

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

TELECOMMUNICATIONS AMENDMENT BILL 1988

TABLE OF PROVISIONS

PART I—PRELIMINARY

Section

1. Short title
2. Commencement

PART II—AMENDMENTS OF THE TELECOMMUNICATIONS ACT 1975

3. Principal Act
4. Insertion of new section:
3AA. Application of Act
5. Omission of heading to Part II and insertion of new heading:

PART II—ESTABLISHMENT, FUNCTIONS AND GENERAL POWERS OF CORPORATION

6. Repeal of section 4 and insertion of new sections:
 4. Australian Telecommunications Corporation
 - 4A. Corporation is body corporate etc.
7. Particular powers of Commission
8. Repeal of section 10A and insertion of new section:
 - 10A. Commission to notify Minister of significant business activities
9. Insertion of new section:
 - 10B. Delegation of Corporation's powers
10. Charges for telecommunications services and other services
11. Repeal of Part IV and insertion of new Part:

Section

TABLE OF PROVISIONS—*continued*

PART IV—DIRECTORS OF THE CORPORATION

Division 1—Board of Directors

- 21. Establishment
- 22. Role
- 23. Directions to Board
- 24. Constitution
- 25. Meetings etc.
- 26. Disclosure of interests
- 27. Delegation of Board's powers

Division 2—Managing Director

- 28. Managing Director
- 29. Duties

Division 3—Provisions relating to directors other than Managing Director

- 30. Application of Division
- 31. Appointment of directors
- 32. Term of appointment
- 33. Directors hold office on part time basis
- 33A. Remuneration and allowances
- 33B. Leave of absence
- 33C. Resignation
- 33D. Termination of appointment
- 33E. Terms and conditions of appointment not provided for by Act
- 33F. Deputy Chairperson
- 33G. Acting appointments

Division 4—Provisions relating to Managing Director

- 33H. Appointment
- 33J. Managing Director to hold office during Board's pleasure etc.
- 33K. Managing Director holds office on full time basis
- 33L. Terms and conditions of appointment not provided for by Act
- 33M. Disclosure of interests
- 33N. Acting Managing Director
- 12. Repeal of Division 1 of Part V
- 13. Repeal of Divisions 2 to 7 of Part V and insertion of new sections:
 - 38. Staff
 - 39. Corporation as employer
- 14. Borrowings otherwise than from Commonwealth
- 15. Financial policy of Commission
- 16. Repeal of section 74
- 17. Application of money
- 18. Repeal of sections 79 and 79A
- 19. Annual report
- 20. Rewards for information as to damage to property
- 21. Insertion of new sections:
 - 110A. Public Works Committee Act
 - 110B. Lands Acquisition Act
- 22. Consequential and minor amendments of Principal Act

PART III—AMENDMENT OF THE TELECOMMUNICATIONS
(INTERCEPTION) ACT 1979

- 23. Principal Act
- 24. Telecommunications not to be intercepted

PART IV—CONSEQUENTIAL AMENDMENTS OF CERTAIN ACTS

- 25. Consequential amendments

TABLE OF PROVISIONS—*continued*

Section

PART V—TRANSITIONAL PROVISIONS

26. Charging determinations
27. Directions
28. Delegations
29. Existing Managing Director
30. Existing Chief General Manager
31. Employment of staff members to continue
32. Heading to Division 1 of Part V
33. Divisions 2 to 7 of Part V etc.
34. Division 8 of Part V
35. Disclosure of contents of telecommunications message
36. Telecommunications (Interception) Act
37. Transfer of funds

SCHEDULE 1

CONSEQUENTIAL AND MINOR AMENDMENTS OF TELECOMMUNICATIONS ACT
1975

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

1987-88

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 28 September 1988

(Minister for Transport and Communications)

A BILL

FOR

**An Act to amend the *Telecommunications Act 1975* and to
amend various other Acts in relation to the provision of
telecommunications services, and for related purposes**

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

PART I—PRELIMINARY

Short title

5 **1.** The Act may be cited as the *Telecommunications Amendment Act 1988*.

Commencement

2. (1) Subject to subsections (2) and (3), this Act commences on the
day on which it receives the Royal Assent.

10 **(2)** Sections 5, 6, 9, 11 and 12 and subsections 22 (2) and 25 (1)
commence on a day to be fixed by Proclamation for the purposes of this
subsection.

(3) Section 13 and subsections 22 (3) and 25 (2) commence on a day to be fixed by Proclamation for the purposes of this subsection.

PART II—AMENDMENTS OF THE TELECOMMUNICATIONS ACT 1975

Principal Act

5

3. In this Part and Part V, “Principal Act” means the *Telecommunications Act 1975*¹.

4. After section 3 of the Principal Act the following section is inserted:

Application of Act

“3AA. This Act applies both within and outside Australia.”.

10

Heading to Part II

5. The heading to Part II of the Principal Act is omitted and the following heading is substituted:

“PART II—ESTABLISHMENT, FUNCTIONS AND GENERAL POWERS OF CORPORATION”.

15

6. Section 4 of the Principal Act is repealed and the following sections are substituted:

Australian Telecommunications Corporation

“4. The Australian Telecommunications Commission is, by this section, preserved, and continued in existence, under the name of the Australian Telecommunications Corporation.

20

Corporation is body corporate etc.

“4A. The Corporation:

- (a) continues to be a body corporate;
- (b) shall have a seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.”.

25

Particular powers of Commission

7. Section 10 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (f) “and”;
- (b) by omitting paragraph (1) (g) and substituting the following paragraphs:
 - “(g) form, and participate in the formation of, companies;
 - (h) subscribe for and purchase shares in, and debentures and other securities of, companies;
 - (j) enter into partnerships;

30

35

- (k) participate in joint ventures and arrangements for the sharing of profits;
 - (m) enter into contracts (including futures contracts);
 - (n) deal with futures contracts;
 - (o) appoint agents and attorneys, and act as agent for other persons;
 - (p) accept gifts, grants, bequests and devises made to it, and act as trustee of money and other property vested in it by trust;
 - (q) do such other things as it is authorised to do by or under this Act or any other Act; and
 - (r) do anything incidental to any of its powers.”;
- (c) by adding at the end the following subsections:

“(5) Nothing in this Act authorises the Commission to form, or participate in the formation of, a company that would carry on the business of providing:

- (a) a telecommunications system for Australia by the use of space satellites; or
- (b) space satellite facilities for use in telecommunications systems for neighbouring regions.

“(6) In subsection (5), ‘Australia’, ‘neighbouring regions’ and ‘space satellite’ have the same respective meanings as they have in the *Satellite Communications Act 1984*.”.

8. Section 10A of the Principal Act is repealed and the following section is substituted:

Commission to notify Minister of significant business activities

“10A. (1) If the Commission, or a subsidiary of the Commission, proposes:

- (a) to form, or participate in the formation of, a company;
- (b) to enter into a partnership;
- (c) to enter into a joint venture or an arrangement for the sharing of profits;
- (d) to acquire a major shareholding in a company;
- (e) to acquire a substantial business; or
- (f) to undertake a significant new business activity;

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

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

“(3) For the purposes of this section, 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*.

“(4) This section does not limit the operation of subsection 100 (2).”.

9. After section 10A of the Principal Act the following section is inserted:

Delegation of Corporation's powers

5

“10B. (1) An authorised person may, in writing, delegate to an employee all or any of the powers of the Corporation under this or any other Act.

“(2) In subsection (1):

‘authorised person’ means:

(a) the Managing Director; or

10

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

Charges for telecommunications services and other services

10. Section 11 of the Principal Act is amended by inserting in subsection (6) “(other than prescribed rentals and charges)” after “this section”.

15

11. Part IV of the Principal Act is repealed and the following Part is substituted:

“PART IV—DIRECTORS OF THE CORPORATION

“Division 1—Board of Directors

Establishment

20

“21. There shall be a Board of Directors of the Corporation.

Role

“22. (1) It is the role of the Board to determine the policies to be pursued by the Corporation.

“(2) In carrying out its role, the Board shall ensure the proper and efficient performance of the Corporation's functions and duties.

25

Directions to Board

“23. (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 the Corporation's functions, and the exercise of the Corporation's powers, as appear to the Minister to be necessary in the public interest.

30

“(2) The Minister shall not give a direction under subsection (1) in relation to rentals or charges referred to in section 11.

“(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.

Constitution

- 5 “24. The Board consists of:
- (a) the Chairperson;
 - (b) the Deputy Chairperson;
 - (c) the Managing Director; and
 - (d) not more than 6 other directors.

10 Meetings etc.

“25. (1) Subject to subsection (2), meetings of the Board shall be held at such times and places as the Board, from time to time, determines.

“(2) The Chairperson:

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

“(3) The Chairperson shall preside at all meetings at which the Chairperson is present.

20 “(4) If the Chairperson and Deputy Chairperson are not present at a meeting, the directors present shall appoint one of their number to preside.

“(5) At a meeting of the Board:

- (a) subject to subsection (6), the required minimum number of directors constitute a quorum;
- 25 (b) a question shall be decided by a majority of the votes of the directors present and voting; and
- (c) the director presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

30 “(6) Where, because of subsection 26 (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.

35 “(7) Where 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.

“(8) Where a resolution is, under subsection (7), 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.

“(9) For the purposes of subsection (7), 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. 5

“(10) The Board may, subject to this section and section 26, regulate its proceedings as it considers appropriate.

“(11) Without limiting subsection (10), the Board may permit directors to participate in a particular meeting, or all meetings, by: 10

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

“(12) A director who participates in a meeting of the Board under a permission under subsection (11) shall be taken to be present at the meeting. 15

“(13) The Board shall keep minutes of its proceedings.

“(14) Without limiting subsection (10), the Board may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

“(15) In this section: 20

‘the required minimum number of directors’ means:

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

Disclosure of interests

“26. (1) Where: 25

- (a) a director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Board; and
- (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 have 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: 35

- (a) be present during any deliberation of the Board in relation to the matter; or
- (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 40

under subsection (1), a director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:

- (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.

“(4) Subsection (1) does not apply in relation to a matter relating to the provision of goods or services by the Corporation 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.

Delegation of Board’s powers

“27. (1) The Board may, by resolution, delegate all or any of its powers (other than its powers under section 10B and Division 4) to a director.

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

“(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
- (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.

“(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.

“Division 2—Managing Director

Managing Director

“28. There shall be a Managing Director of the Corporation.

Duties

“29. (1) The Managing Director shall, under the Board, manage the Corporation.

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

“Division 3—Provisions relating to directors other than Managing Director

Application of Division

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

Appointment of directors

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

“(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 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

“32. A director:

(a) shall be appointed with effect from the day specified in the instrument of appointment; and

(b) holds office, subject to this Act:

(i) 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

(ii) in the case of a government director—during the Governor-General’s pleasure.

Directors hold office on part time basis

“33. Directors hold office on a part time basis.

Remuneration and allowances

“33A. (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 Tribunals Act 1973*.

Leave of absence

“33B. The Board may grant leave of absence to a director on such terms and conditions as the Board considers appropriate.

Resignation

“33C. A director may resign by writing signed and delivered to the Governor-General.

Termination of appointment

“33D. (1) The Governor-General may terminate the appointment of a director for misbehaviour or physical or mental incapacity.

“(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;
- (b) without reasonable excuse, contravenes section 26; 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:

- (a) the Minister is of the opinion that the performance of the Board or the Corporation 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;

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
- (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.

“(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

“33E. 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.

Deputy Chairperson

“33F. (1) When:

- (a) the office of Chairperson is vacant (whether or not an appointment has previously been made to the office); 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;

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 functions and duties, of the Chairperson.

“(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.

5

Acting appointments

“33G. (1) The Minister may appoint a director to act as Deputy Chairperson:

10

- (a) during a vacancy in the office of Deputy Chairperson (whether or not an appointment has previously been made to the office); 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.

15

“(2) The Minister may appoint a person to act as a director referred to in paragraph 24 (d):

- (a) during a vacancy in the office of such a director (whether or not an appointment has previously been made to the office); 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.

20

“(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.

25

“Division 4—Provisions relating to Managing Director

Appointment

30

“33H. (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 24 (d) as Managing Director.

35

“(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 to hold office during Board's pleasure etc.

“33J. The Managing Director:

- (a) shall be appointed with effect from the day specified in the instrument of appointment; and

40

(b) holds office during the Board's pleasure.

Managing Director holds office on full time basis

"33K. The Managing Director holds office on a full time basis.

Terms and conditions of appointment not provided for by Act

5 "33L. 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.

Disclosure of interests

10 "33M. 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.

Acting Managing Director

15 "33N. (1) The Minister may appoint a director or another person to act as Managing Director during a vacancy in the office of Managing Director (whether or not an appointment has previously been made to the office).

20 "(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 Australia or is, for any other reason, unable to perform the duties of the office.

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

- 25 (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 for the person to act had not arisen or had ceased."

Repeal of Division 1 of Part V

30 12. Division 1 of Part V of the Principal Act is repealed.

13. Divisions 2 to 7 (inclusive) of Part V of the Principal Act are repealed and the following sections are substituted:

Staff

35 "38. (1) The Corporation may engage such employees as are necessary for the performance of its functions and the exercise of its powers.

"(2) The terms and conditions of employment shall be determined by the Corporation.

Corporation as employer

“39. The Corporation 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.”.

5

Borrowings otherwise than from Commonwealth

14. Section 72A of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

“(1) The Commission may:

(a) borrow money from persons other than the Commonwealth; and

10

(b) raise money otherwise than by borrowing.”;

(b) by omitting subsections (4) and (5).

Financial policy of Commission

15. Section 73 of the Principal Act is amended by omitting from subparagraph (3) (b) (i) “, as determined by the Minister for Finance,”.

15

Repeal of section 74

16. Section 74 of the Principal Act is repealed.

Application of money

17. Section 75 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

20

“(2) Money of the Commission not immediately required for the purposes of the Commission may be invested in any manner that is consistent with sound commercial practice.”.

Repeal of sections 79 and 79A

25

18. Sections 79 and 79A of the Principal Act are repealed.

Annual report

19. Section 99 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The Commission shall include in the report particulars of:

30

(a) companies that it formed, and companies in whose formation it participated, during the year;

(b) partnerships that it entered into during the year; and

(c) joint ventures, and arrangements for the sharing of profits, that it entered into during the year.

35

“(1B) The Commission shall include in the report information relating to:

(a) shares and securities that it subscribed for, purchased or disposed of during the year; and

(b) businesses that it acquired during the year.

“(1C) The financial statements of the Commission shall 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.

“(1D) For the purposes of subsection (1C):

(a) the Commission shall be taken to be a listed corporation; and

(b) the Managing Director shall be taken to be an executive officer of the Commission.

“(1E) Expressions used in subsections (1C) and (1D) and in the *Companies Act 1981* have the same respective meanings as they have in that Act.”.

Rewards for information as to damage to property

20. Section 103 of the Principal Act is amended by omitting all the words after “Commission” (last occurring).

21. After section 110 of the Principal Act the following sections are inserted:

Public Works Committee Act

“110A. The *Public Works Committee Act 1969* does not apply in relation to the Commission.

Lands Acquisition Act

“110B. (1) The *Lands Acquisition Act 1955* does not apply in relation to the acquisition of land, or an interest in land, by the Commission by agreement.

“(2) In subsection (1):

‘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.”.

Consequential and minor amendments of Principal Act

22. (1) The Principal Act is amended as set out in Part I of Schedule 1.

(2) The Principal Act is amended as set out in Part II of Schedule 1.

(3) The Principal Act is amended as set out in Part III of Schedule 1.

PART III—AMENDMENT OF THE TELECOMMUNICATIONS (INTERCEPTION) ACT 1979

Principal Act

23. In this Part, “Principal Act” means the *Telecommunications (Interception) Act 1979*².

Telecommunications not to be intercepted

24. Section 7 of the Principal Act is amended by inserting after paragraph (2) (a) the following paragraph:

“(aa) the interception of a communication by another person lawfully engaged in duties relating to the installation or maintenance of PABX equipment;”.

5

PART IV—CONSEQUENTIAL AMENDMENTS OF CERTAIN ACTS**Consequential amendments**

25. (1) The Acts specified in Part I of Schedule 2 are amended as set out in that Part of that Schedule.

10

(2) The Acts specified in Part II of Schedule 2 are amended as set out in that Part of that Schedule.

PART V—TRANSITIONAL PROVISIONS**Charging determinations**

26. Determinations made under section 11 of the Principal Act and in force immediately before the commencement of section 11 of this Act have effect, after that commencement, as if they had been made under section 11 of the Principal Act as amended by this Act.

15

Directions

27. Directions given to the Commission under section 7 of the Principal Act with respect to the performance of its functions and the exercise of its powers (being directions in force immediately before the commencement of section 11 of this Act) have effect, after that commencement, as if they were directions given to the Board under section 23 of the Principal Act as amended by this Act in relation to the performance of the Corporation's functions and the exercise of the Corporation's powers.

20

25

Delegations

28. (1) A delegation given under section 33 of the Principal Act and in force immediately before the commencement of section 11 of this Act has effect, after that commencement, as if it were a delegation given under section 10B of the Principal Act as amended by this Act.

30

(2) If section 11 of this Act commences before section 13 of this Act, section 10B of the Principal Act as amended by this Act has effect, after the commencement of section 11 of this Act and until the commencement of section 13 of this Act, as if a reference to an employee were a reference to an officer or employee of the Corporation.

35

Existing Managing Director

29 (1) The person who, immediately before the commencement of section 11, holds office as Managing Director continues to hold that office.

(2) Subsections 22 (2) and (5) and 23 (1), sections 24, 26 and 27 and subsections 28 (1) and (2) of the Principal Act, and the By-laws made for the purposes of subsection 22 (5) of the Principal Act (being the By-laws in force immediately before the commencement of section 11 of this Act), continue to apply in relation to the person, and so apply as if references to a Commissioner were references to the Managing Director and as if the reference in paragraph 28 (1) (b) of the Principal Act to subsection (3) were a reference to section 26 of the Principal Act as amended by this Act.

(3) Sections 33H to 33L (inclusive) of the Principal Act as amended by this Act do not apply in relation to the person.

(4) Subsections (2) and (3) cease to have effect if the person is appointed as Managing Director after the commencement of section 11 of this Act (whether at the end of the present period of appointment of the person or otherwise).

Existing Chief General Manager

30. (1) The person who, immediately before the commencement of section 11, holds office as Chief General Manager continues to hold that office.

(2) Sections 34, 35 and 37 of the Principal Act, and the By-laws made for the purposes of subsection 34 (8) of the Principal Act (being the By-laws in force immediately before the commencement of section 11 of this Act), continue to apply in relation to the person.

Employment of staff members to continue

31. Each person who, immediately before the commencement of section 13 of this Act, is an officer or employee of the Corporation continues to be employed by the Corporation as if the person had been engaged by the Corporation under section 38 of the Principal Act as amended by this Act.

Heading to Division 1 of Part V

32. If section 13 commences before section 11, the Principal Act as amended by this Act has effect, after the commencement of section 13 and until the commencement of section 11, as if the heading to Division 1 of Part V were omitted.

Divisions 2 to 7 of Part V etc.

33. (1) If section 11 of this Act commences before section 13 of this Act, Divisions 2 to 7 (inclusive) of Part V of the Principal Act as amended by this Act have effect, after the commencement of section 11 of this Act and until the commencement of section 13 of this Act, as if references in those Divisions to the Commission were references to the Corporation.

(2) If section 13 of this Act commences before section 11 of this Act, the definition of “employee” in subsection 3 (1), and Part V, of the Principal Act as amended by this Act, and sections 31 and 34 of this Act, have effect, after the commencement of section 13 of this Act and until the commencement of section 11 of this Act, as if references to the Corporation were references to the Commission.

5

Division 8 of Part V

34. If section 11 or 13 of this Act commences before section 86 of the *Industrial Relations (Consequential Provisions) Act 1988*, Division 8 of Part V has effect as if:

10

- (a) references to the Service were references to the employees of the Corporation;
- (b) references to officers were omitted; and
- (c) references to an organization were a reference to an organization registered under the *Conciliation and Arbitration Act 1904*.

15

Disclosure of contents of telecommunications message

35. In spite of the amendments of section 82 of the Principal Act made by this Act, that section continues to apply in relation to persons who have been officers.

Telecommunications (Interception) Act

20

36. (1) If section 11 of this Act commences before section 13 of this Act, the *Telecommunications (Interception) Act 1979* has effect, after the commencement of section 11 of this Act and until the commencement of section 13 of this Act, as if the definition of “officer of the Commission” in subsection 5 (1) were omitted and the following definition were substituted:

25

“‘officer of the Corporation’ includes:

- (a) an employee of the Corporation; and
- (b) any person doing acts or things on behalf of the Corporation under arrangements made under section 12 of the *Postal Services Act 1975*.”

30

(2) If section 13 of this Act commences before section 11 of this Act, the *Telecommunications (Interception) Act 1979* has effect, after the commencement of section 13 of this Act and until the commencement of section 11, as if the definition of “employee of the Corporation” in subsection 5 (1) were omitted and the following definition were substituted:

35

“‘employee of the Commission’ includes any person doing acts or things on behalf of the Commission under arrangements made under section 12 of the *Postal Services Act 1975*.”

Transfer of funds

37. Where an Act appropriates money for the purposes of, or in connection with the activities of, the Commission, references in that Act to the Commission shall, after the commencement of section 11 of this Act, be read as references to the Corporation.

40

SCHEDULE 1

Section 22

**CONSEQUENTIAL AND MINOR AMENDMENTS OF
TELECOMMUNICATIONS ACT 1975**

PART I—AMENDMENTS TO COMMENCE ON ROYAL ASSENT

Subsection 3 (1) (definition of “approved bank”):

Omit the definition.

Subsection 3 (1) (definition of “employee”):

Omit “by the Commission”.

Subsection 3 (1) (definition of “Service”):

Omit “Australian Telecommunications Commission”.

Heading to Part V:

Omit “OF THE COMMISSION”.

Section 72D:

Repeal the section.

Subsection 72E (1):

Omit “sections 72A and 72B”, substitute “section 72B”.

**PART II—AMENDMENTS RELATING TO CORPORATION AND
BOARD**

1. The following provisions are amended by omitting “Commission” (wherever occurring) and substituting “Corporation”:

Sections 3 (1) (definitions of “authorized person”, “telecommunications message” and “telecommunications system”), 3 (2) (b) (iii) and (4), 5, 6 (2) (b) (iv), (3), (4) and (5), 8, 9, 10 (1), (2), (4) and (5), 10A, 11 (7), 12 (5) and (6), 13, 14, 15, 16, 17, 18, 19 and 20, 71 (3) and (4), 72, 72A (1), (2) and (8), 72B (1) and (2), 72C, 75, 76 (1) and (2), 80, 81 (1) and (4), 83 (1), 84 (3) (b), 85, 87, 88, 89 (2), 90, 92, 93, 94 (1), (2) (c), (3) and (4), 94A, 95, 96, 98 (2), (3) and (4), 99 (1C) and (1D), 101, 103, 103A, 104, 105, 106, 107, 108, 109, 110, 110A and 110B.

2. The following provisions are amended by omitting “Commission” (wherever occurring) and substituting “Board”:

Sections 11 (4), (5) and (6), 12 (4) and (7), 71 (6) and 99 (1A) and (1B).

SCHEDULE 1—continued**3. The Act is further amended as follows:**

Subsection 3 (1) (definitions of “Chairman”, “Chief General Manager”, “Commission”, “Commissioner”, “Deputy Chairman”, “Managing Director” and “part-time Commissioner”):

Omit the definitions.

Subsection 3 (1):

Insert the following definitions:

“‘Board’ means the Board of Directors of the Corporation;

‘Chairperson’ means the Chairperson of the Board;

‘Corporation’ means the Australian Telecommunications Corporation;

‘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;

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

‘Managing Director’ means the Managing Director of the Corporation;”.

Paragraph 3 (3) (a):

Omit the paragraph.

Subsection 6 (1):

Omit the subsection, substitute the following subsection:

“(1) The functions of the Corporation shall be performed in such a manner as will best meet the social, industrial and commercial needs of the Australian people for telecommunications services, and its telecommunications services shall, so far as it is, in the opinion of the Board, reasonably practicable to do so, be made available throughout Australia for all people who reasonably require those services.”.

Subsection 6 (2):

Omit “In performing its functions in accordance with subsection (1), the Commission—”, substitute “In the performance of the Corporation’s functions in accordance with subsection (1):”.

Paragraph 6 (2) (a):

Omit the paragraph, substitute the following paragraph:

“(a) directions given to the Board under section 23 shall be complied with; and”.

Paragraph 6 (2) (b):

Omit “shall have regard to—”, substitute “regard shall be had to:”.

Subparagraphs 6 (2) (b) (i) and (ii):

Omit “its”, substitute “the Corporation’s”.

Section 7:

Repeal the section.

SCHEDULE 1—continued

Subsection 10 (3):

- (a) Omit “Commission” (first occurring), substitute “Corporation”.
- (b) Omit “Commission” (last occurring), substitute “Board”.

Subsection 11 (1):

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (second, third and last occurring), substitute “Corporation”.

Subsection 11 (2):

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (last occurring), substitute “Corporation”.

Subsection 11 (3):

- (a) Omit “Commission” (first, second, fourth and last occurring), substitute “Board”.
- (b) Omit “Commission” (third and fifth occurring), substitute “Corporation”.

Subsection 12 (1):

- (a) Omit “Commission” (first and fourth occurring), substitute “Corporation”.
- (b) Omit “Commission” (second, third and last occurring), substitute “Board”.

Subsection 12 (2):

- (a) Omit “Commission” (other than second and last occurring), substitute “Corporation”.
- (b) Omit “Commission” (second and last occurring), substitute “Board”.

Subsection 12 (3):

- (a) Omit “Commission” (first and second occurring), substitute “Board”.
- (b) Omit “Commission” (last occurring), substitute “Corporation”.

Subsection 12 (7):

Omit “its”, substitute “the Corporation’s”.

After section 14:

Insert the following section:

Seal of Corporation

“14A. (1) The seal of the Corporation shall be kept in such custody as the Board directs and shall be used only as authorised by the Board.

“(2) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Corporation appearing on a document and shall presume that it was properly affixed.”.

SCHEDULE 1—continued**Heading to Part III:**

Omit “COMMISSION”, substitute “CORPORATION”.

Subsection 73 (1):

Omit “Commission” (first occurring), substitute “Board”.

Paragraph 73 (1) (a):

Omit “Commission”, substitute “Corporation”.

Paragraph 73 (1) (b):

- (a) Omit “Commission” (other than second occurring), substitute “Corporation”.
- (b) Omit “Commission” (second occurring), substitute “Board”.

Subsection 73 (2):

- (a) Omit “The Commission shall”, substitute “The Board shall, consistently with its duty under subsection (1), ensure that the Corporation”.
- (b) Omit “operate”, substitute “operates”.
- (c) Omit “make”, substitute “makes”.
- (d) Omit “Commission” (last occurring), substitute “Corporation”.
- (e) Omit “, consistently with its duty under subsection (1)”.

Subsection 76 (3):

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (second occurring), substitute “Corporation”.

Section 77:

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (second, third and last occurring), substitute “Corporation”.

Section 78:

- (a) Omit “Commission”, substitute “Board”.
- (b) Omit “its receipts and expenditure”, substitute “the receipts and expenditure of the Corporation”.

Heading to Part VIII:

Omit “COMMISSION”, substitute “CORPORATION”.

Section 97:

Repeal the section, substitute the following section:

Application of State and Territory laws to Corporation

“97. Subject to section 80, the Corporation 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.”.

SCHEDULE 1—continued

Subsection 99 (1):

- (a) Omit “Commission”, substitute “Board”.
- (b) Omit “its operations”, substitute “the Corporation’s operations”.

Subsections 99 (1A) and (1B):

Omit “it” (wherever occurring), substitute “the Corporation”.

Subsection 99 (2):

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (second and last occurring), substitute “Corporation”.

Subsection 99 (4):

Omit the subsection.

Subsection 100 (1):

- (a) Omit “Commission”, substitute “Board”.
- (b) Omit “its”, substitute “the Corporation’s”.

Subsection 100 (2):

- (a) Omit “Commission” (first occurring), substitute “Board”.
- (b) Omit “Commission” (last occurring), substitute “Corporation”.

Subsection 111 (1):

Omit “Commission” (first occurring), substitute “Board”.

Paragraph 111 (1) (c):

Omit “Commission”, substitute “Corporation”.

PART III—AMENDMENTS RELATING TO STAFF

Subsection 3 (1) (definition of “employee”):

Omit the definition, substitute the following definition:
“‘employee’ means an employee of the Corporation;”.

Subsection 3 (1) (definitions of “officer”, “organization” and “Service”):

Omit the definitions.

Subparagraph 3 (2) (b) (ii):

Omit “officers and”.

Paragraph 3 (3) (b):

Omit “and” (last occurring).

Paragraph 3 (3) (c):

Omit the paragraph.

SCHEDULE 1—continued**Subsection 3 (4):**

Omit “officer or”.

Subsection 20 (1):

Omit “officer or”.

Subparagraph 73 (3) (b) (i):

Omit “officers and”.

Subsection 82 (1):

Omit “officer or” (wherever occurring).

Paragraphs 82 (2) (a) and 83 (1) (a) and (c):

Omit “officer or”.

Subsection 84 (3):

Omit “officer or”.

Subsections 89 (1) and (3):

Omit “officer or”.

Subparagraph 95 (2) (a) (ii):

Omit “officer or”.

Paragraph 95 (2) (b):

Omit “officer or”.

Section 101:

Omit “officer or”.

Subsections 104 (1) and (9):

Omit “officer or” (wherever occurring).

Subparagraph 107 (3) (a) (i):

Omit “officer or”.

Paragraph 108 (a):

Omit “officers or”.

Paragraph 108 (b):

Omit “officers and”.

Subsection 109 (1):

Omit “officers and”.

Paragraph 111 (1) (f):

Add at the end “and”.

SCHEDULE 1—continued

Paragraph 111 (1) (g):

Omit the paragraph.

Section 112:

Repeal the section, substitute the following section:

Regulations

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

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

and, in particular, prescribing penalties not exceeding a fine of \$1,000 or imprisonment for 6 months, or both, for offences against the regulations.”.

SCHEDULE 2

Section 25

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

PART I—AMENDMENTS RELATING TO CORPORATION

Australian Broadcasting Corporation Act 1983

Subsection 77 (2):

Omit “Commission”, substitute “Corporation”.

Australian Security Intelligence Organization Act 1979

Subsection 26 (8):

Omit “Commission”, substitute “Corporation”.

Subsection 27A (5):

Omit “Commission”, substitute “Corporation”.

Commonwealth Borrowing Levy Act 1987

Schedule:

Omit “Australian Telecommunications Commission”, substitute “Australian Telecommunications Corporation”.

Customs Act 1901

Subsection 219B (12):

Omit “Commission”, substitute “Corporation”.

SCHEDULE 2—continued
Freedom of Information Act 1982

Schedule 2 (Part II):

Omit “Australian Telecommunications Commission”, substitute “Australian Telecommunications Corporation”.

Postal Services Act 1975

Paragraph 10A (2) (a):

Omit “Commission”, substitute “Corporation”.

Sales Tax Assessment Act (No. 1) 1930

Schedule 2:

Omit “Australian Telecommunications Commission”, substitute “Australian Telecommunications Corporation”.

Satellite Communications Act 1984

Section 3 (definition of “Commission”):

Omit the definition, substitute the following definition:

“‘Corporation’ means the Australian Telecommunications Corporation;”.

Section 7:

Omit “Commission”, substitute “Corporation”.

Paragraph 8 (1) (c):

Omit “Commission”, substitute “Australian Telecommunications Corporation”.

Paragraph 12 (1) (b):

Omit “Commission”, substitute “Corporation”.

Subsections 12 (2), (3) and (4):

Omit “Commission” (wherever occurring), substitute “Corporation”.

Paragraph 18 (3) (a):

Omit “Commission”, substitute “Corporation”.

Telecommunications (Interception) Act 1979

1. The following provisions are amended by omitting “Commission” (wherever occurring) and substituting “Corporation”:

Sections 5 (1) (definitions of “Managing Director”, “subscriber”, “telecommunications service”, “telecommunications system” and “telegram”), 5 (2), 6 (2), 7 (2) and (3), 8 (1), 9 (2) (a) (ii), 11 (1), (2), (8) and (10) (a), 11A (1), (2) (a) (ii) and (6), 15 (2A), 20A, 20B (1),

SCHEDULE 2—continued

21 (6) and (8) (a), 30, 35 (2), 47, 48 (3) (d) (ii), 61 (1), 63 (a), 65A and 97.

2. The Act is further amended as follows:

Subsection 5 (1) (definition of “Commission”):

Omit the definition.

Subsection 5 (1):

Insert the following definition:

“‘Corporation’ means the Australian Telecommunications Corporation;”.

Subsection 15 (7):

Omit “Commission’s”, substitute “Corporation’s”.

Heading to Part V:

Omit “COMMISSION”, substitute “CORPORATION”.

PART II—AMENDMENTS RELATING TO STAFF

Telecommunications (Interception) Act 1979

Subsection 5 (1):

Insert the following definition:

“‘employee of the Corporation’ includes any person doing acts or things on behalf of the Corporation under arrangements made under section 12 of the *Postal Services Act 1975*;”.

Subsection 5 (1) (definition of “officer of the Commission”):

Omit the definition.

Subsection 5 (2):

Omit “a person or persons in the service”, substitute “an employee or employees”.

Paragraph 7 (2) (a):

Omit “officer”, substitute “employee”.

Paragraphs 8 (1) (a) and (b):

Omit “officer of”, substitute “employee of”.

Paragraph 11 (8) (b):

- (a) Omit “officers”, substitute “employees”;
- (b) Omit “officer” (wherever occurring), substitute “employee”.

Paragraph 11A (6) (b):

- (a) Omit “officers”, substitute “employees”;

SCHEDULE 2—continued

(b) Omit “officer” (wherever occurring), substitute “employee”.

Paragraph 21 (6) (b):

- (a) Omit “officers”, substitute “employees”;
- (b) Omit “officer” (wherever occurring), substitute “employee”.

Section 30:

Omit “officer” (wherever occurring), substitute “employee”.

Paragraph 30 (1) (d) and subsection 30 (2):

Omit “officers”, substitute “employees”.

Section 47:

Omit “officer”, substitute “employee”.

Subparagraph 48 (3) (d) (ii):

Omit “officers”, substitute “employees”.

Subsection 61 (1):

Omit “officers”, substitute “employees”.

Paragraph 63 (a):

Omit “officer”, substitute “employee”.

Section 65A:

Omit “officer” (first occurring), substitute “employee”.

Section 97:

Omit “officers”, substitute “employees”.

NOTES

1. No. 55, 1975, as amended. For previous amendments, see No. 94, 1976; No. 160, 1977; Nos. 36 and 170, 1978; No. 115, 1979; No. 177, 1980; No. 61, 1981; No. 80, 1982; Nos. 7, 91, 92, 115, 136 and 147, 1983; Nos. 18 and 165, 1984; Nos. 67 and 193, 1985; No. 76, 1986; No. 69, 1987; and Nos. 36, 55 and 75, 1988.
2. No. 114, 1979, as amended. For previous amendments, see No. 181, 1979; Nos. 114 and 116, 1983; Nos. 6 and 116, 1984; Nos. 8 and 63, 1985; No. 102, 1986; Nos. 89 and 120, 1987; and Nos. 5, 65 and 66, 1988.

SECTION HEADINGS NOTES

1. On the commencement of section 11, the headings to the following sections of the *Telecommunications Act 1975* are altered by omitting “Commission” and substituting

NOTES

“Corporation”: Sections 5, 6, 9, 10, 10A, 13, 14, 18, 20, 72B, 72C, 73, 92, 94, 96 and 105.

2. On the commencement of section 13, the heading to section 89 of the *Telecommunications Act 1975* is altered by omitting “officers” and substituting “employees”.

