

1975

AUSTRALIA

HOUSE OF REPRESENTATIVES

POSTAL AND TELECOMMUNICATIONS COMMISSIONS  
(TRANSITIONAL PROVISIONS) BILL 1975

EXPLANATORY MEMORANDUM

(Circulated by the Minister Representing the  
Postmaster-General

The Hon. Lionel F. Bowen, M.P.)

## Introduction

This Bill provides for a number of machinery arrangements necessary to cover the abolition of the Postmaster-General's Department and the establishment of the Australian Postal Commission and the Australian Telecommunications Commission.

The Commissions are empowered to continue the provision of services and other work already commenced. Preparatory arrangements by the Commissions such as the determination of charges, creation of positions, the submission of estimates to the Minister and the making of By-Laws are provided for in the Bill.

Conditions affecting staff such as allocation of officers, preservation of current action on appointments, promotions and promotions appeals, leave including special leave to other organisations and furlough are set out in the Bill. Staff of either Commission will be able to apply for promotion or transfer to positions in the other Commission until 30 June 1980.

The Bill preserves the rights of officers of the Postmaster-General's Department and other Departments whose promotions to a position in the Postmaster-General's Department or elsewhere in the Public Service have not been finalised by 31 July 1975. Associated appeal rights are also preserved.

Authority to continue deductions from salary is provided in the Bill.

The Minister will submit an annual report, balance sheets and financial statements on the operations of the Postmaster-General's Department for the year ended 30 June 1975.

Schedules to the Bill list Acts to be repealed or amended.

As a consequence of amendment of the Broadcasting and Television Act, the Telecommunications Commission will continue to perform certain work on behalf of the Australian Broadcasting Commission.

Amendment of the Social Services and Repatriation Acts will mean that the Minister will, in considering tariffs, make appropriate arrangements with the Telecommunications Commission to continue concessions to pensioners, with consequential reimbursement of revenue to the Commission under Clause 12 of the Telecommunications Bill.

CLAUSE BY CLAUSE

PART I - PRELIMINARY

- Clause 1            Citation of Act.
- Clause 2            Provides that parts of the Act shall come into operation from a date to be proclaimed, the balance from date of Royal Assent.
- Clause 3            Provides a list of definitions and interpretations.

PART II - REPEAL AND SAVINGS

- Clause 4            Provides that the Acts specified in Schedule 1 are to be repealed.
- Clause 5            Provides that any mail in transit on commencing day shall become the property of the Commission and all postal charges not pre-paid shall become due to the Australian Postal Commission at the rates applicable on the day they were posted.
- Clause 6            Provides that any arrangements made previously in respect of credit facilities for postal charges shall be deemed to have been made with the Australian Postal Commission.
- Clause 7            Provides that postage stamps sold before commencing day are valid for the purposes of carriage of mail by the Australian Postal Commission.
- Clause 8            Provides that money orders and postal orders issued under the Post and Telegraph Act shall be valid and will be honoured by the Australian Postal Commission.

Moneys in the Money Order Account of the Postmaster-General's Department shall be vested in the Postal Commission and, of that amount, those portions applicable to telecommunications services shall be transferred by the Postal Commission to the Telecommunications Commission.

Any moneys held on behalf of another Department etc. shall be dealt with in accordance with the direction of that Department.

Any amounts held in excess of one year immediately before commencing day are to be paid by the Postal Commission into its Unclaimed Moneys Fund.

Clause 9

Provides that all telegraph transactions initiated prior to commencing day will be completed by the Telecommunications Commission which will be entitled to the possession of all telegrams in transit on commencing day.

Clause 10

Provides that authority to erect and maintain lines given under the Post and Telegraph Act shall hold good after commencing day, with provision for the Telecommunications Commission to modify the arrangements to permit continued operation of the authority.

Where an authority was not granted for a specified period, either the Commission or the person holding the authority may terminate it by giving not less than 12 months notice in writing.

Clause 11

Provides that the Telecommunications Commission may recover the costs of any work done by the Postmaster-General's Department before commencing day, may institute proceedings in respect of compensation for such work and will substitute for the Department in any ongoing legal proceedings.

Any security for the payment of moneys in this context shall be transferred to the Telecommunications Commission and held by the Commission for that purpose.

Clause 12

Provides that any proceedings in respect of damage to property which are current on commencing day will be taken over in all respects by the appropriate Commission.

A Commission may also institute proceedings in respect of damage done before commencing day to property vested in the Commission.

Clause 13

Provides that charges for both postal and telecommunications services, which applied before commencing day, will continue to apply until the appropriate Commission makes a determination, in accordance with its Act, to set its own charges.

### PART III - PREPARATORY ARRANGEMENTS

- Clause 14 Provides that after Assent to this Act, but before the commencing day, both Commissions may take action to determine charges, create positions, submit estimates to the Minister and make by-laws in readiness for commencing day.

### PART IV - STAFF

- Clause 15 Provides that references to persons who were officers of the Australian Public Service, on the relevant date (fixed by the Minister, being a date before - but not more than 14 days before - commencing day) do not include persons who ceased duty on those days.

- Clause 16 Provides that, after considering the advice of both Commissions, the Minister shall determine in writing which officers of the Postmaster-General's Department (including unattached officers) will be appointed to each of the Commissions.

Those officers shall then be deemed to have been appointed to the appropriate Commission on commencing day.

- Clause 17 Provides that each Commission shall appoint each officer of its Commission to a position in its Service or determine a classification at which the officer is to be employed.

No officer is to be appointed at a classification or salary less than that applicable to him immediately before commencing day.

Where an officer was acting in a higher position and in receipt of an allowance for 12 months continuously immediately prior to commencing day and is employed in a position having a salary lower than that higher position, he shall be paid an allowance equal to the difference between the two positions for 6 months or as long as he is employed at the lower classification, whichever is less.

- Clause 18 Provides that a person appointed to a Commission under this Part shall be deemed to have been appointed without probation.

However any probation being served at commencing day will continue and service prior to commencing day is to count as service in the appropriate Commission.

Clause 19

Provides that where, on commencing day, action to promote any officer to a vacancy in the Postmaster-General's Department is in process, the Minister shall, after taking advice from the appropriate Commission, declare whether the promotion is to have effect in relation to either Commission.

The Clause preserves the promotion and promotions appeal processes.

Clause 20

Provides that, until 30 June 1980, either Commission may promote an officer from the service of the other Commission and may transfer an officer with the concurrence of the other Commission.

The seniority of such officers is to be the seniority they would have had, had they been officers of the Commission to which they are promoted.

Clause 21

Makes provision for a person who, on commencing day, has been promoted from the Postmaster-General's Department to another Department or had the right of appeal in respect of a promotion made before commencing day.

Such promotees or appellants, are to be treated as though they had remained officers of the Australian Public Service up to the time the promotion is confirmed, irrespective of action taken under Clause 16.

Clause 22

Provides that a person who is, on commencing day, performing duties with a body other than the Postmaster-General's Department shall continue in those duties and shall be deemed to be on leave of absence without pay, until he ceases to perform those duties, granted by the Commission to which he was deemed to have been appointed.

On termination of the leave of absence the officer is to be employed in the Service of the Commission at a classification determined by the Commission, having regard to his service prior to carrying out the special duties and the period during which he performed those duties.

Clause 23 Provides that the Commissions shall, before commencing day, jointly determine the Service of each Commission in which temporary or exempt employees of the Postmaster-General's Department shall be placed.

This action will apply only to those employees who were employed by the Postmaster-General's Department on the day immediately before commencing day. Such persons cease to be temporary or exempt employees under the Public Service Act on commencing day.

Clause 24 Provides that accrued recreation, sick and other leave credits shall be retained by persons who were employed in the Australian Public Service immediately prior to commencing day.

Clause 25 Provides that where a person is granted leave prior to commencing day, which expires after commencing day, the leave is deemed to have been approved by the Commission concerned and any salary or allowances in respect of that leave is deemed to have been paid by the Commission.

Clause 26 Provides that any attachment to salary operating under the Public Service Act prior to commencing day shall carry over and remain in force after commencing day as though the action had been taken under the appropriate Commission legislation.

Clause 27 Provides that officers subject to disciplinary action prior to commencing day may be dealt with by the appropriate Commission after commencing day under the applicable disciplinary provisions as though the offence had occurred under the Commission legislation.

No officer may be punished twice in respect of the same offence.

Clause 28 Provides that where persons have been reinstated on or after commencing day by an Appeal Board under the provisions of the Public Service Act, following a dismissal prior to commencing day, that person shall be employed in one of the Commissions as the Minister determines.

**PART V - ASSETS AND LIABILITIES**

**Clause 29**

Provides that the assets of the Postmaster-General's Department are to be transferred to the appropriate Commission on commencing day or as soon as practicable thereafter.

The Commissions become responsible for all charges and obligations associated with the transferred assets or otherwise connected with the provision of the appropriate services. They will also indemnify Australia thereafter against all claims, charges etc. relating to the assets and provision of services.

Certificates as to the transfer of specified assets, specified debts, liabilities or obligations, shall be issued by an authorised officer where the need for such a certificate is satisfactorily proven to the authorised officer.

Provides that the Telecommunications Commission shall pay to Australia, as the Treasurer determines, such amounts as should be repaid as future liabilities of the Commission in respect of superannuation for persons who were employed in connection with Post office services before commencing day.

**Clause 30**

Provides that all telecommunications services and permits to operate services provided prior to commencing day will be continued after commencing day as though they had been initiated by the Australian Telecommunications Commission.

All financial arrangements and charges in respect of those services will likewise continue.

Similarly all service and financial arrangements in force in respect of postal services will be deemed to have been made by the Australian Postal Commission.

**Clause 31**

Provides that the Minister shall prepare reports and financial statements for the year ending 30 June 1975 as soon as practicable after commencing day, with the assistance, as necessary, of both Commissions in respect of operations of the Postmaster-General's Department in that year.



- Clause 32 Provides that in any declaration of trust entered into before commencing day a reference to a holder of office in the Postmaster-General's Department shall, after commencing day, be read as a reference to the Minister.
- Clause 33 Provides that the Minister and the Commissions may delegate any or all of their powers under this Act.
- Clause 34 Empowers the Commissions to make by-laws under this Act.
- Clause 35 Provides that authorities given for deductions from salary before commencing day will continue in force.
- Clause 36 Provides for the continuation of uncompleted arbitration hearings under the Public Service Arbitration Act beyond commencing day.
- Clause 37 Provides continuity in the matter of non-disclosure by staff of the contents of telecommunications messages.
- Clause 38 Provides that certain Acts specified in Schedule 2 are amended as specified in that Schedule.
- Provides that each Commission shall comply with directions made under the Bankruptcy Act, the force of which continue beyond commencing day, insofar as they apply to services of the Commission.
- The Australian Telecommunications Commission shall be kept indemnified against any action, claim or demand under the Broadcasting and Television Act against which the Postmaster-General would have been indemnified.
- Provides for amendment to the citation of certain Acts specified in Schedule 3.
- Clause 39 Empowers the Governor-General to make regulations not inconsistent with the Act.