



Australian Postal Corporation and Other Legislation Amendment Act 2024

No. 61, 2024

**An Act to amend the *Australian Postal Corporation
Act 1989*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Amendments		3
	<i>Australian Postal Corporation Act 1989</i>	3
	<i>Criminal Code Act 1995</i>	27



Australian Postal Corporation and Other Legislation Amendment Act 2024

No. 61, 2024

An Act to amend the *Australian Postal Corporation Act 1989*, and for related purposes

[Assented to 9 July 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Australian Postal Corporation and Other Legislation Amendment Act 2024*.

No. 61, 2024 *Australian Postal Corporation and Other Legislation Amendment Act* 1
2024

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	9 July 2024
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	9 January 2025

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Australian Postal Corporation Act 1989

1 Section 3 (definition of *carry by post*)

Repeal the definition.

2 Section 3 (definition of *postal article*)

Omit “carried by post”, substitute “carried by or through Australia Post”.

3 Section 4

Repeal the section.

4 Paragraph 32(2)(a)

Omit “carried by post”, substitute “carried by or through Australia Post”.

5 Paragraph 43(1)(n)

Omit “carried by post”, substitute “carried by or through Australia Post”.

6 Paragraph 43(1)(o)

Repeal the paragraph, substitute:

(o) include, in relation to:

- (i) sections 90JA, 90JE, 90JF, 90JG and 90JH; and
- (ii) subsections 90JC(1), (2) and (3) and 90JD(1), (6) and (7);

a record of the number of times during the period that information or documents were disclosed in reliance on each section or subsection and of the persons, bodies, agencies or authorities to which information or documents were so disclosed.

7 Section 90E

Insert:

AUSTRAC entrusted person has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

8 Section 90E (definition of *authorised discloser*)

Repeal the definition.

9 Section 90E (definition of *authorised examiner*)

Repeal the definition.

10 Section 90E

Insert:

biosecurity official has the same meaning as in the *Biosecurity Act 2015*.

11 Section 90E (definition of *employee of Australia Post*)

Omit “, when used in this Division (other than section 90FB) or in Division 2, 4 or 5,”.

12 Section 90E (definition of *in the course of post*)

Repeal the definition, substitute:

in the course of post, in relation to an article, means the article:

- (a) has been collected or received by or on behalf of Australia Post from a place in Australia or outside Australia for carriage by post to a place in Australia, but has not been delivered by or through Australia Post; or
- (b) has been collected or received by or on behalf of Australia Post from a place in Australia or outside Australia for carriage by post to a place outside Australia, and has not left Australia.

13 Section 90E

Insert:

member of the staff of Sport Integrity Australia means a person covered by subsection 24L(1) of the *Sport Integrity Australia Act 2020*.

member of the staff of the ACC has the same meaning as in the *Australian Crime Commission Act 2002*.

14 Section 90E (definition of *specially protected*)

Repeal the definition.

15 Section 90E

Insert:

taxation officer has the meaning given by section 355-30 in Schedule 1 to the *Taxation Administration Act 1953*.

16 Sections 90FA and 90FB

Repeal the sections.

17 Subsection 90G(1)

Omit “(1)”.

18 Subparagraph 90G(1)(b)(i)

Omit “that has been carried by post or is in the course of post”, substitute “that is in the course of post or has been carried by or through Australia Post”.

19 After subparagraph 90G(1)(b)(i)

Insert:

(ia) is, or relates to, an article, or some or all of the contents or substance of an article, that the person expects will become in the course of post; or

20 Subsections 90G(2) and (3)

Repeal the subsections.

21 Subsection 90H(1)

Omit “90K”, substitute “90JA, 90JB, 90JC, 90JD, 90JE, 90JF, 90JG, 90JH”.

22 Paragraph 90H(3)(a)

Omit “90K”, substitute “90JA, 90JB, 90JC, 90JD, 90JE, 90JF, 90JG, 90JH”.

23 Paragraph 90H(3)(a)

Omit “a provision (the *authorising provision*) of one of those sections”, substitute “that section (the *authorising provision*)”.

24 Paragraph 90H(3)(b)

Omit “the section that contains”.

25 Sections 90J and 90K

Repeal the sections, substitute:

90J Permitted use or disclosure in performance of duties

The person may use or disclose the information or document in the performance of duties as an employee of Australia Post.

90JA Permitted disclosure under warrant

The person may disclose the information or document as required by or under a warrant issued under a law of the Commonwealth or of a State or Territory.

90JB Permitted disclosure as a witness

The person may disclose the information or document as a witness summonsed to give evidence, or to produce documents, in a court.

90JC Permitted disclosure under law

Commonwealth law

- (1) The person may disclose the information or document as required by or under a law of the Commonwealth.

State or Territory laws

- (2) The person may disclose the information or document as required by or under:
- (a) the *Independent Commission Against Corruption Act 1988* (NSW); or
 - (b) the *Crime Commission Act 2012* (NSW); or
 - (c) the *Law Enforcement Conduct Commission Act 2016* (NSW); or
 - (d) the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic.); or
 - (e) the *Crime and Corruption Act 2001* (Qld); or
 - (f) the *Corruption, Crime and Misconduct Act 2003* (WA); or
 - (g) the *Independent Commission Against Corruption Act 2012* (SA); or
 - (h) the *Integrity Commission Act 2009* (Tas.); or
 - (i) the *Integrity Commission Act 2018* (ACT); or
 - (j) the *Independent Commissioner Against Corruption Act 2017* (NT); or
 - (k) any other prescribed law of a State or Territory that establishes a Commission or other body to conduct investigations or inquiries.

Australian Crime Commission legislation

- (3) The person may disclose the information or document as required by or under a law of a State if the Australian Crime Commission performs a duty or function, or exercises a power, under that law in accordance with section 55A of the *Australian Crime Commission Act 2002*.

90JD Permitted disclosure to various persons

- (1) The person may disclose the information or document to any of the following persons (each of whom is a **recipient**) if the person is satisfied that the information or document will enable or assist the recipient to exercise any of the powers, or perform any of the functions or duties, of the recipient:
- (a) the Secretary of the Department;

- (b) an AFP appointee (within the meaning of the *Australian Federal Police Act 1979*);
- (c) a member of the police force or police service of a State or Territory;
- (d) the Director of Public Prosecutions or a member of the staff of the Office of the Director of Public Prosecutions;
- (e) the Chief Executive Officer of the Australian Crime Commission or a member of the staff of the ACC;
- (f) an AUSTRAC entrusted person;
- (g) the Secretary of the Department administered by the Minister administering the *Migration Act 1958* or an APS employee in that Department;
- (h) a person covered by paragraph (b), (c), (d), (e) or (f) of the definition of **entrusted person** in subsection 9(1) of the *Biosecurity Act 2015*;
- (i) the Secretary of the Department administered by the Minister administering the *Imported Food Control Act 1992* or an APS employee in that Department;
- (j) the Secretary of the Department administered by the Minister administering the *Commerce (Trade Descriptions) Act 1905* or an APS employee in that Department;
- (k) the Secretary of the Department administered by the Minister administering the *Aviation Transport Security Act 2004* or an APS employee in that Department;
- (l) the Inspector of Transport Security or a person who is assisting the Inspector of Transport Security in the performance of the Inspector of Transport Security's functions;
- (m) the Secretary of the Department administered by the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* or an APS employee in that Department;
- (n) the Secretary of the Department administered by the Minister administering the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* or an APS employee in that Department;
- (o) the Chief Executive Officer of Sport Integrity Australia or a member of the staff of Sport Integrity Australia;

-
- (p) the Commissioner of Taxation or a taxation officer;
 - (q) an officer or employee of a consumer protection agency;
 - (r) an officer or employee of an agency or authority of the Commonwealth, a State or a Territory, being an agency or authority determined in an instrument under subsection (2).
- (2) The Secretary of the Department may, by legislative instrument, determine an agency or authority of the Commonwealth, a State or a Territory for the purposes of paragraph (1)(r).
 - (3) The Secretary of the Department may, by written instrument given to a recipient, impose conditions to be complied with by the recipient in relation to information or a document disclosed to the recipient under subsection (1).
 - (4) An instrument made under subsection (3) that imposes conditions relating to one particular disclosure identified in the instrument is not a legislative instrument.
 - (5) Otherwise, an instrument made under subsection (3) is a legislative instrument.

Customs officers

- (6) The person may disclose the information or document to a customs officer if the person is satisfied that the information or document will enable or assist the customs officer to exercise any of the powers, or perform any of the functions or duties, of the customs officer.

Authorised ASIO officers

- (7) Subject to section 27 of the ASIO Act, the person may disclose the information or document to an authorised ASIO officer if the person reasonably suspects that the information or document is or may be relevant to security within the meaning of the ASIO Act.

90JE Permitted disclosure to reduce threat to life or health

The person may disclose the information or document to an officer or employee of a police force or service, fire service, ambulance service or other organisation providing emergency services if the

person reasonably believes that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of a person.

90JF Permitted disclosure for purposes of law enforcement or protection of public revenue

The person may disclose the information or document if the person reasonably believes that the disclosure of the information or document is necessary for:

- (a) the enforcement of the criminal law; or
- (b) the enforcement of a law imposing a pecuniary penalty; or
- (c) the protection of the public revenue.

90JG Permitted disclosure under Universal Postal Union instrument

The person may disclose the information or document if the disclosure is in circumstances permitted under a UPU instrument and in accordance with that instrument.

90JH Permitted disclosure to assist in notification of next of kin

- (1) The person may disclose the information or document to an officer or employee of a police force or service, fire service, ambulance service or other organisation providing emergency services if the person reasonably believes that the disclosure is necessary to assist in the notification of the next of kin of a person who is seriously injured or who has died.
- (2) In determining for the purposes of subsection (1) whether a person is next of kin of another person, the following persons are also to be taken into account:
 - (a) a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*;
 - (b) someone who is the child of the person, or of whom the person is the child, because of subsection (3);
 - (c) anyone else who would be a relative of the person because someone mentioned in paragraph (a) or (b) is taken into account.

- (3) For the purposes of paragraph (2)(b), a person (the *first person*) is the child of another person because of this subsection if the first person is a child of the other person within the meaning of the *Family Law Act 1975*.

26 Section 90L

Before “If”, insert “(1)”.

27 Section 90L

Omit “(whether or not it is specially protected)”.

28 Paragraph 90L(a)

Omit “consent given in writing on a form obtained from an office of Australia Post”, substitute “written consent”.

29 At the end of section 90L

Add:

- (2) This section does not limit any other provision of this Subdivision.

30 Subsection 90LA(1)

Omit “(1)”.

31 Subparagraph 90LA(1)(b)(i)

Omit “that has been carried by post or is in the course of post”, substitute “that is in the course of post or has been carried by or through Australia Post”.

32 After subparagraph 90LA(1)(b)(i)

Insert:

- (ia) is, or relates to, an article, or some or all of the contents or substance of an article, that the person, in the course of that employment, expected would become in the course of post;
or

33 Subsections 90LA(2) and (3)

Repeal the subsections.

34 Subsection 90LB(1)

Omit “or 90LCA”.

35 Paragraph 90LB(3)(a)

Omit “or 90LCA”.

36 Paragraph 90LB(3)(a)

Omit “a provision (the *authorising provision*) of one of those sections”, substitute “that section (the *authorising provision*)”.

37 Paragraph 90LB(3)(b)

Omit “the section that contains”.

38 Section 90LC (heading)

Repeal the heading, substitute:

90LC Permitted use or disclosure

39 Subsection 90LC(1)

Repeal the subsection.

40 Subsection 90LC(5)

Repeal the subsection, substitute:

Disclosure under a law of a State or Territory

(5) The person may disclose the information or document as required by or under:

- (a) the *Independent Commission Against Corruption Act 1988* (NSW); or
- (b) the *Crime Commission Act 2012* (NSW); or
- (c) the *Law Enforcement Conduct Commission Act 2016* (NSW); or
- (d) the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic.); or
- (e) the *Crime and Corruption Act 2001* (Qld); or
- (f) the *Corruption, Crime and Misconduct Act 2003* (WA); or

- (g) the *Independent Commission Against Corruption Act 2012* (SA); or
- (h) the *Integrity Commission Act 2009* (Tas.); or
- (i) the *Integrity Commission Act 2018* (ACT); or
- (j) the *Independent Commissioner Against Corruption Act 2017* (NT); or
- (k) any other prescribed law of a State or Territory that establishes a Commission or other body to conduct investigations or inquiries.

41 At the end of section 90LC

Add:

Disclosure for purposes of law enforcement

- (7) The person may disclose the information or document if the person reasonably believes that the disclosure of the information or document is necessary for:
 - (a) the enforcement of the criminal law; or
 - (b) the enforcement of a law imposing a pecuniary penalty.

42 Section 90LCA

Repeal the section.

43 Subparagraph 90LD(1)(b)(i)

Repeal the subparagraph, substitute:

- (i) is, or relates to, an article, or some or all of the contents or substance of an article, that is in the course of post or has been carried by or through Australia Post; or
- (ia) is, or relates to, an article, or some or all of the contents or substance of an article, that the employee or former employee, in the course of that employment, expected would become in the course of post; or

44 Section 90LF (heading)

Repeal the heading, substitute:

90LF Circumstances in which secondary use or disclosure permitted

45 Subsection 90LF(1)

Omit “90K, 90LC or 90LCA”, substitute “90JA, 90JB, 90JC, 90JD, 90JE, 90JF, 90JG, 90JH or 90LC”.

46 At the end of section 90LF

Add:

Additional secondary disclosure

- (3) If the person (the *recipient*) acquired or received the information or document as a result of a disclosure under subsection 90JD(1) or (6), or another person (also the *recipient*) acquired or received the information or document as a result of a disclosure under this subsection, the recipient may disclose the information or document to:
- (a) a person covered by subsection 90JD(1), or a customs officer, if the recipient is satisfied that the information or document will enable or assist the person or officer to exercise any of the powers, or perform any of the functions or duties, of the person or officer; or
 - (b) an authorised ASIO officer if the recipient reasonably suspects that the information or document is or may be relevant to security within the meaning of the ASIO Act.

Additional secondary use

- (4) If:
- (a) the person acquired or received the information or document as a result of a disclosure under subsection (3); and
 - (b) the person is covered by subsection 90JD(1) or is a customs officer;
- the person may use the information or document in the exercise of any of the powers, or the performance of any of the functions or duties, of the person.

47 Section 90LG

Omit “that has been carried by post or that is in the course of post”, substitute “that is in the course of post or has been carried by or through Australia Post”.

48 Subsection 90M(1)

Omit “Subject to subsection (2), this”, substitute “This”.

49 Subsection 90M(2)

Repeal the subsection, substitute:

- (2) This Division does not limit the following:
- (a) Part XII of the *Customs Act 1901*;
 - (b) the *Biosecurity Act 2015* or the *Regulatory Powers (Standard Provisions) Act 2014*, so far as the *Regulatory Powers (Standard Provisions) Act 2014* relates to the *Biosecurity Act 2015*;
 - (c) the *Imported Food Control Act 1992* or the *Regulatory Powers (Standard Provisions) Act 2014*, so far as the *Regulatory Powers (Standard Provisions) Act 2014* relates to the *Imported Food Control Act 1992*.

50 Section 90N

Repeal the section, substitute:

90N Offence—opening article or examining article or its contents

- (1) A person commits an offence if the person:
- (a) opens the article; or
 - (b) examines the article or its contents.

Penalty: Imprisonment for 2 years.

Exceptions

- (2) Subsection (1) does not apply if the opening of the article, or the examination of the article or its contents, is permitted by:
- (a) a provision of this Act; or
 - (b) another law of the Commonwealth; or

(c) a law of a State or Territory.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

(3) Subsection (1) does not apply if the opening of the article, or the examination of the article or its contents, is in the course of the person exercising powers, or performing functions or duties, as:

- (a) an AFP appointee (within the meaning of the *Australian Federal Police Act 1979*); or
- (b) a member of the police force or police service of a State or Territory; or
- (c) a person included in a class of persons determined in an instrument under subsection (4).

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

(4) The Minister may, by legislative instrument, determine a class of persons for the purposes of paragraph (3)(c).

51 Section 90P

Omit “An authorised examiner”, substitute “(1) An employee of Australia Post, a customs officer, a biosecurity official or a person included in a class of persons determined in an instrument under subsection (2),”.

52 At the end of section 90P

Add:

(2) The Minister may, by legislative instrument, determine a class of persons for the purposes of subsection (1).

53 Subsection 90Q(2)

Omit “authorised examiner may open the article and examine”, substitute “employee of Australia Post may open the article and an employee of Australia Post may examine the article or”.

54 Subsection 90Q(3)

Omit “Subject to section 90X, after an authorised examiner has opened and examined the article, he or she”, substitute “Subject to subsection (4) and section 90X, after the examination referred to in subsection (2) of this section, an employee of Australia Post”.

55 At the end of section 90Q

Add:

- (4) Subject to section 90X, if the article is found to consist of or contain any thing covered by paragraph 90S(1)(b), or any quarantine material, then subsection 90S(5) or 90U(7), as the case requires, applies in relation to the article and its contents.

56 Subsection 90R(1)

Omit “authorised examiner may open the article for the purpose of”, substitute “employee of Australia Post may open the article for the purpose of an employee of Australia Post”.

57 Subsection 90R(2)

Omit “Subject to section 90X, after an authorised examiner has made the repairs (if any) to the article or its contents that he or she thinks appropriate, the authorised examiner”, substitute “Subject to subsection (3) and section 90X, after an employee of Australia Post has made the repairs (if any) to the article or its contents that the employee thinks appropriate, an employee of Australia Post”.

58 At the end of section 90R

Add:

- (3) Subject to section 90X, if the article is found to consist of or contain any thing covered by paragraph 90S(1)(b), or any quarantine material, then subsection 90S(5) or 90U(7), as the case requires, applies in relation to the article and its contents.

59 Section 90S (heading)

Repeal the heading, substitute:

90S Articles on which duties or taxes are payable or that are carried in contravention of law

60 Subsections 90S(1) to (5)

Repeal the subsections, substitute:

- (1) This section applies if:
- (a) a customs officer has requested an employee of Australia Post to open the article; or
 - (b) an employee of Australia Post or a customs officer reasonably believes that the article consists of, or contains, any thing:
 - (i) on which customs duty is payable; or
 - (ii) the importation of which into Australia is a taxable importation on which GST is payable; or
 - (iii) on which wine tax is payable; or
 - (iv) on which any other tax, duty, levy or charge under a law of the Commonwealth is payable; or
 - (v) that is being carried in contravention of a law of the Commonwealth relating to the importation into, or exportation from, Australia of that thing.

Opening the article

- (2) The following may open the article:
- (a) if paragraph (1)(a) applies—an employee of Australia Post;
 - (b) if paragraph (1)(b) applies—an employee of Australia Post or a customs officer.

Examining the article or its contents

- (3) A customs officer may examine the article or its contents to check whether the article consists of or contains any thing covered by paragraph (1)(b).

Returning article to normal course of carriage

- (4) Subject to section 90X, if the article is found not to consist of or contain any thing covered by paragraph (1)(b) of this section, an

employee of Australia Post or a customs officer must close up the article and return it to the normal course of carriage.

Article consists of or contains a thing covered by paragraph (1)(b)

- (5) Subject to section 90X, if the article is found to consist of or contain any thing covered by paragraph (1)(b) of this section, the article and its contents must be dealt with in accordance with any law of the Commonwealth relating to customs duty, to GST, to wine tax, to other taxes, duties, levies or charges or to imports or exports, as the case requires.

61 Section 90T

Repeal the section.

62 Subsections 90U(3) and (4)

Omit “authorised examiner”, substitute “employee of Australia Post”.

63 Subsection 90U(5)

Omit “to check whether it”, substitute “or its contents to check whether the article”.

64 Subsection 90U(6)

Omit “the authorised examiner”, substitute “an employee of Australia Post”.

65 Subsection 90V(2)

Omit “authorised examiner (whether in the presence of a customs officer or a quarantine inspection officer or not)”, substitute “employee of Australia Post”.

66 Subsection 90V(2A)

Omit “under section 90T”, substitute “under section 90S”.

67 Subsection 90V(2A)

Omit “the customs officer”, substitute “a customs officer”.

68 Subsection 90V(2A)

Omit “to section 90T”, substitute “to section 90S”.

69 Subsection 90X(1)

After “the article” (first occurring), insert “or its contents”.

70 Subsection 90X(1)

Omit “after being opened or examined”, substitute “or its contents after the opening of the article or the examination of the article or its contents”.

71 Subsection 90X(2)

Omit “carried by post”, substitute “that are in the course of post”.

72 Subsection 90X(2)

After “the article” (first occurring), insert “or its contents”.

73 Subsection 90X(2)

Omit “after being opened or examined”, substitute “or its contents after the opening of the article or the examination of the article or its contents”.

74 At the end of Division 3 of Part 7B

Add:

90XA Same person may do several things

To avoid doubt, if section 90P, 90Q, 90R or 90S permits or requires an employee of Australia Post, or a customs officer, to do 2 or more things in relation to an article or its contents, the same employee of Australia Post, or the same customs officer, may do 2 or more of those things in relation to the article or its contents.

75 Subsection 90Y(1)

Omit “(1) Subject to subsection (2), this”, substitute “This”.

76 Subsection 90Y(2)

Repeal the subsection.

77 Section 90Z

Repeal the section, substitute:

90Z Dealing with explosive, dangerous or injurious things etc.

- (1) If a permitted person reasonably suspects that the article contains a thing (a *prohibited thing*):
- (a) that is or could be explosive, dangerous or injurious; or
 - (b) that is or could be used as a part for another thing that is or could be explosive, dangerous or injurious;
- a permitted person may:
- (c) do either or both of the following:
 - (i) open the article;
 - (ii) examine the article or its contents to check whether the article contains a prohibited thing; or
 - (d) arrange for the article to be delivered into the custody of:
 - (i) an AFP appointee (within the meaning of the *Australian Federal Police Act 1979*); or
 - (ii) a member of the police force or police service of a State or Territory.
- (2) For the purposes of this section, a *permitted person* is:
- (a) an employee of Australia Post; or
 - (b) a person included in a class of persons determined in an instrument under subsection (5).

Returning article to normal course of carriage

- (3) If paragraph (1)(c) applies and the article is found not to contain a prohibited thing, a permitted person must close up the article and return it to the normal course of carriage.

Article contains a prohibited thing

- (4) If paragraph (1)(c) applies and the article is found to contain one or more prohibited things (whether or not the article also contains other things), then one or more of the following may occur:
- (a) a permitted person may do anything to the article or any of its contents (including removing a prohibited thing) that the permitted person thinks appropriate to make the article and some or all of its contents safe for carriage by post and a permitted person may close up the article and return it to the normal course of carriage;

- (b) a person included in a class of persons determined in an instrument under subsection (5) may destroy a prohibited thing if that person is satisfied that the destruction is required for the health or safety of the public or for the protection of other property;
- (c) a permitted person may arrange for either or both of the article and some or all of its contents to be delivered into the custody of:
 - (i) an AFP appointee (within the meaning of the *Australian Federal Police Act 1979*); or
 - (ii) a member of the police force or police service of a State or Territory.

Example: Assume the article contains one prohibited thing and one or more other things.

Under paragraph (a), a permitted person may remove the prohibited thing and then close up the article (with the other things in it) and return it to the normal course of carriage.

Under paragraph (b), a person included in a class of persons determined in an instrument under subsection (5) may destroy the prohibited thing in compliance with that paragraph.

Under paragraph (c), a permitted person may arrange for the article and all of its contents to be delivered as mentioned in that paragraph.

Class of persons

- (5) The Minister may, by legislative instrument, determine a class of persons for the purposes of this section.

Australia Post to record information

- (6) Australia Post must ensure that, before a prohibited thing is destroyed, the following information is recorded, to the extent to which it is known by Australia Post:
 - (a) the sender's name and address;
 - (b) the intended recipient's name and address;
 - (c) what the article contains.

Written notice to sender

- (7) If the sender's name and address has been recorded, Australia Post must, as soon as practicable after a prohibited thing is destroyed, give written notice to the sender:
- (a) advising of the destruction of the thing and the reasons for the destruction; and
 - (b) stating the following information, if it has been recorded:
 - (i) the intended recipient's name and address;
 - (ii) what the article contained.

Written notice to intended recipient

- (8) If the sender's name and address has not been recorded but the intended recipient's name and address has been recorded, Australia Post must, as soon as practicable after a prohibited thing is destroyed, give written notice to the intended recipient:
- (a) advising of the destruction of the thing and the reasons for the destruction; and
 - (b) stating what the article contained, if that information has been recorded.

Exceptions

- (9) Subsection (7) or (8) does not apply in relation to a prohibited thing:
- (a) if an AFP appointee (within the meaning of the *Australian Federal Police Act 1979*), or a member of the police force or police service of a State or Territory, informs an employee of Australia Post that subsection (7) or (8) should not apply in relation to that thing; or
 - (b) in the circumstances determined in an instrument under subsection (10).
- (10) The Minister may, by legislative instrument, determine circumstances for the purposes of paragraph (9)(b).

Same permitted person may do several things

- (11) To avoid doubt, the same permitted person may do 2 or more things under this section in relation to an article or its contents.
-

78 After section 90ZA

Insert:

90ZAA Compensation for acquisition of property

- (1) If the operation of section 90Z or 90ZA would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

79 Paragraph 90ZC(2)(a)

Omit “section 90T”, substitute “section 90P or 90S”.

80 After paragraph 90ZC(2)(a)

Insert:

- (aa) a biosecurity official in the exercise, or the purported exercise, of a power under section 90P; or
- (ab) a person included in a class of persons determined in an instrument under subsection 90P(2) or 90Z(5) in the exercise or performance, or the purported exercise or performance, of a power or duty under section 90P or 90Z; or

81 At the end of Part 7B

Add:

92 Australia Post not to bear cost of examination of goods by customs officer

The reference to the owner of goods in subsection 186(1) of the *Customs Act 1901* does not include Australia Post.

82 Section 101 (heading)

Repeal the heading, substitute:

101 Articles carried by or through Australia Post taken to be Australia Post's property**83 Section 101**

Omit "carried by post" (wherever occurring), substitute "carried by or through Australia Post".

84 Paragraph 102(c)

Omit "carried by post", substitute "that are in the course of post (within the meaning of section 90E) or that have been carried by or through Australia Post".

85 Paragraph 102(g)

Repeal the paragraph, substitute:

- (g) with respect to the forfeiture, disposal or destruction of the following:
 - (i) articles that are in the course of post (within the meaning of section 90E) or that have been carried by or through Australia Post;
 - (ii) the contents of such articles; and

86 Application and saving provisions

- (1) Paragraph 43(1)(o) of the *Australian Postal Corporation Act 1989*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a reporting period beginning before that commencement.
- (2) The amendments of section 90G of the *Australian Postal Corporation Act 1989* made by this Schedule apply in relation to information or a document acquired or received on or after the commencement of this item.
- (3) The amendments of sections 90H, 90LB and 90LC of the *Australian Postal Corporation Act 1989*, the repeal of sections 90J, 90K and 90LCA of that Act and the substitution of sections 90J to 90JH of that

Act made by this Schedule apply in relation to the use or disclosure of information or a document on or after the commencement of this item.

- (4) The amendment of paragraph 90L(a) of the *Australian Postal Corporation Act 1989* made by this Schedule applies in relation to a consent given on or after the commencement of this item.
 - (5) The amendments of section 90LA of the *Australian Postal Corporation Act 1989* made by this Schedule apply in relation to information or a document acquired or received on or after the commencement of this item.
 - (6) The amendment of section 90LD of the *Australian Postal Corporation Act 1989* made by this Schedule applies in relation to information or a document acquired or received by an employee of Australia Post on or after the commencement of this item.
 - (7) The amendments of section 90LF of the *Australian Postal Corporation Act 1989* made by this Schedule apply in relation to an original disclosure (within the meaning of subsection 90LF(1) of that Act) occurring on or after the commencement of this item.
 - (8) The amendments of sections 90M, 90P, 90Q, 90R, 90S and 90U of the *Australian Postal Corporation Act 1989* made by this Schedule apply on and after the commencement of this item in relation to the following:
 - (a) an article that commences to be in the course of post on or after that commencement;
 - (b) an article that is in the course of post immediately before that commencement.
 - (9) Section 90N of the *Australian Postal Corporation Act 1989*, as substituted by this Schedule, applies in relation to the opening of an article, or the examination of an article or its contents, on or after the commencement of this item.
 - (10) Section 90N of the *Australian Postal Corporation Act 1989*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the opening of an article, or the examination of an article's contents, before that commencement.
 - (11) Section 90T of the *Australian Postal Corporation Act 1989*, as in force immediately before the commencement of this item, continues to apply
-

on and after that commencement in relation to an article that commenced to be in the course of post before that commencement.

- (12) The amendments of section 90V of the *Australian Postal Corporation Act 1989* made by this Schedule apply in relation to an article opened on or after the commencement of this item.
- (13) Subsection 90V(2A) of the *Australian Postal Corporation Act 1989*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to an article opened under section 90T of that Act by a customs officer before, on or after that commencement.
- (14) The amendments of section 90Y of the *Australian Postal Corporation Act 1989*, and the repeal and substitution of section 90Z of that Act, made by this Schedule apply on and after the commencement of this item in relation to the following:
- (a) an article that commences to be in the course of post on or after that commencement;
 - (b) an article that is in the course of post immediately before that commencement.
- (15) Section 90ZC of the *Australian Postal Corporation Act 1989*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a customs officer's exercise or performance, or purported exercise or performance, of a power or duty under section 90T of that Act before, on or after that commencement.

Criminal Code Act 1995

87 Section 470.1 of the *Criminal Code*

Insert:

carried by post means carried by or through Australia Post.

88 Section 470.1 of the *Criminal Code* (definition of *carry by post*)

Repeal the definition.

89 Subsection 471.10(2) of the *Criminal Code*

Omit “*carry by post*”, substitute “*carried by post*”.

90 Subsection 471.13(6) of the *Criminal Code*

Omit “*carry by post*”, substitute “*carried by post*”.

91 Section 471.31 of the *Criminal Code* (heading)

Repeal the heading, substitute:

471.31 Definition of *carried by post* does not apply

92 Section 471.31 of the *Criminal Code*

Omit “*carry by post*”, substitute “*carried by post*”.

[*Minister’s second reading speech made in—
House of Representatives on 27 March 2024
Senate on 24 June 2024*]

(38/24)
