and
 - (iv) the cost of any other obligations of Australia Post under this or any other Act that require it to act otherwise than in accordance with normal commercial practice. 40

Requirements for financial statements

45. (1) The financial statements in relation to Australia Post's operations for a financial year shall:

- 5 (a) be in such form as is required by any written guidelines issued by the Minister for Finance in relation to the financial statements of Australia Post or Commonwealth undertakings generally; and
- (b) comply with the requirements prescribed under the *Companies Act 1981* for the accounts of a listed corporation so far as those requirements relate to the income of executive officers of a listed corporation.
- 10

(2) For the purposes of paragraph (1) (b):

- (a) Australia Post shall be taken to be a listed corporation; and
- (b) the Managing Director shall be taken to be an executive officer of Australia Post.

15 (3) Expressions used in paragraph (1) (b) or subsection (2), and in the *Companies Act 1981*, have the same respective meanings as in that Act.

Board to notify Minister of significant business activities

46. (1) If Australia Post, or a subsidiary of Australia Post, proposes:

- 20 (a) to form, or participate in the formation of, a company;
- (b) to participate in a partnership, trust, unincorporated joint venture or other arrangement for the sharing of profits;
- (c) to acquire a major shareholding in a company;
- (d) to acquire a substantial business;
- (e) to undertake a significant new business activity; or
- 25 (f) to make a significant change in the nature or extent of its interest in a company, partnership, trust, unincorporated joint venture or other arrangement for the sharing of profits;

the Board shall immediately give written notice of particulars of the proposed activity to the Minister.

30 (2) The Minister may, by written notice given to the Board, make guidelines to be applied by the Board in determining whether an activity is an activity falling within paragraph (1) (c), (d), (e) or (f).

(3) This section does not limit the operation of section 47.

Board to keep Minister informed

35 47. The Board shall keep the Minister informed of the operations of Australia Post and its subsidiaries, and shall give the Minister such reports, documents and information in relation to those operations as the Minister requires.

Minister may notify Board of general policies of Commonwealth Government

48. (1) The Minister may notify the Board of general policies of the Commonwealth Government that are to apply in relation to Australia Post.

(2) The Board shall ensure that the policies are carried out in relation to Australia Post and shall, as far as practicable, ensure that the policies are carried out in relation to its subsidiaries. 5

(3) A notification under subsection (1) shall be given in writing.

Minister may give directions to the Board

49. (1) Subject to subsection (2), the Minister may, after consultation with the Board, give to the Board such written directions in relation to the performance of Australia Post's functions as appear to the Minister to be necessary in the public interest. 10

(2) The Minister shall not give a direction under subsection (1) in relation to: 15

(a) rates of postage; or

(b) amounts to be charged for work done, or services, goods or information supplied, by Australia Post.

(3) Where the Minister gives a direction under subsection (1), the Minister shall cause a copy of the direction to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction. 20

Australia Post and Board not otherwise subject to government direction

50. Except as otherwise provided by or under this or any other Act, Australia Post and its Board are not subject to direction by or on behalf of the Commonwealth Government. 25

PART 5—FINANCE**Determination of Australia Post's initial capital under Act**

51. (1) The Minister shall, as soon as practicable after the commencement of this Act and after consultation with the Board, determine the amount of Australia Post's initial capital under this Act. 30

(2) In making the determination, the Minister shall have regard to any relevant advice that the Board has given to the Minister.

(3) The determination shall be made in writing.

Australia Post's capital

52. (1) Australia Post's capital is equal to the sum of: 35

(a) the amount of Australia Post's initial capital under this Act (as determined by the Minister under subsection 51 (1));

- (b) any part of Australia Post's liabilities to the Commonwealth at the commencement of this Act that is subsequently converted into capital at the direction of the Minister;
 - 5 (c) any amounts paid to Australia Post after the commencement of this Act out of money appropriated by the Parliament for the purpose of providing capital; and
 - (d) any part of Australia Post's reserves that, after the commencement of this Act, is converted into capital at the direction of the Minister after consultation with the Board;
- 10 less any amounts of capital repaid under subsection (2).

(2) Interest is not payable to the Commonwealth on Australia Post's capital, but the capital is repayable to the Commonwealth at such times, and in such amounts, as the Minister directs after consultation with the Board.

- 15 (3) In giving such a direction, the Minister shall have regard to any advice that the Board has given to the Minister in relation to Australia Post's financial affairs.

(4) A direction under this section shall be given in writing.

Revaluation of assets

- 20 53. The Board shall ensure that, at least once every 5 years, Australia Post's assets are revalued in accordance with normal commercial practice.

Payments of dividends to Commonwealth

- 25 54. (1) The Board shall, within 4 months after the end of each financial year, by written notice to the Minister, recommend that Australia Post pay a specified dividend, or not pay a dividend, to the Commonwealth for the financial year.

(2) In making the recommendation, the Board shall have regard to the matters referred to in section 38 (other than the matter referred to in paragraph (a)).

- 30 (3) The Minister shall, within 30 days after receiving the recommendation, by written notice to the Board, either:

- (a) approve the recommendation; or
- (b) direct the payment of a dividend or a different specified dividend, as the case requires.

- 35 (4) In exercising powers under subsection (3), the Minister shall have regard to:

- (a) the matters referred to in section 38 (other than the matters referred to in paragraphs (a) and (f)); and
- (b) any other matters the Minister considers appropriate.

- 40 (5) Australia Post's dividend for a financial year shall not exceed its profit for the year, after provision has been made for income tax.

(6) Subject to section 55, the dividend payable for a financial year shall be paid within 6 months after the end of the financial year or such further period as the Minister directs after consultation with the Board.

(7) In exercising powers under subsection (6), the Minister shall have regard to any recommendation of the Board in relation to the time of payment of the dividend. 5

(8) A direction under subsection (6) shall be given in writing.

Interim dividends

55. (1) The Minister may, at any time before or during a financial year, by written notice to the Board, require the Board to make a recommendation in relation to the payment of amounts to the Commonwealth on account of the dividend that may become payable under section 54 for the financial year. 10

(2) The Board shall, within 30 days after receiving the notice, by written notice to the Minister, make such a recommendation to the Minister. 15

(3) The Minister shall, within 30 days after receiving the recommendation, by written notice to the Board, either:

- (a) approve the recommendation; or
- (b) give directions to the Board in relation to the payment of amounts to the Commonwealth on account of the dividend that may become payable under section 54 for the financial year. 20

(4) In exercising powers under subsection (3), the Minister shall have regard to:

- (a) the matters referred to in section 38 (other than the matters referred to in paragraphs (a) and (f)); and 25
- (b) any other matters the Minister considers appropriate.

Reimbursement of cost of complying with directions

56. (1) Where Australia Post satisfies the Minister that it has suffered financial detriment as a result of complying with a direction given by the Minister under section 49, Australia Post is entitled to be reimbursed by the Commonwealth the amount that the Minister determines, after consultation with the Board, to be the amount of the financial detriment. 30

(2) In making such a determination, the Minister shall have regard to any advice that the Board has given to the Minister as to the amount of the financial detriment. 35

(3) The reference in subsection (1) to suffering financial detriment includes a reference to:

- (a) incurring costs that are greater than would otherwise have been incurred; or
- (b) forgoing revenue that would otherwise have been received. 40

(4) A determination under subsection (1) shall be made in writing.

Expenditure of Australia Post's money

57. (1) Australia Post's money may be expended only:

- (a) in payment of amounts properly payable in the performance of its functions;
- 5 (b) in payment of remuneration and allowances payable under this Act; and
- (c) in making any other payments that Australia Post is authorised or required to make by or under this or any other Act.

10 (2) Money of Australia Post not immediately required by it may be invested in any manner that is consistent with sound commercial practice.

Proper accounts and records to be kept

58. The Board shall:

- 15 (a) cause proper accounts and records of Australia Post's transactions and affairs to be kept in accordance with accounting principles generally applied in commercial practice; and
- (b) do all things necessary to ensure:
 - (i) that all payments by Australia Post are correctly made and properly authorised; and
 - (ii) that adequate control is maintained over:
 - 20 (A) Australia Post's assets and assets in Australia Post's custody; and
 - (B) the incurring of liabilities by Australia Post.

Audit

59. (1) The Auditor-General shall:

- 25 (a) inspect and audit:
 - (i) the accounts and records of Australia Post's financial transactions; and
 - (ii) the records relating to Australia Post's assets and assets in Australia Post's custody; and
- 30 (b) immediately draw the attention of the Minister and the Board to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify doing so.

35 (2) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records.

(3) The Auditor-General shall, at least once in each financial year, report to the Minister and the Board the results of the inspection and audit.

40 (4) An authorised auditor is entitled, at all reasonable times, to full and free access to all of Australia Post's accounts, records and other documents that relate directly or indirectly to:

- (a) the receipt or payment of money by it; or

(b) the acquisition, receipt, custody or disposal of assets by it.

(5) An authorised auditor may make copies of, or take extracts from, any accounts, records or documents referred to in subsection (4).

(6) An authorised auditor may require any person to give such information in the possession of the person, or to which the person has access, as the authorised auditor considers necessary for the purposes of the Auditor-General's functions under this Act. 5

(7) A person shall not refuse or fail to comply with a requirement under subsection (6) to the extent that the person is capable of complying with it. Penalty: \$1,000 or imprisonment for 6 months, or both. 10

(8) A person shall not, in purported compliance with a requirement under subsection (6), knowingly give information that is false or misleading in a material particular.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(9) A person is not excused from giving information under a requirement under subsection (6) on the ground that the information may tend to incriminate the person, but any information given under the requirement is not admissible in evidence against the person in any criminal proceedings (other than proceedings for an offence against subsection (7) or (8)). 15

Borrowings from Commonwealth 20

60. The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to Australia Post on such terms and conditions as the Minister for Finance determines in writing.

Borrowings from persons other than Commonwealth 25

61. (1) Australia Post may borrow money from persons other than the Commonwealth.

(2) Money may be borrowed wholly or partly in foreign currency.

Security for borrowings

62. Australia Post may give security over the whole or any part of its assets for the due performance of obligations incurred by it under section 61. 30

Liability to taxation

63. (1) Australia Post is subject to taxation under the laws of the Commonwealth and the States and Territories. 35

(2) Australia Post is not a public authority for the purposes of paragraph 23 (d) of the *Income Tax Assessment Act 1936*.

(3) Subsection (1) has effect subject to the regulations and to Division 2 of Part 9 of the *Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989*. 40

PART 6—DIRECTORS OF AUSTRALIA POST

Division 1—Meetings of the Board

Interpretation—meaning of “the required minimum number of directors”

64. In this Division:

5 “the required minimum number of directors” means:

- (a) if there are 9 directors—5 directors; and
- (b) in any other case—4 directors.

Times and places of meetings

10 **65. (1)** Subject to subsection (2), meetings of the Board shall be held at such times and places as the Board determines.

(2) The Chairperson:

- (a) may at any time convene a meeting; and
- (b) shall convene a meeting when requested by at least the required minimum number of directors.

15 **Presiding at meetings**

66. (1) The Chairperson shall preside at all meetings at which the Chairperson is present.

20 **(2)** If the Chairperson and Deputy Chairperson are not present at a meeting, the directors present shall appoint one of the directors present to preside.

Quorum and voting at meetings

67. (1) At a meeting of the Board:

- (a) subject to subsection (2), the required minimum number of directors constitute a quorum;
- 25 (b) a question shall be decided by a majority of votes of the directors present and voting; and
- (c) the director presiding has a deliberative vote and, if there is an equality of votes, also has a casting vote.

30 **(2)** If, because of subsection 71 (2), a director is not present at a meeting of the Board during a deliberation of the Board in relation to a matter, but there would be a quorum if the director were present, the remaining directors present constitute a quorum for the purpose of any deliberation or decision of the Board at the meeting in relation to the matter.

Conduct of meetings

35 **68. (1)** The Board may, subject to this Division, regulate its proceedings as it considers appropriate.

(2) Without limiting subsection (1), the Board may permit directors to participate in a particular meeting, or all meetings, by:

- (a) telephone;
- (b) closed-circuit television; or
- (c) any other means of communication.

(3) A director who participates in a meeting of the Board under a permission under subsection (2) shall be taken to be present at the meeting. 5

(4) Without limiting subsection (1), the Board may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

Resolutions without meetings

69. (1) If at least the required minimum number of directors sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of the Board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last director signs the document. 10

(2) If a resolution is, under subsection (2), taken to have been passed at a meeting of the Board, each director shall immediately be advised of the matter and given a copy of the terms of the resolution. 15

(3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, shall be taken to constitute one document. 20

Minutes

70. The Board shall keep minutes of its proceedings.

Disclosure of interests

71. (1) If:

- (a) a director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Board; and 25
- (b) the interest could conflict with the proper performance of the director's duties in relation to the consideration of the matter;

the director shall, as soon as practicable after the relevant facts come to the director's knowledge, disclose the nature of the interest at a meeting of the Board. 30

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting and, unless the Minister or the Board otherwise determines, the director shall not:

- (a) be present during any deliberation of the Board in relation to the matter; or 35
- (b) take part in any decision of the Board in relation to the matter.

(3) For the purpose of the making of a determination by the Board under subsection (2) in relation to a director who has made a disclosure under subsection (1), a director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not: 40

(a) be present during any deliberation of the Board for the purpose of making the determination; or

(b) take part in the making by the Board of the determination.

5 (4) Subsection (1) does not apply in relation to a matter relating to the supply of goods or services for the director if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

Division 2—Provisions relating to directors other than the Managing Director

10 **Division applies to directors other than Managing Director**

72. This Division applies in relation to the directors other than the Managing Director.

Appointment of directors

73. (1) The directors shall be appointed by the Governor-General.

15 (2) In appointing a person as a director, the Governor-General shall have regard to the need to ensure that the directors collectively possess an appropriate balance of expertise, and, in particular, that the directors include a person who the Governor-General, having regard to consultations between the Minister and representatives of industrial organisations representing
20 employees, is satisfied has an appropriate understanding of the interests of employees.

(3) The appointment of a person as a director is not invalid merely because of a defect or irregularity in relation to the appointment.

Term of appointment

25 74. A director holds office, subject to this Act:

(a) in the case of a director other than a government director—for such term (not longer than 5 years) as is specified in the instrument of appointment; and

30 (b) in the case of a government director—during the Governor-General's pleasure.

Directors hold office on part time basis

75. Directors hold office on a part time basis.

Remuneration and allowances

35 76. (1) A director shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) If no determination of that remuneration by the Tribunal is in operation, the director shall be paid such remuneration as is prescribed.

(3) A director shall be paid such allowances as are prescribed.

(4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Leave of absence

77. The Board may grant leave of absence to a director on such terms and conditions as the Board considers appropriate. 5

Resignation

78. A director may resign by writing signed and delivered to the Governor-General.

Termination of appointment

79. (1) The Governor-General may terminate the appointment of a director for misbehaviour or physical or mental incapacity. 10

(2) If a director:

(a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; 15

(b) without reasonable excuse, contravenes section 71; or

(c) is absent, without the Board's leave and without reasonable excuse, from 3 consecutive meetings of the Board;

the Governor-General shall terminate the director's appointment.

(3) Where: 20

(a) the Minister is of the opinion that the performance of the Board or Australia Post has been unsatisfactory for a significant period of time; and

(b) the Minister proposes that the appointment of all directors or specified directors be terminated; 25

the Governor-General shall terminate the appointment of all directors or the specified directors, as the case may be.

(4) Where:

(a) the Minister is of the opinion that the performance of a particular director has been unsatisfactory for a significant period of time; and 30

(b) the Minister proposes that the appointment of the director be terminated;

the Governor-General shall terminate the appointment of the director.

(5) If a person who is a government director ceases to be an officer of the Australian Public Service, the person ceases to be a director. 35

(6) Subsections (1), (2), (3) and (4) do not apply in relation to a government director.

Terms and conditions of appointment not provided for by Act

80. A director holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined by the Minister in writing.

5 **Deputy Chairperson**

81. (1) When:

- (a) the office of Chairperson is vacant; or
- (b) the Chairperson is absent from Australia or is, for any reason, unable to attend meetings of the Board or otherwise unable to perform the duties of the office;

10

the Deputy Chairperson shall act as Chairperson.

(2) While the Deputy Chairperson is acting as Chairperson, the Deputy Chairperson has and may exercise all the powers, and shall perform all the duties, of the Chairperson.

15

(3) Anything done by or in relation to the Deputy Chairperson while the Deputy Chairperson is purporting to act as Chairperson is not invalid merely because the occasion for the Deputy Chairperson to act as Chairperson had not arisen or had ceased.

Acting appointments

20

82. (1) The Minister may appoint a director to act as Deputy Chairperson:

- (a) during a vacancy in the office of Deputy Chairperson; or
- (b) during any period, or during all periods, when the Deputy Chairperson is acting as Chairperson or is unable, for any reason, to attend meetings of the Board.

25

(2) The Minister may appoint a person to act as a director referred to in paragraph 22 (d):

- (a) during a vacancy in the office of such a director; or
- (b) during any period, or during all periods, when such a director is acting as Deputy Chairperson or is unable, for any reason, to attend meetings of the Board.

30

(3) Anything done by or in relation to a person purporting to act under this section is not invalid merely because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in relation to the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased.

35

Division 3—Provisions relating to the Managing Director**Appointment**

83. (1) The Managing Director shall be appointed by the Minister after the Minister has received a recommendation from the Board.

(2) The Minister shall not appoint the Chairperson, the Deputy Chairperson or a director referred to in paragraph 22 (d) as Managing Director. 5

(3) The appointment of a person as Managing Director is not invalid merely because of a defect or irregularity in relation to the appointment.

Managing Director holds office during Board's pleasure 10

84. The Managing Director holds office during the Board's pleasure.

Managing Director holds office on full time basis

85. The Managing Director holds office on a full time basis.

Terms and conditions of appointment not provided for by Act

86. The Managing Director holds office on such terms and conditions (including terms and conditions relating to remuneration and allowances) in relation to matters not provided for by this Act as are determined by the Board. 15

Disclosure of interests

87. The Managing Director shall give written notice to the Chairperson of all direct and indirect pecuniary interests that the Managing Director has or acquires in any business or in any body corporate carrying on any business. 20

Acting Managing Director

88. (1) The Minister may appoint a director or another person to act as Managing Director during a vacancy in the office of Managing Director. 25

(2) The Board may appoint a director or another person to act as Managing Director during any period, or during all periods, when the Managing Director is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office. 30

(3) Anything done by or in relation to a person purporting to act as Managing Director is not invalid merely because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in relation to the appointment;
- (c) the appointment had ceased to have effect; or 35
- (d) the occasion for the person to act had not arisen or had ceased.

PART 7—AUSTRALIA POST'S STAFF

Staff

89. (1) Australia Post may engage such employees as are necessary for the performance of its functions.

5 (2) The terms and conditions of employment shall be determined by Australia Post.

Australia Post as employer

90. Australia Post shall endeavour to achieve and maintain high standards as an employer in relation to terms and conditions of employment, occupational health, industrial safety, industrial democracy, non-discriminatory employment practices and other matters.

PART 8—MISCELLANEOUS

Application of State and Territory laws

91. (1) Subject to section 63 and subsection (2) of this section, Australia Post is not subject to any requirement, obligation, liability, penalty or disability under a law of a State or Territory to which the Commonwealth is not subject.

(2) Subject to the regulations, subsection (1) applies only in relation to the period beginning at the commencement of this Act and ending on 31 December 1990.

Duty of Australia Post's employees not to disclose contents of postal articles etc.

92. (1) Subject to subsection (2), it is the duty of a person who is an employee of Australia Post not to disclose any fact or document that:

25 (a) relates to:

(i) the contents or substance of an article that has been carried by post or an article in the course of post;

(ii) postal or telecommunications services supplied, or intended to be supplied, to another person by Australia Post; or

30 (iii) the affairs or personal particulars (including any address) of another person; and

(b) comes to the person's knowledge, or into the person's possession, because the person is an employee of Australia Post.

(2) Subsection (1) does not apply in relation to a disclosure by a person:

35 (a) in the performance of the person's duties as an employee of Australia Post;

(b) as a witness summonsed to give evidence, or to produce documents, in a court of law;

(c) under the requirements of a law of the Commonwealth; or

(d) in prescribed circumstances.

(3) This section does not limit by implication any duty that a person who is or has been an employee of Australia Post has apart from this section.

(4) In this section: 5

“article in the course of post” means an article that is being carried by post, and includes an article that has been collected or received by Australia Post for carriage by post, but has not been delivered by Australia Post;

“employee”, in relation to Australia Post, includes a person who performs services for or on behalf of Australia Post and an employee of such a person. 10

Delegation of Australia Post’s powers

93. (1) An authorised person may, in writing, delegate all or any of Australia Post’s powers to an employee of Australia Post. 15

(2) In subsection (1):

“authorised person” means:

(a) the Managing Director; or

(b) an employee of Australia Post who is, for the time being, authorised by the Board for the purposes of this section. 20

Delegation of Board’s powers

94. (1) The Board may, by resolution, delegate all or any of its powers (other than its powers under section 93 and Division 3 of Part 6) to a director or an employee of Australia Post.

(2) The delegate is, in the exercise of a delegated power, subject to the directions of the Board. 25

(3) A delegation of a power under subsection (1):

(a) may be revoked by resolution of the Board (whether or not constituted by the persons who constituted the Board when the power was delegated); and 30

(b) continues in force in spite of a change in the membership of the Board.

(4) A certificate signed by the Chairperson stating any matter in relation to a delegation of a power under subsection (1) is *prima facie* evidence of the matter. 35

(5) A document purporting to be a certificate under subsection (4) shall, unless the contrary is established, be taken to be such a certificate and to have been properly given.

Post-boxes

95. (1) Australia Post may erect, maintain and use post-boxes in any public road, street or highway or in any other public place.

5 (2) Subject to subsection (3), Australia Post shall keep in good order all post-boxes erected by it.

(3) Australia Post may remove any post-box erected by it.

Australia Post's seal

96. (1) Australia Post's seal shall be kept in such custody as the Board directs and shall be used only as authorised by the Board.

10 (2) All courts, judges and persons acting judicially shall take judicial notice of the imprint of Australia Post's seal appearing on a document and shall presume that the document was properly sealed.

Confirmation of contracts and authentication and execution of documents

15 97. (1) So far as concerns the formalities of making, varying or discharging a contract, a person acting under Australia Post's express or implied authority may make, vary or discharge a contract in the name of, or on behalf of, Australia Post in the same manner as if the contract were made, varied or discharged by a natural person.

20 (2) The making, varying or discharging of a contract in accordance with subsection (1) is effectual in law and binds Australia Post and other parties to the contract.

25 (3) A contract or other document executed, or purporting to have been executed, under Australia Post's seal is not invalid merely because a person attesting the affixing of the seal is in any way (whether directly or indirectly) interested in the contract or other document or in the matter to which the contract or other document relates.

(4) This section does not prevent Australia Post from making, varying or discharging a contract under its seal.

30 (5) This section does not affect the operation of any law that requires some consent or sanction to be obtained, or some procedure to be complied with, in relation to the making, varying or discharging of a contract.

Unclaimed money

98. (1) If:

35 (a) an amount has been received by Australia Post for carriage to a person; and

(b) the amount has not been claimed within one year after becoming payable to the person;

the amount shall be paid into an account kept by Australia Post called the Unclaimed Money Fund.

(2) If Australia Post is satisfied that a person is entitled to an amount that is in the Unclaimed Money Fund, Australia Post shall pay the amount to the person from the Fund.

(3) Amounts that have remained in the Unclaimed Money Fund for a period of 5 years shall be paid out of the Fund into Australia Post's general money. 5

(4) If an amount has, under subsection (3), been paid out of the Unclaimed Money Fund, Australia Post is not required to pay the amount to any person, but may, if it is satisfied that special reasons exist for doing so, pay the amount to any person who satisfies Australia Post that, but for this subsection, he or she would be entitled to the amount. 10

Lands Acquisition Act

99. (1) The *Lands Acquisition Act 1989* does not apply in relation to the acquisition of land, or an interest in land, by Australia Post by agreement.

(2) In subsection (1): 15

“interest”, in relation to land, means:

- (a) a legal or equitable estate or interest in the land; or
- (b) a right, power or privilege over, or in relation to, the land.

Public Works Committee Act

100. The *Public Works Committee Act 1969* does not apply in relation to Australia Post. 20

Articles carried by post to be taken to be Australia Post's property

101. For the purpose of any legal proceeding or action in relation to an article carried by post or under the control of Australia Post, the article shall be taken to be, while it is being carried by post or under the control of Australia Post, the property of Australia Post. 25

Regulations

102. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or 30
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and may, for example, make regulations:

- (c) with respect to the arrangements for collecting duties of customs and other duties payable in relation to articles carried by post; 35
- (d) with respect to dealing with articles that may contain goods on which duties of customs or other duties are payable;
- (e) with respect to the making of deductions from amounts due to any of Australia Post's employees on account of judgment debts;
- (f) with respect to the opening and examination of articles, and the examination of the contents of articles, carried by post; 40

- (g) with respect to the forfeiture and destruction of articles carried by post; and
- (h) prescribing fines not exceeding \$1,000 for offences against the regulations.

