

EXPLANATORY STATEMENT

Telecommunications Act 1997

CARRIER LICENCE CONDITIONS (TELSTRA CORPORATION LIMITED) DECLARATION 1997 (AMENDMENT NO. 1 OF 2007)

Issued by the Attorney-General

Legislative basis

Section 56 of the *Telecommunications Act 1997* (the Act) provides for the grant of telecommunications carrier licences.

Subsection 63(3) of the Act enables the Minister to impose conditions on a particular carrier licence issued under section 56 of the Act prior to the grant of the licence, and to come into force upon that grant of the licence. The *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997* (Original Declaration) was made on 24 June 1997 under this provision and came into force on 1 July 1997 with the grant of Telstra's carrier licence.

Subsection 63(5) of the Act enables the Minister to vary, by written instrument, conditions imposed on a carrier licence under section 63. The *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997* (Amendment No. 1 of 2007) (the Amending Declaration) varies the Original Declaration.

Section 68 of the Act provides that a carrier must not contravene a condition of its carrier licence. In the event of a contravention of a carrier's licence conditions:

- (a) section 69 of the Act enables the Australian Communications and Media Authority (ACMA) to give a carrier a remedial direction aimed at ensuring that the carrier does not contravene its licence conditions in future;
- (b) section 70 of the Act enables ACMA to issue a formal warning to a carrier in relation to the contravention; and
- (c) Part 31 of the Act enables the Minister or ACMA to institute proceedings in the Federal Court for the recovery of a pecuniary penalty of up to \$10 million for each contravention.

Background

Clause 15 of the Original Declaration (as varied by declarations made under subsection 63(5)) currently requires Telstra to maintain an 800 MHz band digital mobile

telecommunications network. Telstra's network is known as the CDMA network. Telstra is in the process of replacing its CDMA network with a new 'Next G' network (referred to in the Amending Declaration as the 'Alternative Network') and has proposed de-activation of the CDMA network on 28 January 2008.

The purpose of the Amending Declaration is to require Telstra to maintain its CDMA network until the Minister is satisfied that the Alternative Network provides coverage and retail services that are equivalent to or better than the coverage and retail services which are currently provided on or, in connection with, Telstra's CDMA network.

The Attorney-General has been authorised to exercise the Minister's power under section 63(5) of the Act.

The Amending Declaration is made under subsection 63(5) of the Act.

Consultation

Subsection 64 (1) of the Act provides that, before making an instrument under subsection 63(5), the Minister must arrange for a draft version of the instrument to be provided to the licence holder and invite the holder to make a submission to the Minister on the draft.

The Minister wrote to Telstra on 6 August 2007, and Telstra made a submission on the draft instrument on 5 September 2007. Telstra's views were taken into account by the Attorney-General before the making of the Amending Declaration.

Policy Basis

The Attorney-General intends to ensure that Telstra meets its public assurances that the CDMA network will continue to operate until the Alternative Network provides the same or better level of coverage and services as those currently offered on or in connection with Telstra's CDMA network.

The Attorney-General also intends to ensure that consumers in regional areas who can currently receive services from the CDMA network will be able to access equivalent services from the Alternative Network.

Notes on the Clauses

Clause 1 – Name of Declaration

Clause 1 provides for the citation of the *Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 2007)*.

Clause 2 – Commencement

Clause 2 provides that the Amending Declaration commences on the day after it is registered on the Federal Register of Legislative Instruments.

Clause 3 – Amendment of the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997

Clause 3 provides that Schedule 1 to the Amending Declaration amends the Original Declaration.

Schedule 1 - Amendments

Items 1 to 11 amend the definitions clause 3 of the Original Declaration.

Item 1 omits the existing definition of the ‘800 MHz band’ from the Original Declaration because, following the commencement of the Amending Declaration, this term will not enable the CDMA network to be distinguished from the Alternative Network.

Item 2 inserts a definition of ‘Alternative Network’ into the Original Declaration. The definition is expressed to cover the mobile telecommunication network or a combination of networks marketed by Telstra as its Next G network. It is expected that some of the infrastructure such as backhaul infrastructure used for Telstra's CDMA network will also be used for the Alternative Network.

Item 3 omits the existing definitions of ‘AMPS’ and ‘AMPS site’ from the Original Declaration because, following the commencement of the Amending Declaration, these terms are redundant.

Item 4 inserts definitions of ‘CDMA’, ‘CDMA network’ and ‘CDMA site’ into the Original Declaration. These definitions are expressed to cover the mobile telecommunication network or a combination of networks marketed by Telstra as its CDMA network.

Item 5 inserts a definition of ‘EVDO service’ into clause 3. This term is referred to in new clause 15 (see Item 12).

Item 6 omits the existing definition of ‘metropolitan AMPS site’ from the Original Declaration because, following the commencement of the Amending Declaration, this term is redundant.

Item 7 amends the current definition of ‘metropolitan area’ in the Original Declaration to make clear that the referenced Schedule to the Spectrum Re-allocation Declaration No. 2 of 1997 is the version of the Schedule in force at the date that instrument was made.

Item 7 also inserts a definition of 'metropolitan CDMA site' into the Amending Declaration. This term is used in new clause 15 (see Item 12).

Item 8 omits the existing definition of 'metropolitan AMPS site' from the Original Declaration because, following the commencement of the Amending Declaration, this term is redundant.

Item 9 inserts a definition of 'non-metropolitan CDMA site' into the Original Declaration. This term is used in new clause 15 (see Item 12).

Item 10 inserts definitions of 'post-paid mobile service plan' and 'pre-paid mobile service plan' into the Original Declaration. These terms are referred to in new clause 15 (see Item 12).

Item 11 of Schedule 1 omits the existing definition of 'reasonably equivalent services' from the Original Declaration because, following the commencement of the Amending Declaration, this term is redundant.

Item 12 substitutes a new clause 15 into the Original Declaration to specify the circumstances in which Telstra may de-activate its CDMA network.

Subclause 15(1) provides that Telstra must continue to operate its entire CDMA network until the Minister notifies Telstra that the Minister is satisfied that the Alternative Network provides coverage and retail services that are equivalent to or better than the coverage and retail services provided by Telstra's CDMA network as at 1 June 2007 (referred to as the 'equivalency standards').

Coverage is defined in Clause 3 of the Original Declaration:

coverage means an area in which customers of a carrier or carriage service provider which supplies a mobile telecommunications service are ordinarily able to make or receive calls by means of that carrier's or provider's network.

The 'equivalence' standard is intended to apply to ensure that coverage continues to be provided at locations where coverage could ordinarily be used to make and hold phone calls, including coverage regardless of whether or not that 'coverage' is reflected in Telstra's own coverage maps. However, the standard is not intended to apply in areas of sporadic coverage, and is therefore not intended to require 'identical' coverage.

The final CDMA tower supported by Commonwealth funding was brought into operation by 1 June 2007. Furthermore, at that time the ACMA had conducted a wide range of testing of the CDMA network throughout Australia.

Subclauses 15(2) and 15(3) specify circumstances where Telstra's obligation in subclause 15(1) to maintain the CDMA network does not apply.

Subclause 15(2) has the effect that subclause 15(1) will not apply where:

- (a) under paragraph 15(2)(a), Telstra has, on or after 15 October 2007, notified the Minister that, in Telstra's opinion, the Alternative Network has attained the equivalency standards in subclause 15(1); and
- (b) under paragraph 15(2)(b), the Minister has not, within the earlier of:
 - (i) 14 weeks from the date of Telstra's notification; or
 - (ii) 3 weeks from the Minister receiving a report from the ACMA on whether the Alternative Network provides equivalent coverage to the CDMA network,

notified Telstra that the Minister has determined either that:

- (iii) the Minister is satisfied that the Alternative Network has attained the equivalency standards in subclause 15(1); or
- (iv) the Minister is not satisfied that those standards have been attained together with the reasons for that determination and any specific or systemic problems that require rectification.

Telstra notified the Minister that its Alternative Network will provide the same coverage as, or better coverage than, Telstra's CDMA network by 15 October 2007.

The Minister has asked the ACMA to carry out assessments of the equivalence of the coverage of the Alternative Network with the coverage of Telstra's CDMA network, by reference to the matters provided in paragraph 15(7)(a).

The ACMA has informed the Minister that it will require up to 12 weeks to complete the assessment process.

The Minister expects to need another two weeks to consider the ACMA findings and other relevant material including submissions from Telstra as appropriate and to make a decision on whether the Alternative Network has attained the equivalence standards .

If the Minister provides notification that the Minister has determined that the Minister is satisfied that the Alternative Network has attained the equivalency standards in subclause 15(1), then subclause 15(1) will cease to apply.

Subclause 15(1) will continue to apply if, within the applicable time period in subparagraphs 15(2)(b)(i) and (ii), the Minister notifies Telstra that the Minister has determined that the Minister is not satisfied that the Alternative Network has attained the equivalency standards in subclause 15(1) and provides the Minister's reasons for that determination, including any specific or systemic problems that require rectification.

Subclause 15(3) has the effect that subclause 15(1) will not apply where:

- (a) under subclause 15(3)(a), Telstra makes a further request for the Minister to determine whether the Minister is satisfied that the Alternative Technology has attained the equivalency standards in subclause 15(1); and
- (b) under subclause 15(3)(b) the Minister has not, as soon as practicable after receiving a request under paragraph 15(3)(a), notified Telstra that the Minister has determined that the previously notified problems have either:
 - (i) been rectified and that the Minister is satisfied that the Alternative Network has attained the equivalency standards; or
 - (ii) not been rectified and that the Minister is not satisfied that the Alternative Network has attained the equivalency standards, and provides the Minister's reasons for that determination including what rectification work is still to be undertaken.

Subclause 15(4) provides that, if Telstra de-activates the whole or part of its CDMA network, Telstra must continue to operate in non-metropolitan areas one or more terrestrial digital mobile phone networks which provide coverage in those areas that is at least equivalent to the coverage provided by Telstra's CDMA network as at 1 June 2007.

Subclause 15(5) provides that Telstra is not required to comply with subclause 15(1) or 15(4) in relation to a particular CDMA site if it is unable to do so because of circumstances beyond Telstra's reasonable control. This provision updates Telstra's obligations in subclause 15(2) of the current version of the Original Declaration.

Subclause 15(6) provides that Telstra is not required to comply with subclause 15(4) in relation to a particular non-metropolitan area if another carrier or carriage service provider operates a terrestrial digital mobile telecommunications network that ACMA has certified in writing provides equivalent coverage to that provided by a non-metropolitan CDMA site. This provision is similar to Telstra's obligations in subclause 15(3) of the current version of the Original Declaration.

Subclause 15(7) states, for the purposes of clause 15, how the existence of equivalent or better coverage and services is to be determined.

Paragraph 15(7)(a) provides that the existence of equivalent or better coverage is to be determined having regard to:

- (a) the area covered by a signal emitted from a base station;
- (b) the extent to which a signal emitted from a base station is of sufficient strength, when received, to enable the connection and maintenance of voice calls using a handheld mobile phone without any external aerial; and

- (c) the extent to which a signal emitted from a base station is of sufficient strength, when received, to enable the connection and maintenance of voice calls using a mobile phone in connection with an external aerial, including a carset.

Paragraph 15(7)(b) provides that the existence of equivalent or better services is to be determined having regard to:

- (a) the range of functions the services are capable of performing, including but not limited to the functions of EVDO services and CDMA-based telemetry services;
- (b) the availability to retail customers of the services and of required customer equipment including handsets;
- (c) the availability of pre-paid mobile service plans and post-paid mobile service plans, as those terms are defined in the Amending Declaration; and
- (d) any other relevant matter.

Item 13 omits Schedule 1 to the Original Declaration, which contained a standard 'AMPS network close announcement'. This Schedule is redundant now that the AMPS network has been de-activated.

Regulation Impact Statement

Carrier Licence Conditions – Replacement of CDMA Network

1. Background

Telstra has given public assurances that the CDMA network will continue to operate until the Next G™ network provides the same or better level of coverage and services as those currently offered on the CDMA network. Telstra has also advised that the CDMA network will not be turned off until 28 January 2008 even if equivalent coverage is achieved before that date, as it is contractually obligated to its wholesale customers to maintain CDMA until then.

The Government wishes to ensure that Telstra meets its commitment and that transitional issues for customers are addressed.

While the supporting infrastructure is largely rolled out, Telstra is still fine tuning the network, including the installation of software upgrades and the adjustment of antenna alignments.

Conditions are already in place on Telstra's licence that may require Telstra to continue to operate the CDMA network in order to maintain CDMA service through 310 Government-funded CDMA towers. These existing licence conditions reinforce requirements under Funding Agreements that are in place between the Commonwealth and Telstra to construct the towers and to continue to deliver CDMA services for up to ten years (for periods up to 2017).

A further existing licence condition (the AMPS/CDMA licence condition) requires Telstra to operate an 800 MHz digital mobile telecommunications network and ensure that it operates in non-metropolitan areas one or more terrestrial digital mobile telecommunications networks which together provide coverage that is reasonably equivalent to that of its AMPS network that was in place on 30 June 1998. The intention of this existing licence condition is to ensure that existing customers at the time of the introduction of the CDMA network did not suffer a reduction in coverage in the future.

A comparison of the existing licence conditions with the recommended new conditions is shown in the following Table.

	AMPS/CDM A licence condition	Government-funded Towers licence conditions			Proposed amendment to the Licence Conditions
		Towns Over 500	Towns Under 500	Selected Highways	

		people	people		
Applicable sites	The extent of the AMPS network at 30 June 1998	131 sites specified in the funding agreement	55 sites specified in the funding agreement	62 sites specified in the funding agreement	The extent of the CDMA network at 1 June 2007
Technology	800 MHz mobile network	CDMA	CDMA	CDMA	Not specified (“Alternative Technology”)
Allows technology change	Limited to 800 MHz mobile systems	No	No	No	Yes
Services	Not specified	Comparable to the rest of the CDMA network	Comparable to the rest of the CDMA network	Comparable to the rest of the CDMA network	Equivalent to CDMA
Duration	Unlimited	Final obligations expire 2016	Final obligations expire 2015	Final obligations expire 2014	Licence condition expires after 10 years under Part VI <i>Legislative Instruments Act 2003</i> sunset clause provisions

2. The problem or issues which give rise to the need for action

Telstra has advised the Minister for Communications, Information Technology and the Arts (the Minister) that it will be in a position to declare the same or better coverage on the Next GTM network on 15 October 2007. This provides insufficient time for the Government to consider the results of independent audits and any other relevant material to ensure that Telstra has met its public commitments, prior to the planned shutdown of the network on 28 January 2008.

Coverage audits of the Next GTM network by the Australian Communications and Media Authority cannot commence until Telstra advises that it has completed the upgrade of the

new network. The audits of Next GTM coverage will take around 12 weeks to complete and the Government would require sufficient time to fully assess the audit reports and other relevant matters. Other relevant matters that will also need to be verified by the Government, include network performance, handset/equipment availability and performance, the equivalence of replacement services for data, telemetry and wireless local loop and customer transition issues. In particular, Telstra has stated that many coverage issues currently being experienced are due to customers not using the most appropriate handset and equipment. In order to verify that customers are receiving appropriate advice on the choice of handsets and that the most appropriate handsets and equipment are readily available, the Government has announced that it will conduct a survey of Next GTM point of sale advice and handset availability.

The existing licence conditions relating to government-funded CDMA towers may prevent the shut-down of the CDMA network until such time as the licence conditions were replaced or varied and/or the corresponding Funding Agreements were varied. However, these funding agreements do not contain specific clauses to allow the CDMA network to be shut down once the Next GTM network provides equivalent or better coverage and services, and do not contain details of how equivalence could be determined. Therefore the existing licence conditions do not provide sufficient protection to consumers or clarity and certainty to the Government and Telstra regarding the process of replacing the CDMA network with the Next GTM network.

The CDMA network has expanded from the time that the AMPS/CDMA licence condition was put in place (1998-1999) and the requirement needs to be updated to ensure that existing customers at the time of the upgrade from CDMA to Next GTM do not suffer a reduction in services in the future. The expansion of the region covered under the licence condition imposes no additional cost on Telstra as it has already made a public commitment that the Next GTM services and coverage will be the same or better than the CDMA network.

3. The desired objective(s)

The objectives are to:

- provide certainty for consumers in general, and those in rural, regional and remote Australia in particular, that the CDMA network will not be shut-down until the Next GTM network provide equivalent or better coverage and services; and
- formalise the process and requirements that will allow Telstra to shut down the CDMA network once the Next GTM network provides equivalent or better coverage and services.

4. The options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s)

There are five basic options:

- A. maintain the status quo, ie rely solely on Telstra's public, but unenforceable, commitment;
- B. a memorandum of understanding (MOU) between the Commonwealth and Telstra to formalise Telstra's commitment;
- C. a legally enforceable deed between the Government and Telstra to formalise Telstra's commitment;
- D. an enforceable undertaking offered by Telstra to formalise Telstra's commitment; and
- E. an amendment to Telstra's licence conditions to formalise Telstra's commitment.

Discussion of options

- A. The status quo does not formalise Telstra's commitment and would leave both Telstra and the Government without a full understanding of each other's expectations as to the interpretation of Telstra's commitment and the Government's assessment as to whether Telstra has met its commitment.
- B. A MOU is not legally enforceable and therefore would not provide strong leverage over Telstra. It would not prevent the closure of the CDMA network by Telstra in the event that the Government was not satisfied that the coverage and services were equivalent.
- C. An enforceable deed would have to be constructed to have the same effect as a licence condition and could not nominate penalties payable by Telstra and/or sanctions to be imposed by the Government in the case of default, as it would be questionable as to whether any consideration was involved.
- D. An enforceable undertaking can only be offered by Telstra if it were at risk of breaching a relevant regulation. ACMA could accept an enforceable undertaking on the basis that Telstra would be at risk of breaching the licence conditions associated with the Government-funded CDMA towers if it closed the CDMA network without amendment to those licence conditions. In these circumstances, an enforceable undertaking could not be accepted for the remainder of the CDMA network unless a new, broader, licence condition was first put in place (option 4).
- E. Licence conditions are legally enforceable, as they expose Telstra to penalties and sanctions under the *Telecommunications Act 1997*. While Telstra must be consulted on draft licence conditions and have its comments taken into account, the decision-maker can determine the final form of licence conditions. This option enables a process to be put in place to assess the two networks and their coverage and service equivalence, and have an understood process for shutting down the CDMA network once equivalence is achieved.

Options B, C and D would require Telstra's agreement or cooperation, which is not considered certain as Telstra has opposed all regulatory action in the mobile phone area as a matter of principle.

Therefore in the following section options A and E will be considered for further assessment.

5. An assessment of the impact (costs and benefits) on consumers, business, government, the environment and the community of each option

There are two basic scenarios which would result in different costs and benefits arising from the implementation of the proposed amendment to the licence conditions.

1. The Minister notifies Telstra that he/she is satisfied in the terms of the licence conditions by 28 January 2008

- no costs/benefits arise as a result of the licence conditions.

2. The Minister notifies Telstra that he/she is satisfied in the terms of the licence conditions after 28 January 2008

- costs/benefits arise after 28 January 2008

2.1 Costs would consist mainly of Telstra's operating costs, including repair and maintenance, for the CDMA equipment and antennae, but not including costs associated with the mobile tower structures, as these support Next GTM as well as CDMA. Cost categories are likely to be electricity, salaries and transport for site visits. Telstra has also noted that it may need to run a new campaign to inform customers that the network is closing at a date later than originally notified and the date of that closure if the network remains open for some period after January 2008, and that it will be forced to make substantial information technology investment to include the CDMA support processes in the new Telstra systems, however no indication of anticipated costs are given.

2.2 Telstra has indicated that it is not technically feasible to run multiple networks, at scale, for an extended period of time. However the two networks will have operated in parallel for more than 15 months by 28 January 2008 without Telstra raising concerns about the operation. Telstra has demonstrated the ability to rapidly roll out the Next GTM network so it is likely that the time required to address outstanding issues (if any) would be brief.

2.3 Benefits would mainly be the avoidance of business and community costs associated with use of a sub-standard mobile phone network. They could include losses by businesses unable to communicate with customers and staff, costs and social disruption arising, for example, through an inability to maintain contacts between

family members or to contact medical or emergency services in the case of accident or fire.

2.4 An assessment of the cost to Telstra should recognise that the Minister has advised Telstra the Government has no wish to unnecessarily delay the closure of the CDMA network. Telstra's submission on the draft licence conditions does not quantify potential costs. Indicative costs to Telstra are something less than \$17.5 million per month over the 3500 CDMA towers. The estimate is based on Telstra's published mobiles operating expenses (4.7% of \$14.1 billion total operating expenses; Telstra's 2007 Financial Year Results), allowing for the number of towers in the CDMA/ Next GTM and GSM/ Next GTM networks and the sharing of infrastructure between CDMA and Next GTM. This is considered to be an upper limit, since it would include tower maintenance and backhaul costs that would be incurred irrespective of whether CDMA was operating or not.

This can be viewed in the context of Telstra's overall operating profit per annum of \$3.275 billion in 2006/07 (according to Telstra's preliminary final report released 9 August 2007). In this context, it is considered that the cost over a limited period is not a material amount. Telstra has demonstrated the ability to rapidly rollout the Next GTM network so it is likely that the time required to address outstanding issues (if any) would be brief.

2.5 Total benefits are not able to be quantified at a comparative indicative level. If maintenance of CDMA services avoided business losses and social costs of only \$25 for each of the 700,000 CDMA customers estimated to still be using the CDMA network, the total benefit and the cost to Telstra would balance out.

In addition, the proposed amendment to the licence conditions would require Telstra to continue to operate a CDMA-equivalent network in non-metropolitan areas

- Any costs or benefits would be nil or very small, assuming the equivalence of the Next GTM network or any future replacement with the CDMA network.

The proposed amendment to the licence condition would influence the situation if Telstra did not meet its public commitment that the Next G network's coverage and services will be at least the same as for CDMA before the CDMA network is switched off. In this situation it could be argued that there is no additional cost to Telstra as it has made a commitment to maintain the CDMA network until Next GTM provides the same or better coverage and services.

The proposed amendment to the licence condition would also influence the situation if there is insufficient time for the Government to consider the coverage audit and other

relevant matters before 28 January 2008. In this situation it would be unknown whether Next GTM is the same or better when compared with CDMA. Provided that the coverage audit could commence in mid-October 2007, the Government would be likely to be in a position to complete its assessment of equivalent coverage and services by March 2008.

6. A consultation statement

The Minister consulted the Prime Minister in a letter dated 11 July 2007 on her proposal to introduce licence conditions, copied to other senior Ministers.

The Minister provided Telstra with a draft of the proposed amendment to the licence conditions on 6 August 2007 for the required 30 day consultation period and invited Telstra to provide a submission for her consideration in making a decision regarding the draft licence condition. Telstra requested further information from the Minister, which was provided, during the 30 day consultation period.

Telstra provided a formal submission on the draft amendment to the licence conditions on 5 September 2007. The submission:

- argued that there was no need for the proposed regulatory intervention, as Telstra was taking the necessary steps to address the transition from CDMA to Next GTM;
- the potential impact of the draft conditions on Telstra and its customers, including the costs to Telstra (without quantification) and technical consequences including the impact on customer experience on the Next GTM network through the need to manage limited spectrum and shared backhaul capacity;
- suggested changes to the draft conditions if they were to be imposed, including the inclusion of specific timeframes for network testing and notifications by the Minister and amendments to technical definitions; and
- process issues associated with the Government's consideration of the licence conditions.

A substantial number of Telstra's concerns would be able to be reduced by proposed redrafting of the draft licence conditions to provide more certainty in the terms of the licence conditions.

7. A recommendation statement

The fifth option outlined above, that is, the amendment of Telstra's licence conditions to formalise Telstra's commitment, is recommended. It is the only option that adequately addresses the key issues of 1.) allowing sufficient time for the Government to assess whether equivalence has been achieved prior to the CDMA network being shut down, 2.) providing an adequate level of certainty for consumers that the CDMA network will not be shut down before the Next GTM network and services are equivalent, and 3.) providing clarity for the Government, Telstra and consumers regarding the requirements to enable the CDMA network to be shut down.

8. A strategy to implement and review the preferred option

Implementation would be by the normal notification process for new licence conditions.

Following the decision-maker's careful consideration of Telstra's submission on the draft licence conditions and any other relevant matters, the licence conditions could be revised before being registered on the Federal Register of Legislative Instruments.

Licence conditions are subject to a ten year sunset period under Part VI of the *Legislative Instruments Act 2003*.