



Telstra (Further Dilution of Public Ownership) Act 1999

No. 53, 1999



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**An Act to amend the *Telstra Corporation Act 1991*,
and for other purposes**

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Telstra (Further Dilution of Public Ownership) Act 1999

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An Act to amend the *Telstra Corporation Act 1991*, and for other purposes

[Assented to 5 July 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Telstra (Further Dilution of Public Ownership) Act 1999*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—General amendments

Commonwealth Borrowing Levy Act 1987

1 Item 22 of the Schedule

Repeal the item.

2 Transitional

- (1) Subject to subitem (2), Telstra is not liable after the commencement of this item to pay an amount of levy imposed by the *Commonwealth Borrowing Levy Act 1987* on a borrowing undertaken before that commencement.
- (2) Subitem (1) does not apply in relation to an amount of levy that was paid or payable before the commencement of this item.

Telstra Corporation Act 1991

3 Section 3

Insert:

Minister for Finance means the Minister administering the *Financial Management and Accountability Act 1997*.

4 Paragraph 8BC(b)

Omit “telecommunications service (within the meaning of the *Telecommunications Act 1991*)”, substitute “carriage service (within the meaning of the *Telecommunications Act 1997*)”.

5 After section 8BU

Insert:

8BUA At least 2 directors must have knowledge of, or experience in, the communications needs of regional areas

- (1) Telstra must ensure that at least 2 of its directors have knowledge of, or experience in, the communications needs of regional areas.

- (2) A contravention of subsection (1) is not an offence. However, a contravention of subsection (1) is a ground for obtaining an injunction under Division 1 of Part 2B.
- (3) A contravention of subsection (1) does not affect the validity of any transaction.

6 Paragraph 8CC(b)

Omit “telecommunications service (within the meaning of the *Telecommunications Act 1991*)”, substitute “carriage service (within the meaning of the *Telecommunications Act 1997*)”.

Schedule 2—Amendments relating to the sale by the Commonwealth of 49.9% of its original equity interest in Telstra

Natural Heritage Trust of Australia Act 1997

1 Section 3

Omit:

- The main source of money for the Reserve will be \$1.1 billion from the partial privatisation of Telstra.

substitute:

- The main source of money for the Reserve is \$1.35 billion from the partial sale of Telstra.

2 Subsection 22(1)

Omit “that is received by the Commonwealth in a particular month”, substitute “that is received by the Commonwealth, in a particular month beginning before the date of commencement of section 22A,”.

Note: The heading to section 22 is altered by omitting “**partial privatisation**” and substituting “**initial partial sale**”.

3 After section 22

Insert:

22A \$250 million derived from the subsequent partial sale of Telstra

- (1) For each \$1 that is received by the Commonwealth, in a particular month beginning on or after the date of commencement of this section, by way of proceeds of the sale of shares in Telstra, \$1 is to be transferred to the Reserve from the Consolidated Revenue Fund before the end of the next following month.

- (2) The total amount transferred to the Reserve under this section is not to exceed \$250 million.

Telstra Corporation Act 1991

4 Section 3 (definition of rights)

Omit “2A, 2B and 2C”, substitute “2A and 2B”.

5 Section 8AA

Omit:

- The Commonwealth may sell one-third of its equity interest in Telstra, but must retain the remaining two-thirds.

substitute:

- The Commonwealth may sell 49.9% of its original equity interest in Telstra, but must retain the remaining 50.1%.

6 Section 8AB

Omit “two-thirds” (wherever occurring), substitute “50.1%”.

7 At the end of section 8AK

Add:

- (3) However, the rule in subsection (2) does not apply:
- (a) in such circumstances as are specified in the regulations; or
 - (b) in relation to stamp duty, or other tax, of a kind specified in the regulations; or
 - (c) in relation to stamp duty, or other tax, of a kind specified in the regulations, in such circumstances as are specified in the regulations.

8 At the end of subsection 8AL(2)

Add:

; (g) calls on indemnities granted by the Commonwealth.

9 Sections 8AM to 8AP (inclusive)

Repeal the sections.

10 After subsection 8AQ(4)

Insert:

(4A) The Minister or the Minister for Finance may, by written notice given to Telstra, give directions to Telstra about the exercise of Telstra's powers under subsection (1). Telstra must comply with the direction.

(4B) The Minister or the Minister for Finance may, by written notice given to a member of the Board, give directions to the member about the exercise of the member's powers under subsection (2). The member must comply with the direction.

11 Subsection 8AQ(5)

Omit "or" (second occurring).

12 Subsection 8AQ(5)

After "subsection (3) or (4),", insert "or the giving of a direction under subsection (4A) or (4B),".

13 After paragraph 8AQ(5)(a)

Insert:

(ab) a provision of the listing rules of a securities exchange; or

14 Subsection 8AQ(6)

Omit "subsection (3) or (4)" (wherever occurring), substitute "subsection (3), (4), (4A) or (4B)".

15 At the end of section 8AQ

Add:

(7) In this section:

listing rules has the same meaning as in section 8AY.

securities exchange has the same meaning as in section 8AY.

16 Paragraph 8AS(1)(b)

Repeal the paragraph.

17 Paragraph 8AS(1)(c)

Re-letter the paragraph as paragraph (b).

18 At the end of section 8AS

Add:

- (4) This section does not, by implication, limit the executive power of the Commonwealth to make a payment to Telstra or to a member of the Board.

19 After section 8AU

Insert:

8AUA Alteration of Telstra's constitution after the minority-interest sale time

- (1) The Minister may, by written instrument, alter Telstra's constitution if:
- (a) the alteration relates to the formulation, entering into, or carrying out, of a Telstra sale scheme; and
 - (b) the effect of the alteration is to:
 - (i) remove, restrict or limit any rights, privileges or immunities of the Commonwealth or the Minister; or
 - (ii) remove a provision that prohibits an act or thing without the consent of the Commonwealth; or
 - (iii) in the case of a provision that prohibits an act or thing without the consent of the Commonwealth—remove the requirement to obtain that consent; or
 - (iv) remove a provision that prohibits an act or thing without the consent of the Minister; or
 - (v) in the case of a provision that prohibits an act or thing without the consent of the Minister—remove the requirement to obtain that consent; or
 - (vi) remove a provision that prohibits an act or thing unless the Commonwealth directs otherwise; or

- (vii) in the case of a provision that prohibits an act or thing unless the Commonwealth directs otherwise—remove that power of direction; or
 - (viii) remove a provision that prohibits an act or thing unless the Minister directs otherwise; or
 - (ix) in the case of a provision that prohibits an act or thing unless the Minister directs otherwise—remove that power of direction; and
- (c) the instrument is made during the period:
- (i) beginning on the commencement of this section; and
 - (ii) ending at the time of the repeal of Division 3 of Part 2.
- (2) Before making an instrument under subsection (1), the Minister must consult the members of the Board.
- (3) An instrument under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (4) To avoid doubt, the making of an instrument under subsection (1) does not result in a contravention of, or give rise to a liability or remedy under:
- (a) a provision of the Corporations Law; or
 - (b) a provision of the listing rules of a securities exchange; or
 - (c) a rule of common law or equity (other than a rule of administrative law).
- (5) If Telstra’s constitution is altered by an instrument under subsection (1), this Act does not prevent the further alteration of that constitution.
- (6) In this section:

listing rules has the same meaning as in section 8AY.

securities exchange has the same meaning as in section 8AY.

Note: The heading to section 8AU is altered by adding at the end “**before the minority-interest sale time**”.

20 After paragraph 8AW(5)(a)

Insert:

(ab) a provision of the listing rules of a securities exchange; or

21 Subsection 8AW(6)

Insert:

listing rules has the same meaning as in section 8AY.

22 Subsection 8AW(6)

Insert:

securities exchange has the same meaning as in section 8AY.

23 At the end of paragraph 8BB(1)(b)

Add “or”.

24 After paragraph 8BB(1)(b)

Insert:

(c) a person who is appointed by the Governor-General under section 67 of the Constitution and has responsibilities in relation to the sale of Commonwealth assets;

25 At the end of paragraph 8BB(2)(b)

Add “or”.

26 After paragraph 8BB(2)(b)

Insert:

(c) a person who is appointed by the Governor-General under section 67 of the Constitution and has responsibilities in relation to the sale of Commonwealth assets;

27 Section 8BE (after note 2)

Insert:

Note 2A: A person’s *stake* is calculated on the assumption that the only shares in Telstra are shares held by persons other than the Commonwealth—see clause 12 of the Schedule.

28 Paragraph 8BG(a)

Omit “11.6667%”, substitute “35%”.

29 Paragraph 8BG(b)

Omit “1.6667%”, substitute “5%”.

30 Section 8BG (notes 1, 2 and 3)

Repeal the notes, substitute:

Note 1: A person’s *stake* is calculated on the assumption that the only shares in Telstra are shares held by persons other than the Commonwealth—see clause 12 of the Schedule.

31 Section 8BG (note 4)

Renumber as note 2.

32 Subparagraph 8BH(b)(ii)

Omit “11.6667%”, substitute “35%”.

33 Subparagraph 8BH(b)(iii)

Omit “1.6667%”, substitute “5%”.

34 Section 8BH (notes 1, 2 and 3)

Repeal the notes, substitute:

Note: A person’s *stake* is calculated on the assumption that the only shares in Telstra are shares held by persons other than the Commonwealth—see clause 12 of the Schedule.

35 Division 5 of Part 2A

Repeal the Division.

36 Subsection 8BS(1)

Omit “remains incorporated under the Corporations Law of the Australian Capital Territory”, substitute “is incorporated under the Corporations Law of a State or an internal Territory”.

37 Section 8BV

Repeal the section.

38 At the end of paragraph 8CB(1)(b)

Add “or”.

39 After paragraph 8CB(1)(b)

Insert:

- (ba) a person who is appointed by the Governor-General under section 67 of the Constitution and has responsibilities in relation to the sale of Commonwealth assets;

40 At the end of paragraph 8CB(2)(b)

Add “or”.

41 After paragraph 8CB(2)(b)

Insert:

- (c) a person who is appointed by the Governor-General under section 67 of the Constitution and has responsibilities in relation to the sale of Commonwealth assets;

42 After Part 2A

Insert:

Part 2AA—Anti-avoidance

8CCA Anti-avoidance

- (1) Telstra must not, either alone or together with one or more other persons, enter into, begin to carry out or carry out a scheme if it would be concluded that Telstra did so for the sole or dominant purpose of avoiding the application of any provision of this Act in relation to Telstra.
 - (2) A contravention of subsection (1) is not an offence. However, a contravention of subsection (1) is a ground for obtaining an injunction under Division 1 of Part 2B.
 - (3) A contravention of subsection (1) does not affect the validity of any transaction.
 - (4) In this section:
scheme means:
-

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

43 Part 2B (heading)

Repeal the heading, substitute:

Part 2B—Remedial provisions relating to Telstra

44 Subsection 8CD(1)

Omit “or 2A”, substitute “, 2A or 2AA”.

45 Part 2C

Repeal the Part.

46 Section 32

Omit “of the Australian Capital Territory”.

47 Subsections 36(3) and (4)

Omit “of the Australian Capital Territory”.

48 After subsection 36(3)

Insert:

- (3A) However, the rule in subsection (3) does not prevent the members of the Board from appointing another person or firm to be an additional auditor of Telstra. Such an appointment must comply with subsection 327(7) of the Corporations Law. Before making such an appointment, the members of the Board must consult the Auditor-General. The Corporations Law has effect as if the additional auditor had been appointed under subsection 327(5) of that Law.

49 Subsection 36(4)

After “in relation to”, insert “the Auditor-General’s appointment as auditor of”.

50 At the end of section 36

Add:

- (6) For the purposes of this section, if a provision of the Corporations Law referred to in this section is repealed and replaced by another provision of that Law that deals with a corresponding matter, a reference in this section to the first-mentioned provision is to be read as a reference to the replacement provision.

51 Subsection 41(1)

Omit “2A, 2B or 2C”, substitute “2A or 2B”.

52 After Part 8

Insert:

Part 9—Social bonus resulting from the partial sale of Telstra

Division 1—Introduction

43 Simplified outline

The following is a simplified outline of this Part:

- This Part provides for a social bonus resulting from the partial sale of Telstra.
- The elements of the social bonus are as follows:
 - (a) rural transaction centres (\$70 million over 5 years);
 - (b) extended access to untimed local calls (\$150 million over 3 years);

- (c) meeting the telecommunications needs of people in remote island communities, isolated island communities or the Australian Antarctic Territory (\$20 million over 3 years);
- (d) Internet access for people in rural or regional areas (\$36 million over 3 years);
- (e) mobile phone coverage along highways (\$25 million over 3 years);
- (f) a Television Fund to enable improved television reception, to extend coverage of SBS television, and to support a New Media Unit to be established within the SBS (\$120 million over 5 years).

44 Definitions

In this Part:

carriage service provider has the same meaning as in the *Telecommunications Act 1997*.

interim period means the period:

- (a) beginning at the commencement of this section; and
- (b) ending immediately before the social bonus commencement day.

proceeds of the sale of shares in Telstra includes:

- (a) an amount received by the Commonwealth directly or indirectly from:
 - (i) the sale-scheme trustee; or
 - (ii) an investor in Telstra;under a Telstra sale scheme; and
- (b) an amount received by the Commonwealth by way of the redemption of redeemable preference shares in Telstra held by the Commonwealth, where the redemption was in accordance with a Telstra sale scheme.

Regional Telecommunications Infrastructure Fund means the component of the Reserved Money Fund known as the Regional Telecommunications Infrastructure Fund.

Rural Transaction Centres Reserve means the Rural Transaction Centres Reserve established by this Part.

social bonus commencement day has the meaning given by section 45.

State includes the Australian Capital Territory and the Northern Territory.

Television Fund Reserve means the Television Fund Reserve established by this Part.

Untimed Local Call Access Reserve means the Untimed Local Call Access Reserve established by this Part.

45 Social bonus commencement day

- (1) If, in the opinion of the Minister, a particular day is the day on which the total amount received by the Commonwealth, after the commencement of this section, by way of proceeds of the sale of shares in Telstra first reaches \$671 million, the Minister must, by written instrument, declare the day to be the ***social bonus commencement day***.
- (2) The declaration has effect accordingly.
- (3) A copy of the declaration must be published in the *Gazette* within 21 days after the social bonus commencement day.

Division 2—Rural Transaction Centres Reserve

46 Rural Transaction Centres Reserve

- (1) The Rural Transaction Centres Reserve is established.
 - (2) The Rural Transaction Centres Reserve is a component of the Reserved Money Fund.
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- (3) Amounts equal to income derived from the investment of money in the Rural Transaction Centres Reserve are to be transferred to the Rural Transaction Centres Reserve from the Consolidated Revenue Fund.
- (4) The Rural Transaction Centres Reserve is to be administered by the Department of Transport and Regional Services.

47 Transfer of money to the Rural Transaction Centres Reserve

As soon as practicable after the social bonus commencement day, \$70 million is to be transferred to the Rural Transaction Centres Reserve from the Consolidated Revenue Fund.

48 Purposes of the Rural Transaction Centres Reserve

- (1) The purposes of the Rural Transaction Centres Reserve are as follows:
 - (a) the purpose of enabling people in rural areas to have access to services and technology that enable them to obtain information or carry out transactions;
 - (b) a purpose incidental or ancillary to the above purpose;
 - (c) the making of grants of financial assistance for either of the above purposes.
 - (2) Money in the Rural Transaction Centres Reserve must not be debited after:
 - (a) 30 June 2004; or
 - (b) if the Minister for Transport and Regional Services, by notice published in the *Gazette*, specifies a later day and that later day is earlier than 1 July 2005—that later day.
 - (3) For the purposes of this section, the following are examples of services:
 - (a) phone services;
 - (b) fax services;
 - (c) postal services;
 - (d) data transmission services;
 - (e) Internet services;
 - (f) videoconferencing services.
-

- (4) For the purposes of this section, the following are examples of transactions:
- (a) commercial transactions;
 - (b) banking transactions;
 - (c) insurance transactions;
 - (d) dealings about employment matters;
 - (e) dealings with governments and government authorities.

49 Advances

- (1) During the interim period, the Minister for Finance may, by notice published in the *Gazette*, determine that a specified amount is to be transferred to the Rural Transaction Centres Reserve from the Consolidated Revenue Fund by way of an advance on account of the amount that may become transferable to the Rural Transaction Centres Reserve under section 47. The determination has effect accordingly.
- (2) For each \$1 transferred under subsection (1), the amount transferred under section 47 is to be reduced by \$1.

50 Grant of financial assistance to a State

- (1) This section applies if an amount is to be debited from the Rural Transaction Centres Reserve for the purpose of making a grant of financial assistance to a State.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State.
- (3) An agreement under subsection (2) may be entered into by the Minister for Transport and Regional Services on behalf of the Commonwealth.

51 Grant of financial assistance to a person other than a State

- (1) This section applies if an amount is to be debited from the Rural Transaction Centres Reserve for the purpose of making a grant of financial assistance to a person other than a State.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the person.
- (3) An agreement under subsection (2) may be entered into by the Minister for Transport and Regional Services on behalf of the Commonwealth.

Division 3—Untimed Local Call Access Reserve

52 Untimed Local Call Access Reserve

- (1) The Untimed Local Call Access Reserve is established.
 - (2) The Untimed Local Call Access Reserve is a component of the Reserved Money Fund.
 - (3) Amounts equal to income derived from the investment of money in the Untimed Local Call Access Reserve are to be transferred to the Untimed Local Call Access Reserve from the Consolidated Revenue Fund.
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- (4) The Untimed Local Call Access Reserve is to be administered by the Department.

53 Transfer of money to the Untimed Local Call Access Reserve

As soon as practicable after the social bonus commencement day, \$150 million is to be transferred to the Untimed Local Call Access Reserve from the Consolidated Revenue Fund.

54 Purposes of the Untimed Local Call Access Reserve

- (1) The purposes of the Untimed Local Call Access Reserve are as follows:
- (a) the purpose of enabling carriage service providers to provide people who:
 - (i) are outside standard zones (as defined by Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*); and
 - (ii) do not have access to untimed local calls;
with access to untimed local calls;
 - (b) the purpose of enabling carriage service providers to provide people who:
 - (i) are in standard zones (as defined by Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*); and
 - (ii) have only limited access to untimed local calls; and
 - (iii) are included in a class of persons specified in the regulations;
with extended access to untimed local calls;
 - (c) a purpose incidental or ancillary to either of the above purposes;
 - (d) the making of grants of financial assistance for any of the above purposes.
- (2) Money in the Untimed Local Call Access Reserve must not be debited after:
- (a) 30 June 2002; or

- (b) if the Minister, by notice published in the *Gazette*, specifies a later day and that later day is earlier than 1 July 2003—that later day.
- (3) For the purposes of this section, calls are *untimed* if, and only if, the charges for those calls are worked out by reference to the number of such calls made during a particular period, regardless of how long each call lasted.

55 Advances

- (1) During the interim period, the Minister for Finance may, by notice published in the *Gazette*, determine that a specified amount is to be transferred to the Untimed Local Call Access Reserve from the Consolidated Revenue Fund by way of an advance on account of the amount that may become transferable to the Untimed Local Call Access Reserve under section 53. The determination has effect accordingly.
- (2) For each \$1 transferred under subsection (1), the amount transferred under section 53 is to be reduced by \$1.

56 Grant of financial assistance to a State

- (1) This section applies if an amount is to be debited from the Untimed Local Call Access Reserve for the purpose of making a grant of financial assistance to a State.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State.
- (3) An agreement under subsection (2) may be entered into by the Minister on behalf of the Commonwealth.

57 Grant of financial assistance to a person other than a State

- (1) This section applies if an amount is to be debited from the Untimed Local Call Access Reserve for the purpose of making a grant of financial assistance to a person other than a State.

- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the person.
- (3) An agreement under subsection (2) may be entered into by the Minister on behalf of the Commonwealth.

Division 4—Supplementation of the Regional Telecommunications Infrastructure Fund

58 Meeting the telecommunications needs of people in isolated or remote island communities or the Australian Antarctic Territory

- (1) As soon as practicable after the social bonus commencement day, \$20 million is to be transferred to the Regional Telecommunications Infrastructure Fund from the Consolidated Revenue Fund.
- (2) Money in the Regional Telecommunications Infrastructure Fund that represents an amount transferred under subsection (1) may only be debited for the following purposes:
 - (a) the purpose of assisting in meeting the telecommunications needs of people in remote island communities, isolated island communities or the Australian Antarctic Territory;
 - (b) a purpose incidental or ancillary to the above purpose;
 - (c) the making of grants of financial assistance for either of the above purposes.
- (3) The purposes of the Regional Telecommunications Infrastructure Fund are taken to include each purpose set out in subsection (2).
- (4) Money in the Regional Telecommunications Infrastructure Fund that represents an amount transferred under subsection (1) must not be debited after:
 - (a) 30 June 2002; or
 - (b) if the Minister, by notice published in the *Gazette*, specifies a later day and that later day is earlier than 1 July 2003—that later day.

- (5) During the interim period, the Minister for Finance may, by notice published in the *Gazette*, determine that a specified amount is to be transferred to the Regional Telecommunications Infrastructure Fund from the Consolidated Revenue Fund by way of an advance on account of the amount that may become transferable to the Regional Telecommunications Infrastructure Fund under subsection (1). The determination has effect accordingly.
- (6) For each \$1 transferred under subsection (5), the amount transferred under subsection (1) is to be reduced by \$1.
- (7) Subsection (2) applies to an amount transferred under subsection (5) in a corresponding way to the way in which it applies to an amount transferred under subsection (1).
- (8) For the purposes of this section, the following are examples of remote or isolated island communities:
 - (a) islands in the Torres Strait;
 - (b) islands in the Cocos (Keeling) group;
 - (c) Christmas Island;
 - (d) Norfolk Island;
 - (e) King Island;
 - (f) Flinders Island;
 - (g) Kangaroo Island.

59 Internet access for people in rural and regional areas

- (1) As soon as practicable after the social bonus commencement day, \$36 million is to be transferred to the Regional Telecommunications Infrastructure Fund from the Consolidated Revenue Fund.
- (2) Money in the Regional Telecommunications Infrastructure Fund that represents an amount transferred under subsection (1) may only be debited for the following purposes:
 - (a) the purpose of facilitating the provision of Internet access for people in rural or regional areas, being access at a reasonable cost and involving a reasonable bandwidth;
 - (b) a purpose incidental or ancillary to the above purpose;

- (c) the making of grants of financial assistance for either of the above purposes.

Note: An example of a purpose mentioned in paragraph (a) is increasing the number of Internet points of presence in rural or regional areas.

- (3) The purposes of the Regional Telecommunications Infrastructure Fund are taken to include each purpose set out in subsection (2).
- (4) Money in the Regional Telecommunications Infrastructure Fund that represents an amount transferred under subsection (1) must not be debited after:
- (a) 30 June 2002; or
 - (b) if the Minister, by notice published in the *Gazette*, specifies a later day and that later day is earlier than 1 July 2003—that later day.
- (5) During the interim period, the Minister for Finance may, by notice published in the *Gazette*, determine that a specified amount is to be transferred to the Regional Telecommunications Infrastructure Fund from the Consolidated Revenue Fund by way of an advance on account of the amount that may become transferable to the Regional Telecommunications Infrastructure Fund under subsection (1). The determination has effect accordingly.
- (6) For each \$1 transferred under subsection (5), the amount transferred under subsection (1) is to be reduced by \$1.
- (7) Subsection (2) applies to an amount transferred under subsection (5) in a corresponding way to the way in which it applies to an amount transferred under subsection (1).

60 Mobile phone coverage along highways

- (1) As soon as practicable after the social bonus commencement day, \$25 million is to be transferred to the Regional Telecommunications Infrastructure Fund from the Consolidated Revenue Fund.
- (2) Money in the Regional Telecommunications Infrastructure Fund that represents an amount transferred under subsection (1) may only be debited for the following purposes:

- (a) the purpose of facilitating mobile phone coverage along highways;
 - (b) a purpose incidental or ancillary to the above purpose;
 - (c) the making of grants of financial assistance for either of the above purposes.
- (3) The purposes of the Regional Telecommunications Infrastructure Fund are taken to include each purpose set out in subsection (2).
- (4) Money in the Regional Telecommunications Infrastructure Fund that represents an amount transferred under subsection (1) must not be debited after:
 - (a) 30 June 2002; or
 - (b) if the Minister, by notice published in the *Gazette*, specifies a later day and that later day is earlier than 1 July 2003—that later day.
- (5) During the interim period, the Minister for Finance may, by notice published in the *Gazette*, determine that a specified amount is to be transferred to the Regional Telecommunications Infrastructure Fund from the Consolidated Revenue Fund by way of an advance on account of the amount that may become transferable to the Regional Telecommunications Infrastructure Fund under subsection (1). The determination has effect accordingly.
- (6) For each \$1 transferred under subsection (5), the amount transferred under subsection (1) is to be reduced by \$1.
- (7) Subsection (2) applies to an amount transferred under subsection (5) in a corresponding way to the way in which it applies to an amount transferred under subsection (1).

61 Grant of financial assistance to a State

- (1) This section applies if:
 - (a) an amount is to be debited from the Regional Telecommunications Infrastructure Fund for the purpose of making a grant of financial assistance to a State; and
 - (b) the grant is covered by this Division.
-

- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State.
- (3) An agreement under subsection (2) may be entered into by the Secretary to the Department on behalf of the Commonwealth.

62 Grant of financial assistance to a person other than a State

- (1) This section applies if:
 - (a) an amount is to be debited from the Regional Telecommunications Infrastructure Fund for the purpose of making a grant of financial assistance to a person other than a State; and
 - (b) the grant is covered by this Division.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the person.
- (3) An agreement under subsection (2) may be entered into by the Secretary to the Department on behalf of the Commonwealth.

Division 5—Television Fund Reserve

63 Television Fund Reserve

- (1) The Television Fund Reserve is established.
- (2) The Television Fund Reserve is a component of the Reserved Money Fund.
- (3) Amounts equal to income derived from the investment of money in the Television Fund Reserve are to be transferred to the Television Fund Reserve from the Consolidated Revenue Fund.
- (4) The Television Fund Reserve is to be administered by the Department.

64 Transfer of money to the Television Fund Reserve

As soon as practicable after the social bonus commencement day, \$120 million is to be transferred to the Television Fund Reserve from the Consolidated Revenue Fund.

65 Purposes of the Television Fund Reserve

- (1) The purposes of the Television Fund Reserve are as follows:
 - (a) extending areas in which television broadcasting services transmitted by the Special Broadcasting Service Corporation (otherwise than by means of direct satellite broadcast) are capable of being received;
 - (b) enabling people to obtain reception, or improved reception, of television broadcasting services transmitted by:
 - (i) the Special Broadcasting Service Corporation; or
 - (ii) the Australian Broadcasting Corporation; or
 - (iii) holders of commercial television broadcasting licences;
 - (c) supporting a New Media Unit to be established within the Special Broadcasting Service Corporation;
 - (d) a purpose incidental or ancillary to any of the above purposes;
 - (e) the making of grants of financial assistance for any of the above purposes.
- (2) Money in the Television Fund Reserve must not be debited after:
 - (a) 30 June 2004; or
 - (b) if the Minister, by notice published in the *Gazette*, specifies a later day and that later day is earlier than 1 July 2005—that later day.

66 Advances

- (1) During the interim period, the Minister for Finance may, by notice published in the *Gazette*, determine that a specified amount is to be transferred to the Television Fund Reserve from the Consolidated Revenue Fund by way of an advance on account of the amount that may become transferable to the Television Fund Reserve under section 64. The determination has effect accordingly.

- (2) For each \$1 transferred under subsection (1), the amount transferred under section 64 is to be reduced by \$1.

67 Grant of financial assistance to a State

- (1) This section applies if an amount is to be debited from the Television Fund Reserve for the purpose of making a grant of financial assistance to a State.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State.
- (3) An agreement under subsection (2) may be entered into by the Secretary to the Department on behalf of the Commonwealth.

68 Grant of financial assistance to a person other than a State

- (1) This section applies if an amount is to be debited from the Television Fund Reserve for the purpose of making a grant of financial assistance to a person other than a State.
- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the person.
- (3) An agreement under subsection (2) may be entered into by the Secretary to the Department on behalf of the Commonwealth.

Division 6—Delegation

69 Delegation by Minister

- (1) The Minister may, by writing, delegate to:
 - (a) the Secretary to the Department; or
 - (b) a person holding or performing the duties of a Senior Executive Service office in the Department;all or any of the Minister's powers under this Part.

- (2) The delegate is, in the exercise of the power delegated under subsection (1), subject to the directions of the Minister.

70 Delegation by Minister for Transport and Regional Services

- (1) The Minister for Transport and Regional Services may, by writing, delegate to:
- (a) the Secretary to the Department of Transport and Regional Services; or
 - (b) a person holding or performing the duties of a Senior Executive Service office in that Department;
- all or any of the powers conferred by this Part on the Minister for Transport and Regional Services.
- (2) The delegate is, in the exercise of the power delegated under subsection (1), subject to the directions of the Minister for Transport and Regional Services.

71 Delegation by Secretary to the Department

- (1) The Secretary to the Department may, by writing, delegate to a person holding or performing the duties of a Senior Executive Service office in the Department all or any of the powers conferred on the Secretary by this Part.
- (2) The delegate is, in the exercise of the power delegated under subsection (1), subject to the directions of the Secretary to the Department.

53 Clause 2 of the Schedule (paragraph (b) of the definition of foreign person)

Omit “more than 15%”, substitute “15% or more”.

54 Clause 2 of the Schedule (paragraph (c) of the definition of foreign person)

Omit “more than 40%”, substitute “40% or more”.

55 Subparagraphs (b)(iii) and (iv) of clause 3 of the Schedule

Omit “, is a New Zealand citizen, holds a New Zealand passport”.

56 After subclause 12(4) of the Schedule

Insert:

- (4A) In determining the direct control interest of a particular type that a person holds in Telstra, it is to be assumed that the only shares in Telstra are the shares held by persons other than the Commonwealth.
- (4B) For the purposes of subclause (4A), *share* does not include an interest in a share.

57 Subclause 12(5) of the Schedule

Omit “If”, substitute “Subject to subclause (6), if”.

58 At the end of clause 12 of the Schedule

Add:

- (6) In determining, for the purposes of paragraph 8BG(a) or subparagraph 8BH(b)(ii), the total of the stakes of a particular type that a group of foreign persons holds in Telstra, if:
 - (a) a foreign company (the *first company*) holds that type of direct control interest in Telstra; and
 - (b) in a case where that interest is held because of subclause (5)—that interest was not worked out under that subclause on the basis that one or more foreign companies were interposed between the first company and Telstra; and
 - (c) apart from this subclause, a foreign person other than the first company would be taken under subclause (5) to hold that type of direct control interest in Telstra equal to a particular percentage; and
 - (d) the direct control interest mentioned in paragraph (c) was worked out under subclause (5) directly or indirectly by reference to the direct control interest mentioned in paragraph (a);the direct control interest mentioned in paragraph (c) is not to be counted.
- (7) For the purposes of subclause (6), a *foreign company* is a company that is a foreign person.

*[Minister's second reading speech made in—
House of Representatives on 12 November 1998
Senate on 30 November 1998]*

(173/98)
