

Post and Telegraph

No. 32 of 1968

An Act to amend the *Post and Telegraph Act 1901-1966*.

[Assented to 13 June 1968]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the *Post and Telegraph Act 1968*. Short title and citation.
 - (2.) The *Post and Telegraph Act 1901-1966** is in this Act referred to as the Principal Act.
 - (3.) The Principal Act, as amended by this Act, may be cited as the *Post and Telegraph Act 1901-1968*.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. Section 2A of the Principal Act is amended.— Parts.
 - (a) by omitting the words—
“ Part II.—Conveyance of Mails by Ships (Sections 66-73).”
and inserting in their stead the words—
“ Part II.—Carriage of Mail by Ships and Aircraft (Sections 66-68).”; and
 - (b) by inserting after the words—
“ Part VI.—Penalties (Sections 98-139).”
the words—
“ Part VIA.—Protection of Property (Sections 139A-139C).”.
4. Section 3 of the Principal Act is amended.— Definitions.
 - (a) by omitting the definitions of “ Department ” and “ Director ” and inserting in their stead the following definitions:—
“ ‘ Department ’ means the Postmaster-General’s Department.
‘ Director ’ means Director of Posts and Telegraphs.”; and
 - (b) by adding at the end of the definition of “ ‘ Telegraph ’ or ‘ telegraph line ’ ” the words “ and also includes any installation or structure used or intended for use in connexion with the installation, operation or maintenance of a telegraph line ”.
- 5.—(1.) Section 7 of the Principal Act is amended by inserting after the words “ a Director ” the words “ of Posts and Telegraphs ”. Director of Posts and Telegraphs.

* Act No. 12, 1901, as amended by No. 25, 1909; Nos. 24 and 28, 1910; No. 30, 1912; No. 23, 1913; No. 14, 1916; No. 17, 1923; No. 45, 1934; No. 77, 1946; No. 35, 1949; No. 80, 1950; No. 85, 1960; No. 64, 1961; No. 149, 1965; and No. 7, 1966

(2.) A person who immediately before the commencement of this Act, was occupying the office under the *Public Service Act 1922-1967* of Director of Posts and Telegraphs in a State shall, on and after the commencement of this Act, occupy the office under the Principal Act, as amended by this Act, of Director of Posts and Telegraphs in the State as if he had been appointed to that last-mentioned office on the commencement of this Act.

6. Part II. of the Principal Act is repealed and the following Part inserted in its stead:—

“ PART II.—CARRIAGE OF MAIL BY SHIPS AND AIRCRAFT.

Arrival of vessel, &c., carrying mail.

“ 66. The master of a vessel, or the person in charge of an aircraft, carrying mail from outside Australia for delivery to the Department in Australia shall, on demand by a person authorized by a Director for the purpose, deliver the mail, or that part of the mail to which the demand relates, to the person so authorized or as he directs.

Penalty: Four hundred dollars.

Requirement to carry mail.

“ 67.—(1.) Where a vessel—

- (a) is at, or is expected to arrive at, a port or place in Australia; and
- (b) is in the course of, or is expected to commence, a voyage to another port or place, whether within or without Australia,

a Director, or an officer authorized by a Director, may, by notice in writing served on the owner, agent or master of the vessel, require that the vessel be made available for the carriage of mail on the voyage from that first-mentioned port or place.

“ (2.) Where—

- (a) a requirement under the last preceding sub-section has been made with respect to the carriage of mail on board a vessel from a port or place;
- (b) mail for carriage on the vessel is delivered alongside the vessel at that port or place, or to any other part of that port or place that is agreed upon between the officer who made the requirement and the person on whom the requirement was made, not later than a time so agreed or, if no time is so agreed, in sufficient time to permit the vessel, after taking the mail on board, to depart from that port or place not later than the intended time of departure at the time the requirement was made; and
- (c) the vessel departs from the port or place without taking on board the mail so delivered,

the person on whom the requirement was made is guilty of an offence against this section.

“ (3.) Where mail is on board a vessel in compliance with a requirement under this section, whether within or without Australia, the owner, agent and master of the vessel are each guilty of an offence against this section if—

- (a) the mail is not kept in a secure dry place;

- (b) the mail is removed from the vessel, except—
 - (i) for delivery to the postal authority at the port to which the mail is addressed; or
 - (ii) in accordance with a direction under the next succeeding sub-section; or
- (c) when the vessel arrives at the port to which the mail is addressed, the mail is not delivered forthwith to the postal authority at that port.

“(4.) Where mail is on board a vessel in compliance with a requirement under this section, whether within or without Australia, a Director may, by notice in writing served on the master of the vessel, direct the master to deliver up the mail, or such part of the mail as is specified in the direction, on demand, to the person specified in the direction and, if the master does not comply with the direction, he is guilty of an offence against this section.

“(5.) The penalty for an offence against this section is a fine not exceeding One thousand dollars.

“(6.) An offence against this section committed outside Australia may be prosecuted as if it had been committed at the port or place at which the requirement under this section was made and a court that would have had jurisdiction in respect of the offence if the offence had been so committed has jurisdiction in respect of the offence.

“(7.) Where mail is carried on board a vessel in compliance with a requirement under this section, the owner of the vessel is entitled to payment in respect of that carriage at the prescribed rate.

“(8.) A reference in this section to the owner of a vessel shall, in relation to a vessel that is the subject of a charter-party by demise, be read as a reference to the charterer under the charter-party.

“68.—(1.) Where—

- (a) a requirement has been made under the last preceding section with respect to the carriage of mail in a vessel from a port or place; and
- (b) a Director or an authorized officer has reason to believe that the vessel may depart from that port or place without the mail on board,

Detention of vessel required to carry mail.

the Director or authorized officer may give a direction in writing to an officer to detain the vessel at that port or place until it is released in accordance with the succeeding provisions of this section.

“(2.) An officer to whom a direction has been given under the last preceding sub-section may detain the vessel accordingly, and, for that purpose, may—

- (a) board the vessel, with such persons as he thinks necessary to assist him; and
- (b) use, or authorize the use of, reasonable force to prevent any person from obstructing the carrying out of the direction.

“(3.) The Postmaster-General, a Director or an authorized officer may, at any time, direct that a vessel that is detained under this section be released from detention and shall, at the request of the master, so direct if he is satisfied that—

- (a) there is no longer any necessity for the carriage on board the vessel of any mail that is not already on board; or
- (b) it is necessary for the safety of the vessel or of persons on board the vessel that the vessel leave the place at which she is detained.

“(4.) Notwithstanding any other provision of this section—

- (a) a period of detention of a vessel under this section comes to an end, by force of this sub-section, at the expiration of twenty-four hours after the commencement of the period; and
- (b) when a vessel has been released from detention (whether by force of this sub-section or otherwise)—a further direction under this section to detain the vessel shall not be given until the expiration of twenty-four hours after the time of release of the vessel.

“(5.) The Commonwealth or a person acting in accordance with this section is not liable to pay damages or compensation to any person by reason of the lawful detention of a vessel in accordance with this section.

“(6.) Nothing in this section affects any liability to pay wharfage charges, harbour dues or any other charges in respect of a vessel for any period of detention under this section.

“(7.) In this section, ‘authorized officer’ means an officer authorized in writing by the Director-General of Posts and Telegraphs to give directions under this section.”.

Provisions as to crossing roads, &c., by private lines.

7. Section 83 of the Principal Act is amended by omitting the word “eighteen” and inserting in its stead the word “sixteen”.

Works to be made on any land, &c.

8. Section 85 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the word “eighteen” and inserting in its stead the word “sixteen”; and
- (b) by omitting sub-section (2.).

Wires, &c., may be affixed to buildings.

9. Section 86 of the Principal Act is amended by omitting the proviso.

Regulations.

10.—(1.) Section 97 of the Principal Act is amended—

- (a) by omitting paragraphs (b) and (t); and
- (b) by adding at the end thereof the following sub-section:—

“(2.) The regulations may prescribe a fine or a period of imprisonment, or both a fine and a period of imprisonment, for any contravention of the regulations, but a fine so prescribed shall not exceed Two hundred dollars and a period so prescribed shall not exceed twelve months.”.

(2.) The repeal of paragraph (t) of section 97 of the Principal Act effected by paragraph (a) of the last preceding sub-section does not operate so as to repeal any regulation made by virtue of that paragraph and in force immediately before the commencement of this Act.

11. After Part VI. the following Part is inserted:—

“ PART VIA.—PROTECTION OF PROPERTY.

“ 139A. This Part does not apply in relation to any work in relation to which Part VII. applies. Application.

“ 139B.—(1.) Subject to this section, where—

(a) a person does work (whether by himself or by his servants) in circumstances in which the person or a servant of the person has reasonable cause to believe that the doing of the work is likely to interfere with or damage property under the control of the Postmaster-General; and

(b) in the course of doing that work, the person or a servant of the person acting in the course of his employment by the person interferes with or damages (whether by a negligent act or omission or otherwise) the property under the control of the Postmaster-General referred to in the last preceding paragraph,

the person is liable to pay to the Commonwealth compensation for that interference or damage.

“ (2.) It is a defence in any proceedings under the last preceding sub-section for the recovery of compensation from a person if the person proves that—

(a) before commencing the work—

(i) he gave notice, in writing, to a Director that he proposed to do the work; and

(ii) he gave the Director or an officer authorized by the Director a reasonable opportunity of conferring with him as to the manner of carrying out the work; and

(b) if a Director so required, he permitted an officer authorized by the Director to be present and to observe the carrying out of the work.

“ (3.) This section does not affect the liability under any other provision of this Act or under any other law of any person in respect of any interference or damage to which this section relates but the Commonwealth is not entitled to be compensated both under this section and under another provision of this Act or under any other law in respect of the same interference or damage.

Compensation
for interference
or damage.

Work done by the Department by reason of the doing, or the proposed doing, of other work by a person.

“ 139c.—(1.) Where—

- (a) a person does work in the vicinity of property under the control of the Postmaster-General;
- (b) by reason of the doing of that work, it is necessary, whether for reasons of safety or efficiency or otherwise, to remove, reconstruct or do some other work in connexion with the property under the control of the Postmaster-General; and
- (c) the Department does that work,

the person is liable to pay to the Commonwealth the amount of the cost of the work done by the Department and that amount may be recovered as a debt due by the person to the Commonwealth in a court of competent jurisdiction.

“ (2.) Where—

- (a) a person proposes to do work in the vicinity of property under the control of the Postmaster-General;
- (b) the person requests a Director to remove, reconstruct, or do some other work in connexion with the property under the control of the Postmaster-General for the purpose of permitting or facilitating the doing of the proposed work by the person; and
- (c) the Department does the work in accordance with the request,

the person is liable to pay to the Commonwealth the amount of the cost of the work done by the Department and that amount may be recovered as a debt due by the person to the Commonwealth in a court of competent jurisdiction.

“ (3.) A Director may request a person who makes a request under the last preceding sub-section to give security for the payment to the Postmaster-General of any amount that the person may become liable to pay under that sub-section.”.

12. After section 153 of the Principal Act the following section is inserted:—

Proof of notices.

“ 153A. Evidence of a notice given by an officer under this Act may, in any legal proceedings, be given by the production of—

- (a) a document purporting to be that notice and to be signed by the officer; or
- (b) a document purporting to be certified under the hand of a Director to be a true copy of that notice.”.

Second Schedule.

13. The Second Schedule to the Principal Act is amended by omitting Form C.