

1993

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TELECOMMUNICATIONS AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and
Communications, Senator the Hon Bob Collins)



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OUTLINE

This Bill amends the *Telecommunications Act 1991* to:

- . extend to the public mobile carriers land access powers;
- . include new provision for a Land Access Code to regulate all carriers' powers to enter land; and
- . to provide AUSTEL with the power to issue directions to carriers about compliance with their obligations under the Land Access Code.

FINANCIAL IMPACT STATEMENT

The amendment is not expected to have a significant impact on Commonwealth expenditure or revenue.

NOTES ON CLAUSES

Clause 1 - Short title

Clause 1(1) provides for the citation of the *Telecommunications Amendment Act 1993*.

Clause 1(2) provides that in the amending Act, the term 'Principal Act' means the *Telecommunications Act 1991*.

Clause 2 - Commencement

This clause provides that the amending Act commences on Royal Assent.

Clause 3 - Heading to Division 3 of Part 7

Division 3 of Part 7 of the *Telecommunications Act 1991* sets out the powers of the general carriers in relation to entering land and doing things for purposes connected with the installation, construction and maintenance of telecommunications facilities.

This clause amends the heading to this division by substituting the term "carrier" for the term "general carrier". The amendment reflects the amendments in clauses 5 to 11 which extend the specific land access powers and obligations of the holders of a general carrier licence to

the holders of a public mobile licence in force under Part 5 of the Telecommunications Act 1991.

Clause 4 - Insertion of new sections

This clause inserts in Division 3 of Part 7 new sections 127A, 127B and 127C.

Land Access Code for Carriers

New section 127A requires the Minister to determine a Land Access Code which regulates the carriers' use of land access powers.

The Land Access Code can provide for:

- . procedures that carriers must follow in exercising powers in Division 3 relating to land;
- . procedures that carriers must follow in complying with obligations set out in Division 3 relating to owners or occupiers of land;
- . procedures for consultation between land owners or occupiers and carriers in the event of disagreement about a carrier exercising its land access powers or its compliance with its obligations; and
- . procedures for consultation between carriers to share facilities when new facilities are proposed in the vicinity of existing facilities.

New subsection 127A(2) makes the Land Access Code a disallowable instrument.

Land Access Code binding on carriers

New section 127B makes the Land Access Code binding on the carriers.

AUSTEL may give directions about complying with Land Access Code

New section 127C enables AUSTEL to give directions to a carrier about how the carrier is to comply with the Land Access Code. A contravention of such a direction is subject to the enforcement regime in Division 1 of Part 16 of the Act.

- Clause 5 - Power to inspect land etc.
- Clause 6 - Powers relating to installation of facilities etc.
- Clause 7 - Trees may be cut etc.
- Clause 8 - A carrier may replace, repair and maintain facilities etc.
- Clause 9 - Subdivider to pay for necessary alterations
- Clause 10 Power extends to carrier's employees etc.
- Clause 11 - Service of notices

These clauses each amend specific provisions in Division 3 of Part 7 by omitting references to a 'general' carrier. The effect of the amendments is to extend the specific land access powers and obligations of general carriers under Division 3 to the mobile carriers.

Clause 12 - Application

Section 347 of the Telecommunications Act sets out various directions which can be made under the Act for the purpose of making them enforceable under Division 1 of Part 16 of the Act.

This amendment includes AUSTEL's power to give a written direction to a carrier under new section 127C in the list of directions to which that Division applies.