

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

**TELECOMMUNICATIONS AND POSTAL SERVICES
(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) BILL 1989**

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LEGISLATION

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 to enact certain transitional provisions, make certain amendments, and effect certain repeals, in consequence of the enactment of the *Telecommunications Act 1989*, the *Australian Postal Corporation Act 1989* and the *Australian Telecommunications Corporation Act 1989*, and for other purposes

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 *Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989*.

Commencement

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

(2) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent. 5

(3) Part 5 commences, or shall be taken to have commenced, as the case requires, on the day fixed under subsection 2 (3) of the *Postal Services Amendment Act 1988*.

(4) If a provision of this Act (other than section 1 or 2 or a provision of Part 5) does not commence under subsection (1) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period. 10

PART 2—AMENDMENTS OF THE CRIMES ACT 1914

Principal Act

3. In this Part, "Principal Act" means the *Crimes Act 1914*!. 15

Interpretation

4. Section 3 of the Principal Act is amended:

(a) by omitting "and" from paragraph (b) of the definition of "Commonwealth officer";

(b) by adding at the end of that definition the following word and paragraph: 20

“; and (d) for the purposes of sections 70, 72, 73, 74, 75 and 76:

(i) a person who is an employee of the Australian Postal Corporation, the Australian Telecommunications Corporation, AUSSAT Pty Ltd or OTC Limited; 25

(ii) a person who performs services for or on behalf of the Australian Postal Corporation, the Australian Telecommunications Corporation, AUSSAT Pty Ltd or OTC Limited; and 30

(iii) an employee of a person who performs services for or on behalf of the Australian Postal Corporation, the Australian Telecommunications Corporation, AUSSAT Pty Ltd or OTC Limited;”; 35

(c) by adding “, and includes AUSSAT Pty Ltd and OTC Limited” at the end of the definition of “public authority under the Commonwealth;”. 40

5. After Part VII of the Principal Act the following Parts are inserted:

“PART VIIA—OFFENCES RELATING TO POSTAL SERVICES

Interpretation—definitions

“85E. In this Part, unless the contrary intention appears:

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;

‘Australia Post’ means the Australian Postal Corporation;

10 ‘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;

15 ‘mail-bag’ includes a package, parcel, container or wrapper belonging to Australia Post in which articles in the course of post are customarily contained, whether or not it actually contains such articles;

‘postal message’ means:

(a) a material record of an unwritten communication:

(i) carried by post; or

20 (ii) collected or received by Australia Post for carriage by post; or

(b) a material record issued by Australia Post as a record of an unwritten communication:

(i) carried by post; or

25 (ii) collected or received by Australia Post for carriage by post.

Interpretation—expressions used in Australian Postal Corporation Act

30 “85F. Unless the contrary intention appears, expressions used in this Part, and in the *Australian Postal Corporation Act 1989*, have the same respective meanings as in that Act.

Forgery of postage stamps etc.

“85G. (1) A person shall not forge a postage stamp.

Penalty: Imprisonment for 10 years.

“(2) A person shall not utter a postage stamp knowing it to be forged.

35 Penalty: Imprisonment for 10 years.

“(3) A person shall not, without lawful authority or excuse, make, use, have in his or her possession, or sell or otherwise dispose of, any paper or article that has affixed to it, or printed on it, a mark, label or design

resembling, apparently intended to resemble or pass for, or likely to be mistaken for, a postage stamp, knowing it is not a postage stamp.

Penalty: Imprisonment for 5 years.

“(4) A person shall not, without lawful authority or excuse, make, use, have in his or her possession, or sell or otherwise dispose of, any article resembling, apparently intended to resemble or pass for, or likely to be mistaken for, an envelope, letter-card, aerogram or other article on which Australia Post has caused a postage stamp to be affixed or printed, knowing that it is not such an article.

Penalty: Imprisonment for 5 years.

“(5) A person shall not, without lawful authority or excuse, make, use, have in his or her possession, or sell or otherwise dispose of, any die, plate or instrument capable of making a mark, label or design in the form of, or in a form resembling, apparently intended to resemble or pass for, or likely to be mistaken for, a postage stamp, knowing that it is such a die, plate or instrument.

Penalty: Imprisonment for 5 years.

“(6) A person shall be taken to utter a forged postage stamp if the person:

- (a) tenders it or puts it off;
- (b) attempts to tender it or put it off;
- (c) uses or deals with it;
- (d) attempts to use or deal with it; or
- (e) attempts to induce any person to use, deal with, act on or accept it.

Special paper for postage stamps

“85H. A person shall not, without lawful authority or excuse:

- (a) knowingly or recklessly make, use, have in his or her possession or, sell or otherwise dispose of, paper:
 - (i) supplied for, or used by, Australia Post for the purpose of printing postage stamps; or
 - (ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, Australia Post for that purpose;
- (b) knowingly or recklessly make, use, have in his or her possession or, sell or otherwise dispose of, paper:
 - (i) supplied for, or used by, a person other than Australia Post for the purpose of printing postage stamps for Australia Post; or
 - (ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, a person other than Australia Post for that purpose; or
- (c) knowingly or recklessly make, use, have in his or her possession, sell or otherwise dispose of, any instrument or thing for making a mark,

label or design resembling, or apparently intended to resemble or pass for, any distinctive mark, label or design used on any paper especially supplied for the purpose of the printing of postage stamps by or on behalf of Australia Post.

5 Penalty: Imprisonment for 5 years.

Fraudulently removing postage stamps

“85J. (1) A person shall not fraudulently:

- (a) remove from an article any postage stamp affixed to, or printed on, the article;
- 10 (b) remove from a postage stamp that has previously been used any postmark made on the stamp; or
- (c) use for postal purposes a postage stamp that has previously been used for postal services or has been obliterated or defaced.

Penalty: Imprisonment for 1 year.

15 “(2) In proceedings for an offence against paragraph (1) (c), proof that the defendant caused an article to or on which a postage stamp that had previously been used for postal services, or had been obliterated or defaced, was affixed or printed to be carried by post is *prima facie* evidence that the
20 defendant used the stamp affixed to, or printed on, the article for postal purposes.

Stealing articles in the course of post etc.

“85K. (1) A person shall not:

- (a) fraudulently take a mail-bag, or an article in the course of post, from the possession of an employee of Australia Post;
- 25 (b) fraudulently take a mail-bag, or an article in the course of post, from any place appointed by Australia Post for the receipt or delivery of mail-bags or such an article; or
- (c) steal, or fraudulently conceal, misappropriate or destroy, a mail-bag or an article in the course of post (including an article that appears
30 to have been lost or wrongly delivered by Australia Post or lost in the course of delivery to Australia Post).

“ (2) A person shall not receive a mail-bag or an article in the course of post, or any part of a mail-bag or such an article, knowing that it had been stolen or fraudulently taken, concealed or misappropriated.

35 Penalty: Imprisonment for 5 years.

Tampering with mail-bags etc.

“85L. (1) A person shall not fraudulently open or tamper with:

- (a) a mail-bag; or
- (b) an article in the course of post.

40 Penalty: Imprisonment for 5 years.

“(2) A person shall not open:

- (a) a mail-bag unless the person is authorised to do so by Australia Post; or
- (b) an article in the course of post unless the person is authorised to do so by Australia Post or the person to whom the article is directed.

Penalty: Imprisonment for 2 years.

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Improperly obtaining articles in the course of post

“85M. A person shall not, by a false pretence or false statement, obtain delivery or receipt of an article in the course of post that is not directed to the person.

Penalty: Imprisonment for 5 years.

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Wrongful delivery of postal article etc.

“85N. A person shall not knowingly or recklessly cause an article in the course of post to be delivered to, or received by, a person other than the person to whom it is directed or that person’s authorised agent.

Penalty: Imprisonment for 1 year.

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Stealing postal messages etc.

“85P. (1) A person shall not:

- (a) fraudulently or with intent to prevent the due sending, carriage, delivery or receipt of a postal message, take a postal message from the possession of an employee of Australia Post;
- (b) fraudulently take a postal message from any place or vehicle in use by Australia Post; or
- (c) steal, or fraudulently conceal, misappropriate or destroy, a postal message.

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“(2) A person shall not receive a postal message knowing it to have been stolen, or fraudulently taken, concealed or misappropriated.

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Penalty: Imprisonment for 5 years.

Forgery of postal messages etc.

“85Q. (1) A person shall not forge a postal message.

Penalty: Imprisonment for 10 years.

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“(2) A person shall not utter a postal message knowing it to be forged.

Penalty: Imprisonment for 10 years.

“(3) A person shall be taken to utter a forged postal message if the person:

- (a) tenders it or puts it off;
- (b) attempts to tender it or put it off;
- (c) uses or deals with it;
- (d) attempts to use or deal with it; or

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- (e) attempts to induce any person to use, deal with, act on or accept it.

Wrongful delivery of postal messages

“85R. A person shall not knowingly or recklessly cause a postal message to be delivered to or received by a person other than the person to whom it is directed or that person’s authorised agent.

Penalty: Imprisonment for 1 year.

Improper use of postal services

“85S. A person shall not knowingly or recklessly:

- (a) use a postal or telecommunications service supplied by Australia Post to menace or harass another person; or
- (b) use a postal or telecommunications service supplied by Australia Post in such a way as would be regarded by reasonable persons as being, in all the circumstances, offensive.

Penalty: Imprisonment for 1 year.

Sending false postal messages

“85T. A person shall not:

- (a) intentionally and without a person’s authority, submit, or cause to be submitted, to Australia Post as a postal message signed or to be sent by the person, a postal message that was not so signed or to be sent;
- (b) knowingly or recklessly submit, or cause to be submitted, to Australia Post a postal message signed with the name of a fictitious person;
- (c) intentionally and without the authority of the person sending a postal message, alter the postal message; or
- (d) knowingly or recklessly write, issue or deliver a document purporting to be a postal message that has been carried by post knowing that it is not such a message.

Penalty: Imprisonment for 1 year.

Obstructing carriage of articles by post

“85U. A person shall not knowingly or recklessly obstruct or hinder the carriage by post of any article.

Penalty: Imprisonment for 2 years.

Interference with property of Australia Post

“85V. (1) A person shall not, without the authority of Australia Post, knowingly or recklessly tamper or interfere with a post-box, or stamp vending machine, erected by Australia Post, or any other property belonging to Australia Post.

Penalty: Imprisonment for 1 year.

“(2) A person shall not, without the authority of Australia Post, knowingly or recklessly alter, tamper or interfere with, or obliterate any notice, writing or other marking on or attached to property belonging to Australia Post.

Penalty: \$3,000.

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Causing narcotic substances to be carried by post

“85W. (1) A person shall not, without lawful authority or excuse, knowingly or recklessly cause to be carried by post an article that consists of, encloses or contains a prescribed narcotic substance within the meaning of the *Customs Act 1901*.

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Penalty: Imprisonment for 2 years.

“(2) Where an act constitutes an offence against a law of a State or Territory, the validity of the law is not affected merely because the act also constitutes an offence against subsection (1).

Causing explosives to be carried by post etc.

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“85X. (1) A person shall not knowingly or recklessly cause to be carried by post an article that consists of, encloses or contains:

- (a) an explosive; or
- (b) any prescribed dangerous or deleterious substance.

Penalty: Imprisonment for 10 years.

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“(2) A person shall not, except with the approval of Australia Post and on compliance with such conditions (if any) as are determined by Australia Post, knowingly or recklessly cause to be carried by post an article that consists of, encloses or contains a dangerous or deleterious substance (other than an explosive or a substance prescribed under paragraph (1) (b)).

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Penalty: Imprisonment for 5 years.

Hoax explosives etc.

“85Y. A person shall not cause an article to be carried by post with the intention of inducing a false belief:

- (a) that the article consists of, encloses or contains an explosive or a dangerous or deleterious substance; or
- (b) that an explosive, or a dangerous or deleterious substance, is or will be left in any place.

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Penalty: Imprisonment for 5 years.

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

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“85Z. For the purpose of any prosecution for an offence in relation to an article carried by post or under the control of Australia Post, the article shall be taken to be the property of Australia Post.

Postage stamps to be valuable securities etc.

“85ZA. A postage stamp, and any document issued by Australia Post in relation to the carriage by post of money or a direction to pay an amount of money, shall be taken to be a valuable security for the purposes of any law relating to larceny.

**“PART VIIB—OFFENCES RELATING TO
TELECOMMUNICATIONS SERVICES**

Interpretation—definitions

“85ZB. In this Part, unless the contrary intention appears:

‘AUSSAT’ means AUSSAT Pty Ltd;

‘carrier’ means Telecom, OTC or AUSSAT;

‘communication in the course of telecommunications carriage’ means a communication that is being carried by a carrier, and includes a communication that has been collected or received by a carrier for carriage by the carrier, but has not been delivered by the carrier;

‘OTC’ means OTC Limited;

‘Telecom’ means the Australian Telecommunications Corporation.

Interpretation—expressions used in Telecommunications Act

“85ZC. Unless the contrary intention appears, expressions used in this Part, and in the *Telecommunications Act 1989*, have the same respective meanings as in that Act.

Wrongful delivery of communications

“85ZD. A person shall not knowingly or recklessly cause a communication in the course of telecommunications carriage to be received by a person or telecommunications service other than the person or service to whom it is directed.

Penalty: Imprisonment for 1 year.

Improper use of telecommunications services

“85ZE. A person shall not knowingly or recklessly:

(a) use a telecommunications service supplied by a carrier to menace or harass another person; or

(b) use a telecommunications service supplied by a carrier in such a way as would be regarded by reasonable persons as being, in all the circumstances, offensive.

Penalty: Imprisonment for 1 year.

Fraudulent representations and devices

“85ZF. A person shall not, by means of an apparatus or device:

(a) defraud a carrier of any rental, fee or charge properly payable for or in relation to a telecommunications service supplied by the carrier; or

- (b) knowingly or recklessly cause a carrier to supply a telecommunications service to another person without payment by that other person of the proper rental, fee or charge.

Penalty: Imprisonment for 5 years.

Interference with telecommunications services

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“85ZG. (1) A person shall not knowingly or recklessly manipulate, or tamper or interfere with, any facility operated by a carrier in such a way as to hinder the normal operation of a telecommunications service supplied by the carrier.

“(2) A person shall not knowingly or recklessly use or operate any apparatus or device (whether or not it is comprised in, connected to or used in connection with a telecommunications network) in such a way as to hinder the normal operation of a telecommunications service supplied by a carrier.

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Penalty: Imprisonment for 2 years.

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Sending signals to satellite

“85ZH. A person shall not, without lawful authority or excuse, knowingly or recklessly transmit a signal to a satellite operated by a carrier.

Penalty: \$12,000.

Interference with carrier facilities

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“85ZJ. A person shall not knowingly or recklessly tamper or interfere with a facility belonging to a carrier.

Penalty: Imprisonment for 1 year.

Equipment used for unlawful purposes etc.

“85ZK. (1) A person shall not:

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- (a) connect equipment to a telecommunications network with the intention of using it in, or in relation to, the commission of an offence against a law of the Commonwealth or of a State or Territory; or

- (b) use equipment connected to a telecommunications network in, or in relation to, the commission of such an offence.

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Penalty: Imprisonment for 5 years.

“(2) Subsection (1) does not apply in relation to equipment in relation to which a permit under Division 4 of Part 5 of the *Telecommunications Act 1989* is in force.”.

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PART 3—AMENDMENTS OF THE OMBUDSMAN ACT 1976

Principal Act

6. In this Part, “Principal Act” means the *Ombudsman Act 1976*.

Discretion not to investigate certain complaints

7. Section 6 of the Principal Act is amended by inserting after subsection (4C) the following subsections:

“(4D) Where, before the Ombudsman commences, or after the Ombudsman has commenced, to investigate action taken by a Department or by a prescribed authority, being action that is the subject matter of a complaint, the Ombudsman becomes of the opinion that:

(a) a complaint with respect to the action has been, or could have been, made by the complainant to AUSTEL under Part 6 of the *Telecommunications Act 1989*; and

(b) the action could be more conveniently or effectively dealt with by AUSTEL;

the Ombudsman may decide not to investigate the action, or not to investigate the action further, as the case may be, and, if the Ombudsman so decides, the Ombudsman shall:

(c) transfer the complaint to AUSTEL;

(d) forthwith give notice in writing to the complainant stating that the complaint has been so transferred; and

(e) give to AUSTEL any information or documents that relate to the complaint and are in the possession, or under the control, of the Ombudsman.

“(4E) A complaint transferred under subsection (4D) shall be taken to be a complaint made to AUSTEL under Part 6 of the *Telecommunications Act 1989*.

“(4F) In subsections (4D) and (4E):

‘AUSTEL’ has the same meaning as in the *Telecommunications Act 1989*.”.

Officers to observe confidentiality

8. Section 35 of the Principal Act is amended by adding at the end of subsection (6A) “or (4D) (e)”.

PART 4—AMENDMENTS OF THE OTC ACT 1946

Principal Act

9. In this Part, “Principal Act” means the *OTC Act 1946*³.

Interpretation

10. Section 3 of the Principal Act is amended:

(a) by omitting the definition of “Australia” and substituting the following definition:

“‘Australia’, when used in a geographical sense, includes the external Territories;”;

- (b) by omitting the definitions of “overseas message”, “overseas telecommunication service”, “public communication” and “telecommunication”.

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

Interpretation—Telecommunications Act

“3A. Unless the contrary intention appears, expressions used in this Act, and in the *Telecommunications Act 1989*, have the same respective meanings as in that Act.”.

12. Sections 6 and 6A of the Principal Act are repealed and the following sections are substituted:

Extraterritorial operation of Act

“5. This Act applies both within and outside Australia.

Extension of Act to external Territories

“6. This Act extends to the external Territories.

Extension of Act to adjacent areas

“7. (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.

“(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.

“(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.

“(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*.”.

Repeal of Part II

13. Part II of the Principal Act is repealed.

Repeal of Part III

14. Part III of the Principal Act is repealed.

15. Sections 75, 76 and 78 of the Principal Act are repealed and the following sections are substituted:

5 International obligations

“74. OTC shall exercise its powers in a way consistent with Australia’s obligations under any convention.

Duty of OTC’s employees not to disclose contents of communications etc.

10 “75. (1) Subject to subsection (2), it is the duty of a person who is an employee of OTC not to disclose any fact or document that:

(a) relates to:

(i) the contents or substance of a communication that has been carried by OTC or a communication in the course of telecommunications carriage;

15 (ii) telecommunications services supplied, or intended to be supplied, to another person by OTC; or

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

20 (b) comes to the person’s knowledge, or into the person’s possession, because the person is an employee of OTC.

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

(a) in the performance of the person’s duties as an employee of OTC;

25 (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 OTC has apart from this section.

30 “(4) In this section:

‘communication in the course of telecommunications carriage’ means a communication that is being carried by OTC, and includes a communication that has been collected or received by OTC for carriage by it, but has not been delivered by it;

35 ‘employee’, in relation to OTC, includes a person who performs services for or on behalf of OTC and an employee of such a person.

Immunity from certain actions

“76. An action or proceeding does not lie against OTC 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 OTC in relation to the supply of a reserved service.”.

Renumbering of the OTC Act

16. (1) In this section:

“amended Act” means the *OTC Act 1946* as amended by the provisions
of this Part (other than this section).

(2) The amended Act is further amended as provided by this section.

(3) The several Parts of the amended Act are renumbered in a single
series so that they bear consecutive Arabic numerals.

(4) The several sections of the amended Act are renumbered in a single
series so that they bear consecutive Arabic numerals.

(5) Any provision of the amended Act that refers to a section of that
Act that has been renumbered under this section is amended by omitting
the reference and substituting a reference to the section as so renumbered.

(6) A reference in a provision of a law of the Commonwealth or of a
Territory enacted before the commencement of this section (whether or not
that provision has come into operation), or in any instrument or document,
to a section of the amended Act that has been renumbered under this
section shall be construed as a reference to that section as so renumbered.

**PART 5—AMENDMENT OF THE POSTAL SERVICES
AMENDMENT ACT 1988**

Principal Act

17. In this Part, “Principal Act” means the *Postal Services Amendment
Act 1988*⁴.

Schedule 2

18. Part II of Schedule 2 to the Principal Act is amended by omitting
the amendment of the *Australian Security Intelligence Organization Act
1979* and substituting the following amendments:

“Paragraph 27 (1) (a):

Omit ‘officer,’ (second occurring).

Paragraph 27 (1) (b):

Omit ‘officer,’.”.

**PART 6—AMENDMENTS OF THE RADIOCOMMUNICATIONS
ACT 1983**

Principal Act

19. In this Part, “Principal Act” means the *Radiocommunications Act*
1983⁵.

Interpretation

20. Section 3 of the Principal Act is amended by omitting from the
definition of “radiocommunications transmitter” in subsection (1)
“*Telecommunications Act 1975*” and substituting “*Telecommunications Act*
1989”.

Transmitter licence

21. Section 24 of the Principal Act is amended by adding at the end of
subsection (2) the following paragraph:

“; (f) the policies specified in Division 1 of Part 3 of the
Telecommunications Act 1989.”.

Conditions to which the transmitter licence is subject

22. Section 25 of the Principal Act is amended by adding at the end of
paragraphs (1) (j) and (k) “(which may include conditions for or in relation
to giving effect to provisions of Division 1 of Part 3 of the
Telecommunications Act 1989)”.

Temporary permits for non-resident aliens etc.

23. Section 35 of the Principal Act is amended by adding at the end of
paragraphs (4) (c) and (d) “(which may include conditions for or in relation
to giving effect to provisions of Division 1 of Part 3 of the
Telecommunications Act 1989)”.

Receiver licence

24. Section 38 of the Principal Act is amended:

(a) by adding at the end of subsection (2) the following paragraph:

“; (c) the policies specified in Division 1 of Part 3 of the
Telecommunications Act 1989.”;

(b) by adding at the end of paragraphs (6) (b) and (c) “(which may
include conditions for or in relation to giving effect to provisions of
Division 1 of Part 3 of the *Telecommunications Act 1989*)”.

**PART 7—AMENDMENTS OF THE SATELLITE
COMMUNICATIONS ACT 1984**

Principal Act

25. In this Part, “Principal Act” means the *Satellite Communications*
*Act 1984*⁶.

Short title

26. The short title of the Principal Act is amended by omitting "*Satellite Communications*" and substituting "*AUSSAT*".

Interpretation

27. Section 3 of the Principal Act is amended: 5

(a) by omitting the definition of "Australia" and substituting the following definition:

"'Australia', when used in a geographical sense, includes the external Territories;";

(b) by omitting the definitions of "Aussat satellite", "satellite earth station" and "space satellite". 10

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

Interpretation—expressions used in Telecommunications Act

"3A. Unless the contrary intention appears, expressions used in this Act, and in the *Telecommunications Act 1989*, have the same respective meanings as in that Act." 15

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

Extraterritorial operation of Act

"4. This Act applies both within and outside Australia. 20

Extension of Act to external Territories

"4A. This Act extends to the external Territories.

Extension of Act to adjacent areas

"4B. (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 30. Section 7 of the Principal Act is repealed and the following section is substituted:

International obligations

“7. AUSSAT shall exercise its powers in a way consistent with Australia’s obligations under any convention.”.

Obligations of Directors of AUSSAT

10 31. Section 8 of the Principal Act is amended by omitting subsection (2).

32. Sections 14 to 18 (inclusive) of the Principal Act are repealed and the following section is substituted:

15 **Duty of AUSSAT’s employees not to disclose contents of communications etc.**

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

(a) relates to:

20 (i) the contents or substance of a communication that has been carried by AUSSAT or a communication in the course of telecommunications carriage;

(ii) telecommunications services supplied, or intended to be supplied, to another person by AUSSAT; or

25 (iii) the affairs or personal particulars (including any unlisted telephone number or 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 AUSSAT.

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

30 (a) in the performance of the person’s duties as an employee of AUSSAT;

(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

35 (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 AUSSAT has apart from this section.

“(4) In this section:

‘communication in the course of telecommunications carriage’ means a communication that is being carried by AUSSAT, and includes a communication that has been collected or received by AUSSAT for carriage by it, but has not been delivered by it; 5

‘employee’, in relation to AUSSAT, includes a person who performs services for or on behalf of AUSSAT and an employee of such a person.”.

Regulations

33. Section 19 of the Principal Act is amended by omitting subsections (2) to (4) (inclusive). 10

Minor amendments

34. The following provisions of the Principal Act are amended by omitting “Aussat” (wherever occurring) and substituting “AUSSAT”:

Sections 3 (definition of “Aussat”), 5, 6, 8, 9 (2), 10, 11, 12, 13, 18A and 18B. 15

Consequential amendments

35. The Acts specified in Part 1 of the Schedule are amended as set out in that Part.

Renumbering of the Satellite Communications Act 20

36. (1) In this section:

“amended Act” means the *Satellite Communications Act 1984* as amended by the provisions of this Part (other than this section).

(2) The amended Act is further amended as provided by this section.

(3) The several sections of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals. 25

(4) Any provision of the amended Act that refers to a section of that Act that has been renumbered under this section is amended by omitting the reference and substituting a reference to the section as so renumbered.

(5) A reference in a provision of a law of the Commonwealth or of a Territory enacted before the commencement of this section (whether or not the provision has come into operation), or in any instrument or document, to a section of the amended Act that has been renumbered under this section shall be construed as a reference to that section as so renumbered. 30

PART 8—AMENDMENTS OF THE TELECOMMUNICATIONS (INTERCEPTION) ACT 1979 35

Principal Act

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

Interpretation

38. Section 5 of the Principal Act is amended:

(a) by omitting from the definition of "employee of the Corporation" in subsection (1) "under section 12 of the *Postal Services Act 1975*" and substituting "between the Corporation and the Australian Postal Corporation";

(b) by omitting from the definition of "subscriber" in subsection (1) "is authorized by the Corporation to rent, provide or use" and substituting "rents or uses";

(c) by omitting from subsection (1) the definitions of "communication", "Managing Director", "telecommunications service" and "telecommunications system" and substituting respectively the following definitions:

"communication" includes conversation and a message, and any part of a conversation or message, whether:

(a) in the form of:

(i) speech, music or other sounds;

(ii) data;

(iii) text;

(iv) visual images, whether or not animated; or

(v) signals; or

(b) in any other form or in any combination of forms;

'Managing Director' means:

(a) in relation to the Corporation—the Managing Director of the Corporation;

(b) in relation to OTC Limited—the chief executive officer (however described) of OTC Limited; and

(c) in relation to AUSSAT Pty Ltd—the chief executive officer (however described) of AUSSAT Pty Ltd;

'telecommunications service' means a telecommunications service, within the meaning of the *Telecommunications Act 1989*, that is within Australia, being a service the use of which enables communications to be carried over a telecommunications system operated by a carrier;

'telecommunications system' means:

(a) a telecommunications network that is within Australia; or

(b) a telecommunications network that is partly within Australia, but only to the extent that the network is within Australia;

and includes equipment, a line or other facility that is connected to such a network and is within Australia;";

(d) by inserting in subsection (1) the following definitions:

- “‘carrier’ means the Corporation, OTC Limited or AUSSAT Pty Ltd;
- ‘carry’ includes transmit, switch and receive;
- ‘earth-based facility’ means a facility other than a satellite-based facility; 5
- ‘equipment’ has the same meaning as in the *Telecommunications Act 1989*;
- ‘facility’ has the same meaning as in the *Telecommunications Act 1989*;
- ‘line’ has the same meaning as in the *Telecommunications Act 1989*; 10
- ‘maintain’ includes adjust and repair;
- ‘passing over’ includes being carried;
- ‘satellite-based facility’ means a facility in a satellite;
- ‘telecommunications network’ has the same meaning as in the *Telecommunications Act 1989*;” 15
- (e) by omitting from subsection (2) “the Corporation” (first occurring) and substituting “a carrier”;
- (f) by omitting from subsection (2) “Corporation” (second and third occurring) and substituting “carrier”; 20
- (g) by inserting after subsection (2) the following subsection:
- “(3) For the purposes of this Act, equipment, or a line or other facility, is connected to a telecommunications network if the equipment, line or other facility is, for the purposes of the *Telecommunications Act 1989*, connected to that network.”; 25
- (h) by adding at the end the following subsection:
- “(5) For the purposes of the definition of ‘telecommunications system’ in subsection (1), a telecommunications network shall be taken to be within Australia to the extent that the network is used for the purpose of carrying communications: 30
- (a) over an earth-based facility within Australia, or between earth-based facilities within Australia;
- (b) from an earth-based facility within Australia to a satellite-based facility, but only to the extent that the next earth-based facility to which the communications will be carried is an earth-based facility within Australia; 35
- (c) from a satellite-based facility to an earth-based facility within Australia, but only to the extent that the last earth-based facility from which the communications were carried was an earth-based facility within Australia; and 40
- (d) over a satellite-based facility, or between satellite-based facilities, but only to the extent that:

(i) the last earth-based facility from which the communications were carried was an earth-based facility within Australia; and

5 (ii) the next earth-based facility to which the communications will be carried is an earth-based facility within Australia;

whether or not the communications originated in Australia, and whether or not the final destination of the communications is within Australia.”.

10 **Interception of a communication**

39. Section 6 of the Principal Act is amended:

(a) by omitting from subsection (2) “the Corporation” (first occurring) and substituting “a carrier”;

15 (b) by omitting from paragraph (2) (c) “Corporation,” and substituting “carrier”.

Telecommunications not to be intercepted

40. Section 7 of the Principal Act is amended:

(a) by omitting from paragraph (2) (a) “the Corporation” and substituting “a carrier”;

20 (b) by omitting from subparagraph (2) (a) (i) “apparatus or”;

(c) by omitting from subparagraph (2) (a) (ii) “86, 87, 88, 94 or 94A of the *Telecommunications Act 1975*” and substituting “a provision of Part VIIIB of the *Crimes Act 1914*”;

25 (d) by omitting from paragraph (2) (aa) “or maintenance of PABX equipment” and substituting “, connection or maintenance of equipment or a line”;

(e) by omitting subsection (3).

Issue of warrants by Attorney-General for Organization to intercept telecommunications

30 41. Section 9 of the Principal Act is amended by omitting from subparagraph (2) (a) (ii) “the Corporation” and substituting “a carrier”.

Issue of warrants for Organization to intercept telegrams

42. Section 11 of the Principal Act is amended:

35 (a) by inserting in subsection (8) “of the Corporation” after “Managing Director” (wherever occurring);

(b) by omitting from subsection (9) “the *Telecommunications Act 1975*” and substituting “Part VIIIB of the *Crimes Act 1914*”.

Warrants for the performance of functions under paragraph 17 (1) (e) of the ASIO Act

43. Section 11A of the Principal Act is amended:

- (a) by omitting from subparagraph (2) (a) (ii) "the Corporation" and substituting "a carrier";
- (b) by inserting in subsection (6) "of the Corporation" after "Managing Director" (wherever occurring);
- (c) by omitting from subsection (7) "the *Telecommunications Act 1975*" and substituting "Part VIIIB of the *Crimes Act 1914*".

How warrants etc. to be dealt with

44. Section 15 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) "and the Managing Director";
- (b) by omitting subsection (1A) and substituting the following subsections:

"(1A) Where:

- (a) the Director-General of Security is informed under paragraph (1) (a) of the issue of a warrant; and
- (b) it is proposed, under the warrant, to intercept communications made to or from a telecommunications service while they are passing over a telecommunications system operated by a carrier;

the Director-General of Security shall cause:

- (c) the Managing Director of that carrier to be informed forthwith of the issue of the warrant; and
- (d) where, under paragraph (1) (b), the Director-General of Security receives the warrant—a copy of the warrant, certified in writing by the Director-General, or a Deputy Director-General of Security, to be a true copy of the warrant, to be given as soon as practicable to the Managing Director of that carrier.

"(1B) Where:

- (a) the Managing Director of a carrier has been informed, under subsection (1A), of the issue of a warrant; and
- (b) the Director-General of Security is informed under paragraph (1) (a) that the warrant has been revoked;

the Director-General of Security shall cause:

- (c) the Managing Director of that carrier to be informed forthwith of the revocation; and
- (d) where, under paragraph (1) (b), the Director-General of Security receives the instrument of revocation—a copy of the instrument, certified in writing by the Director-General, or a Deputy Director-General of Security, to be a true copy of

the instrument, to be forwarded as soon as practicable to the Managing Director of that carrier.”;

(c) by inserting in subsection (2) “of the Corporation” after “Managing Director” (wherever occurring);

(d) by inserting in subsection (2A) “of the Corporation” after “Managing Director” (first occurring);

(e) by omitting subsection (4) and substituting the following subsection:

“(4) Where:

(a) the Director-General of Security issues a warrant under section 10; and

(b) it is proposed, under the warrant, to intercept communications made to or from a telecommunications service while they are passing over a telecommunications system operated by a carrier;

the Director-General of Security shall cause:

(c) the Managing Director of that carrier to be informed forthwith of the issuing of the warrant; and

(d) a copy of the warrant, certified in writing by the Director-General, or a Deputy Director-General of Security, to be a true copy of the warrant, to be given as soon as practicable to the Managing Director of that carrier.”;

(f) by inserting in subsection (5) “of the Corporation” after “Managing Director” (wherever occurring);

(g) by inserting in paragraph (6) (d) “of the Corporation” after “Managing Director”;

(h) by inserting in subsection (7) “of a carrier” after “Managing Director”;

(j) by omitting from subsection (7) “Corporation’s” and substituting “carrier’s”.

Warrants under this Part

45. Section 21 of the Principal Act is amended:

(a) by inserting in subsection (6) “of the Corporation” after “Managing Director” (wherever occurring);

(b) by omitting from subsection (7) “the *Telecommunications Act 1975*” and substituting “Part VIIB of the *Crimes Act 1914*”.

How warrants etc. to be dealt with

46. Section 25 of the Principal Act is amended by inserting in subsection (2) “of the Corporation” after “Managing Director” (wherever occurring).

Emergency requests

47. Section 30 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (d) "the Corporation" (first occurring) and substituting "a carrier";
- (b) by omitting from paragraph (1) (d) "Corporation" (second occurring) and substituting "carrier"; 5
- (c) by omitting from subsection (2) "the Corporation" (first occurring) and substituting "a carrier";
- (d) by omitting from subsection (2) "Corporation" (second occurring) and substituting "carrier"; 10
- (e) by omitting from subsection (3) "the Corporation" and substituting "a carrier";
- (f) by omitting from paragraph (3) (a) "Corporation" and substituting "carrier";
- (g) by adding at the end of paragraph (3) (b) "of the carrier"; 15
- (h) by omitting from subsection (4) "the Corporation" and substituting "a carrier";
- (j) by inserting in subsection (4) "of the carrier" after "Managing Director".

Preconditions for declaration

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48. Section 35 of the Principal Act is amended by omitting from paragraph (2) (b) "the Corporation and".

49. Section 47 of the Principal Act is repealed and the following section is substituted:

Limit on authority conferred by warrant under section 45 or 46

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"47. A warrant under section 45 or 46 does not authorise communications to be intercepted while they are passing over a telecommunications system operated by a carrier unless:

- (a) notification of the issue of the warrant has been received by or on behalf of the Managing Director of the carrier under subsection 60 (1); and 30
- (b) the interception takes place as a result of action taken by an employee of the carrier for the purpose of enabling the warrant to be executed."

Issue of warrant for entry on premises

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50. Section 48 of the Principal Act is amended:

- (a) by inserting in subparagraph (3) (d) (i) "nature or" after "connected with the";
- (b) by omitting subparagraph (3) (d) (ii) and substituting the following subparagraph: 40

“(ii) where, if the warrant were issued under section 45 or 46, communications to or from the telecommunications service would be intercepted while passing over a telecommunications system operated by a carrier—execution of the warrant as a result of action taken by employees of that carrier might jeopardise security of the investigation by the agency of a serious offence in which a person to whom the application relates is involved;”.

51. Section 60 of the Principal Act is repealed and the following section is substituted:

Managing Director of carrier to be informed of issue or revocation of certain warrants

“60. (1) Where:

- (a) a warrant is issued to an agency; and
- (b) it is proposed, under the warrant, to intercept communications to or from a telecommunications service while they are passing over a telecommunications system operated by a carrier;

the chief officer of the agency shall cause:

- (c) the Managing Director of that carrier to be informed forthwith of the issue of the warrant; and
- (d) a copy of the warrant, certified in writing by a certifying officer of the agency to be a true copy of the warrant, to be given as soon as practicable to the Managing Director of that carrier.

“(2) Where:

- (a) the chief officer of an agency causes the Commissioner of Police to be notified under paragraph 53 (1) (b) of the issue of a warrant to the agency; and
- (b) under subsection (1) of this section, the chief officer has caused the Managing Director of a carrier to be informed of the issue of the warrant;

the chief officer shall cause a copy of the notification to be given as soon as practicable to the Managing Director of that carrier.

“(3) Where:

- (a) the Managing Director of a carrier has been informed, under subsection (1), of the issue of a warrant; and
- (b) the warrant is revoked;

the chief officer of the agency to which the warrant was issued shall cause:

- (c) the Managing Director of that carrier to be informed forthwith of the revocation; and
- (d) a copy of the instrument of revocation, certified in writing by a certifying officer of the agency to be a true copy of the instrument,

to be given as soon as practicable to the Managing Director of that carrier.”.

Evidentiary certificates

52. Section 61 of the Principal Act is amended:

- (a) by inserting in subsection (1) “of a carrier” after “Managing Director”; 5
- (b) by omitting from subsection (1) “Corporation” and substituting “carrier”;
- (c) by inserting in subsection (2) “of a carrier” after “Managing Director”. 10

No dealing in intercepted information

53. Section 63 of the Principal Act is amended by omitting from paragraph (a) “except in the performance of a duty of the person as an officer of the Corporation,”.

54. After section 63A of the Principal Act the following section is inserted: 15

Dealing in information by employees of carriers

“63B. (1) An employee of a carrier may, in the performance of his or her duties as such an employee, communicate or make use of, or cause to be communicated, information (being information that has been lawfully obtained or obtained by intercepting a communication in contravention of subsection 7 (1)) relating to: 20

- (a) the operation or maintenance of a telecommunications network operated by the carrier; or
- (b) the supply of services by the carrier by means of a telecommunications network. 25

“(2) An employee of a carrier may communicate or cause to be communicated to another carrier, or to an employee of another carrier, information (being information that has been lawfully obtained or obtained by intercepting a communication in contravention of subsection 7 (1)) relating to: 30

- (a) the operation or maintenance of a telecommunications network operated by the other carrier; or
- (b) the supply of services by the other carrier by means of a telecommunications network; 35

if the communication of the information is for the purpose of the carrying on by the other carrier of its business relating to the supply of services by means of a telecommunications network operated by the other carrier.”.

Carrier may communicate to Australian Federal Police or Authority

55. Section 65A of the Principal Act is amended by omitting “the Corporation” and substituting “a carrier”.

Making record for purpose of permitted communication

56. Section 72 of the Principal Act is amended by inserting “63B,” after “permitted by section”.

Further dealing by recipient of certain information

57. Section 73 of the Principal Act is amended by inserting “, subsection 63B (2), section” after “section 63A”.

Annual reports to Minister about interceptions under Part V

58. Section 93 of the Principal Act is amended:

- (a) by inserting “of a carrier” after “Managing Director”;
- (b) by inserting “by employees of the carrier” after “carried out”.

Reports by Managing Directors about acts done in connection with certain warrants under Part IV or VI

59. Section 97 of the Principal Act is amended:

- (a) by inserting “of a carrier” after “Managing Director”;
- (b) by omitting “Corporation” and substituting “carrier”.

**PART 9—TRANSITIONAL PROVISIONS, AMENDMENTS AND
REPEALS RELATING TO AUSTRALIA POST**

Division 1—Interpretation

Interpretation—definitions

60. In this Part:

“commencing day” means the day on which the new Act commences;

“new Act” means the *Australian Postal Corporation Act 1989*;

“previous Act” means the *Postal Services Act 1975*.

Interpretation—expressions used in new Act

61. Unless the contrary intention appears, expressions used in this Part, and in the new Act, have the same respective meanings as in that Act.

Division 2—Taxation matters

Stamp duty not payable in relation to certain property etc.

62. (1) Stamp duty or similar tax is not payable by Australia Post under a law of a State or Territory in relation to property:

- (a) acquired by Australia Post before the commencing day; or
- (b) constructed by Australia Post before the commencing day.

(2) Without limiting subsection (1), stamp duty or similar tax is not payable under a law of a State or Territory on the registration under a law of the State or Territory of a motor vehicle acquired by Australia Post before the commencing day.

Stamp duty not payable in relation to certain transactions

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63. Stamp duty or similar tax is not payable by Australia Post under a law of a State or Territory in relation to a transaction entered into by it before the commencing day.

Stamp duty not payable in relation to certain securities etc.

64. Stamp duty or any similar tax is not payable under a law of a State or Territory in relation to:

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- (a) a security issued by Australia Post before the commencing day;
- (b) the issue, redemption, transfer, sale or purchase of such a security (other than a transaction entered into without consideration or for an inadequate consideration); or
- (b) any document executed by or on behalf of Australia Post, or any transaction, in relation to money borrowed by Australia Post before the commencing day.

15

Commencement of Australia Post's liability to pay income tax

65. Income derived by Australia Post in a year of income commencing before 1 July 1990 is exempt income for the purposes of the *Income Tax Assessment Act 1936*.

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Value of trading stock for income tax purposes

66. (1) For the purpose of ascertaining under Subdivision B of Division 2 of Part III of the *Income Tax Assessment Act 1936* the value to be taken into account at the beginning of the year of income commencing on 1 July 1990 in relation to Australia Post's trading stock on hand at that time, Australia Post may, in accordance with subsection (2), exercise any option, and give any notice, in relation to the value of its trading stock on hand at the end of the preceding year of income.

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30

(2) The option or notice:

- (a) shall be exercised or given in writing to the Commissioner of Taxation; and
- (b) shall be lodged with the Commissioner of Taxation on or before the day of lodgment of Australia Post's return of income for the year of income commencing on 1 July 1990, or before such later day as the Commissioner of Taxation allows.

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(3) If Australia Post does not exercise an option under subsection (1) in relation to particular trading stock, the value to be taken into account in accordance with the subsection in relation to that trading stock shall be the cost price.

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(4) If Australia Post, under Subdivision B of Division 2 of Part III of the *Income Tax Assessment Act 1936*, adopts cost price as the basis of valuation in relation to any of its trading stock on hand at the end of the year of income commencing on 1 July 1990 that was on hand at the end of the preceding year of income, the cost price of that trading stock shall be taken to be equal to the value at which the trading stock was taken into account in accordance with subsection (1).

Accelerated depreciation not available for income tax purposes

67. Section 57AL of the *Income Tax Assessment Act 1936*, as in force immediately after the commencement of section 38 of the *Taxation Laws Amendment Act (No. 4) 1988*, does not apply in relation to any unit of property of Australia Post.

Transitional provisions for capital gains tax

68. (1) Where:

- (a) Australia Post owns an asset at the end of 30 June 1990 (in this subsection called the "changeover time"); and
- (b) the market value of the asset at the changeover time is greater than the amount that would be the indexed cost base to Australia Post in relation to the asset if Australia Post disposed of the asset at that time;

the following provisions have effect for the purpose of ascertaining under Part IIIA of the *Income Tax Assessment Act 1936* whether a capital gain accrues in the event of a subsequent disposal of the asset by it:

- (c) Australia Post shall be taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that indexed cost base;
- (d) Australia Post shall be taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time;
- (e) the reference in subsection 160Z (3) of the *Income Tax Assessment Act 1936* to the day on which the asset was acquired by the taxpayer shall be taken to be a reference to the day on which the asset was actually acquired by Australia Post.

(2) If the asset is disposed of within 12 months of its actual acquisition by Australia Post, subsection (1) has effect as if the references in that subsection to the indexed cost base to Australia Post in relation to the asset were references to the cost base to Australia Post in relation to the asset.

(3) Where:

- (a) Australia Post owns an asset at the end of 30 June 1990 (in this subsection called the "changeover time"); and
- (b) the market value of the asset at the changeover time is less than the amount that would be the reduced cost base to Australia Post

in relation to the asset if Australia Post disposed of the asset at that time;

the following provisions have effect for the purpose of ascertaining under Part IIIA of the *Income Tax Assessment Act 1936* whether Australia Post incurred a capital loss in the event of a subsequent disposal of the asset by it: 5

- (c) Australia Post shall be taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that reduced cost base;
- (d) Australia Post shall be taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time. 10

(4) Expressions used in this section, and in Part IIIA of the *Income Tax Assessment Act 1936*, have the same respective meanings as in that Part.

Division 3—Non-taxation matters 15

Certain existing liabilities to the Commonwealth

69. Subject to any regulations made under the new Act, section 74 of the previous Act, as in force immediately before the commencement of this Part, continues to have effect as if the previous Act had not been repealed.

Existing directors other than Managing Director 20

70 Each person who, immediately before the commencing day, held office as a director (other than the Managing Director) continues, subject to the new Act, to hold that office for the remainder of the term (if any) for which the person was appointed.

Existing Managing Director 25

71. The person who, immediately before the commencing day, held office as Managing Director continues, subject to the new Act, to hold that office after that day.

Employment of staff members to continue

72. Each person who, immediately before the commencing day, was an employee of Australia Post continues to be employed by it as if the person had been engaged under section 89 of the new Act. 30

Unclaimed amounts

73. (1) Amounts paid into the Unclaimed Moneys Fund kept by Australia Post under section 107 of the previous Act shall be dealt with as if they had been paid into the Unclaimed Money Fund kept under section 98 of the new Act. 35

(2) Amounts paid into the Consolidated Revenue Fund under section 107 of the previous Act shall be dealt with as if that Act had not been repealed. 40

Consequential amendments

74. The Acts specified in Part 2 of the Schedule are amended as set out in that Part.

Repeals

5 75. (1) The following Acts are repealed:

Postal Services Act 1975

Postal Services Amendment Act 1979

Postal and Telecommunications Amendment Act 1983

Postal Services Amendment Act 1988.

10 (2) If this section commences before Part 10, subsection (1) has effect, until the commencement of that Part, as if section 28 of the *Postal and Telecommunications Amendment Act 1983* had not been repealed.

**PART 10—TRANSITIONAL PROVISIONS, AMENDMENTS AND
REPEALS RELATING TO TELECOM**

15 ***Division 1—Interpretation***

Interpretation—definitions

 76. In this Part:

 “commencing day” means the day on which the new Act commences;

20 “new Act” means the *Australian Telecommunications Corporation Act 1989*;

 “previous Act” means the *Telecommunications Act 1975*.

Interpretation—expressions used in new Act

 77. Unless the contrary intention appears, expressions used in this Part, and in the new Act, have the same respective meanings as in that Act.

25 ***Division 2—Taxation matters***

Stamp duty not payable in relation to certain property etc.

 78. (1) Stamp duty or similar tax is not payable by Telecom under a law of a State or Territory in relation to property:

30 (a) acquired by Telecom before the commencing day; or

 (b) constructed by Telecom before the commencing day.

 (2) Without limiting subsection (1), stamp duty or similar tax is not payable under a law of a State or Territory on the registration under a law of the State or Territory of a motor vehicle acquired by Telecom before the commencing day.

Stamp duty not payable in relation to certain transactions

79. Stamp duty or similar tax is not payable by Telecom under a law of a State or Territory in relation to a transaction entered into by it before the commencing day.

Stamp duty not payable in relation to certain securities etc.

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80. Stamp duty or any similar tax is not payable under a law of a State or Territory in relation to:

- (a) a security issued by Telecom before the commencing day;
- (b) the issue, redemption, transfer, sale or purchase of such a security (other than a transaction entered into without consideration or for an inadequate consideration); or 10
- (c) any document executed by or on behalf of Telecom, or any transaction, in relation to money borrowed by Telecom before the commencing day.

Commencement of Telecom's liability to pay income tax

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81. Income derived by Telecom in a year of income commencing before 1 July 1990 is exempt income for the purposes of the *Income Tax Assessment Act 1936*.

Value of trading stock for income tax purposes

82. (1) For the purpose of ascertaining under Subdivision B of Division 2 of Part III of the *Income Tax Assessment Act 1936* the value to be taken into account at the beginning of the year of income commencing on 1 July 1990 in relation to Telecom's trading stock on hand at that time, Telecom may, in accordance with subsection (2), exercise any option, and give any notice, in relation to the value of its trading stock on hand at the end of the preceding year of income. 25

(2) The option or notice:

- (a) shall be exercised or given in writing to the Commissioner of Taxation; and
- (b) shall be lodged with the Commissioner of Taxation on or before the day of lodgment of Telecom's return of income for the year of income commencing on 1 July 1990, or before such later day as the Commissioner of Taxation allows. 30

(3) If Telecom does not exercise an option under subsection (1) in relation to particular trading stock, the value to be taken into account in accordance with that subsection in relation to that trading stock shall be the cost price. 35

(4) If Telecom, under Subdivision B of Division 2 of Part III of the *Income Tax Assessment Act 1936*, adopts cost price as the basis of valuation in relation to any of its trading stock on hand at the end of the year of income commencing on 1 July 1990 that was on hand at the end of the 40

preceding year of income, the cost price of that trading stock shall be taken to be equal to the value at which the trading stock was taken into account in accordance with subsection (1).

Accelerated depreciation not available for income tax purposes

- 5 83. Section 57AL of the *Income Tax Assessment Act 1936*, as in force immediately after the commencement of section 38 of the *Taxation Laws Amendment Act (No. 4) 1988*, does not apply in relation to any unit of property of Telecom.

Transitional provisions for capital gains tax

- 10 84. (1) Where:

(a) Telecom owns an asset at the end of 30 June 1990 (in this subsection called the "changeover time"); and

- (b) the market value of the asset at the changeover time is greater than the amount that would be the indexed cost base to Telecom in relation to the asset if Telecom disposed of the asset at that time;

15 the following provisions have effect for the purpose of ascertaining under Part IIIA of the *Income Tax Assessment Act 1936* whether a capital gain accrues in the event of a subsequent disposal of the asset by it:

- (c) Telecom shall be taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that indexed cost base;

(d) Telecom shall be taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time;

- 25 (e) the reference in subsection 160Z (3) of the *Income Tax Assessment Act 1936* to the day on which the asset was acquired by the taxpayer shall be taken to be a reference to the day on which the asset was actually acquired by Telecom.

- (2) If the asset is disposed of within 12 months of its actual acquisition by Telecom, subsection (1) has effect as if the references in that subsection to the indexed cost base to Telecom in relation to the asset were references to the cost base to Telecom in relation to the asset.

(3) Where:

- 35 (a) Telecom owns an asset at the end of 30 June 1990 (in this subsection called the "changeover time"); and

(b) the market value of the asset at the changeover time is less than the amount that would be the reduced cost base to Telecom in relation to the asset if Telecom disposed of the asset at that time;

- 40 the following provisions have effect for the purpose of ascertaining under Part IIIA of the *Income Tax Assessment Act 1936* whether Telecom incurred a capital loss in the event of a subsequent disposal of the asset by it:

- (c) Telecom shall be taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that reduced cost base;
- (d) Telecom shall be taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time. 5

(4) Expressions used in this section, and in Part IIIA of the *Income Tax Assessment Act 1936*, have the same respective meanings as in that Part.

Division 3—Non-taxation matters

Certain existing liabilities to the Commonwealth 10

85. Subject to any regulations made under the new Act, section 71 of the old Act, as in force immediately before the commencement of this Part, continues to have effect as if the previous Act had not been repealed.

Existing directors other than Managing Director

86. Each person who, immediately before the commencing day, held office as a director (other than the Managing Director) continues, subject to the new Act, to hold that office for the remainder of the term (if any) for which the person was appointed. 15

Existing Managing Director

87. (1) Subject to subsection (2), the person who, immediately before the commencing day, held office as Managing Director continues, subject to the new Act, to hold that office after that day. 20

(2) If section 30 of the *Telecommunications Amendment Act 1988* applied in relation to the person immediately before the commencing day, that section (and the provisions of the previous Act, and the By-Laws, referred to in that section) continue to have effect (in accordance with that section) as if that section, and the previous Act, had not been repealed. 25

Employment of staff members to continue

88. Each person who, immediately before the commencing day, was an employee of Telecom continues to be employed by it as if the person had been engaged under section 85 of the new Act. 30

Consequential amendments

89. The Acts set out in Part 3 of the Schedule are amended as set out in that Part.

Repeals 35

90. The following Acts are repealed:

Telecommunications Act 1975

Telecommunications Amendment Act 1976

Telecommunications Amendment Act 1979

Telecommunications Amendment Act 1988. 40

SCHEDULE Sections 35, 74 and 89
CONSEQUENTIAL AMENDMENTS
PART 1—AMENDMENTS RELATING TO AUSSAT

Broadcasting Act 1942

Subsection 4 (1) (definition of “Aussat satellite”):

Omit the definition, substitute the following definition:

“‘AUSSAT satellite’ means a satellite used by AUSSAT Pty Ltd in carrying on its business;”.

Section 6C:

Omit “Aussat”, substitute “AUSSAT”.

Subsection 89D (3):

Omit “Aussat” (wherever occurring), substitute “AUSSAT”.

Paragraph 94ZB (3) (a):

Omit “Aussat”, substitute “AUSSAT”.

Sales Tax (Exemptions and Classifications) Act 1935

First Schedule (Item 152):

(a) Omit “and ‘space satellite’ have the same respective meanings as in the *Satellite Communications Act 1984*”, substitute “means a satellite used by AUSSAT Pty Ltd in carrying on its business”.

(b) Omit “Aussat” (twice occurring), substitute “AUSSAT”.

Sea Installations Act 1987

Schedule:

Insert “*AUSSAT Act 1984*” (in the appropriate alphabetical position, determined on a letter-by-letter basis).

PART 2—AMENDMENTS RELATING TO AUSTRALIA POST

Australian Security Intelligence Organization Act 1979

Subsection 27 (8):

Omit “*Postal Services Act 1975*”, substitute “Part VIIA of the *Crimes Act 1914* or the *Australian Postal Corporation Act 1989*”.

Subsection 27A (8):

Omit “*Postal Services Act 1975*”, substitute “Part VIIA of the *Crimes Act 1914* or the *Australian Postal Corporation Act 1989*”.

SCHEDULE—continued
Navigation Act 1912

Section 329A:

Repeal the section, substitute the following section:

Interpretation

“329A. In this Division:

‘article in the course of post’ means an article that is being carried by or through the Australian Postal Corporation, and includes an article that has been collected or received by the Australian Postal Corporation for carriage by post, but has not been delivered by the Australian Postal Corporation.”.

Subsection 329B (2):

- (a) Omit “Commission”, substitute “Corporation”.
- (b) Omit “a postal article” (twice occurring), substitute “an article in the course of post”.
- (c) Omit “the postal article”, substitute “the article”.

Sea Installations Act 1987

Schedule:

- (a) After “*Air Navigation (Charges) Act 1952*”, insert “*Australian Postal Corporation Act 1989*”.
- (b) Omit “*Postal Services Act 1975*”.

**PART 3—AMENDMENTS RELATING TO
 TELECOMMUNICATIONS LEGISLATION**

Australian Broadcasting Corporation Act 1983

Section 3 (definition of “telegraph line”):

Omit “*Telecommunications Act 1975*”, substitute “*Telecommunications Act 1989*”.

Subsection 77 (2):

Omit “under Part III of the *Telecommunications Act 1975*”, substitute “under Part 8 of the *Australian Telecommunications Corporation Act 1989*”.

Broadcasting Act 1942

Subsection 4 (1) (definition of “telegraph line”):

Omit “*Telecommunications Act 1975*”, substitute “*Telecommunications Act 1989*”.

SCHEDULE—continued

Subsection 74 (3):

Omit “Australian Telecommunications Commission under Part III of the *Telecommunications Act 1975*”, substitute “Australian Telecommunications Corporation under Part 8 of the *Australian Telecommunications Corporation Act 1989*”.

Sea Installations Act 1987

Schedule:

- (a) Before “*Broadcasting Act 1942*”, insert “*Australian Telecommunications Corporation Act 1989*”.
- (b) After “*National Health Act 1953*”, insert “*OTC Act 1946*”.
- (c) Omit “*Telecommunications Act 1975*”, substitute “*Telecommunications Act 1989*”.

NOTES

1. No. 12, 1914, as amended. For previous amendments, see No. 6, 1915; No. 54, 1920; No. 9, 1926; No. 13, 1928; No. 30, 1932; No. 5, 1937; No. 6, 1941; No. 77, 1946; No. 80, 1950; No. 10, 1955; No. 11, 1959; No. 84, 1960; No. 93, 1966; Nos. 33 and 216, 1973; No. 56, 1975; No. 37, 1976; Nos. 19 and 155, 1979; No. 70, 1980; No. 122, 1981; Nos. 67, 80 and 153, 1982; Nos. 91, 114 and 136, 1983; Nos. 10, 63 and 165, 1984; No. 193, 1985; Nos. 76, 102 and 168, 1986 and Nos. 73, 120 and 141, 1987.
2. No. 181, 1976, as amended. For previous amendments, see Nos. 63 and 104, 1978; Nos. 107 and 155, 1979; No. 61, 1981; No. 61, 1983; No. 63, 1984; No. 65, 1985; No. 168, 1986; and No. 119, 1988.
3. No. 23, 1946, as amended. For previous amendments, see No. 69, 1952; No. 26, 1958; No. 85, 1963; No. 93, 1966; Nos. 31 and 139, 1968; No. 9, 1971; No. 216, 1973; No. 56, 1975; No. 37, 1976; No. 36, 1978; No. 19, 1979; No. 177, 1980; Nos. 61 and 115, 1981; Nos. 66 and 80, 1982; Nos. 39, 91, 92 and 136, 1983; Nos. 18, 63, 72 and 165, 1984; Nos. 65 and 119, 1985; No. 76, 1986; No. 69, 1987; and No. 36, 1988.
4. No. 176, 1988.
5. No. 130, 1983, as amended. For previous amendments, see No. 165, 1984; Nos. 65, 67 and 119, 1985; No. 76, 1986; No. 69, 1987; and Nos. 36 and 99, 1988.
6. No. 21, 1984.
7. 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 121, 1988.

NOTES—continued

SECTION HEADING NOTE

On the commencement of section 35, the heading to section 6C of the *Broadcasting Act 1942* is amended by omitting “Aussat” and substituting “AUSSAT”.

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