



Telecommunications (Customer Service Guarantee) Standard 2011

as amended

made under sections 115, 117 and 120 of the

Telecommunications (Consumer Protection and Service Standards) Act 1999

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Section 1

Part 1 Introductory**1 Name of instrument** [see Note 1]

This instrument is the *Telecommunications (Customer Service Guarantee) Standard 2011*.

2 Commencement [see Note 1]

This instrument commences on the day it is registered on the Federal Register of Legislative Instruments.

Note All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

3 Revocation of *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)*

The *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)* is revoked.

4 Interpretation

- (1) In this instrument, unless the contrary intention appears:

Act means the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

affected customer means a customer of a carriage service provider to whom the carriage service provider is, or is likely to be, liable to pay damages under section 116 of the Act as a result of contravention by the provider of a performance standard.

alternative service means a service that provides a customer with access to a telephone service.

Note An example of an alternative service is a call diversion to a mobile telephone service or a second fixed telephone service.

building includes a structure, caravan and mobile home.

connection period means the period taken to connect a customer to a specified service in response to a request by the customer.

CSG service means an eligible telephone service supplied by a carriage service provider (including a reseller) to a customer of the provider, but does not include:

- (a) a public mobile telecommunications service; or
- (b) a satellite service;

unless that service is supplied, or offered to be supplied, to fulfil the obligation in paragraph 9 (1) (a) of the Act.

Section 4

Note A CSG service does not include sophisticated business-oriented services (for example, CVPN services and similar services) offered by carriage service providers, unless they are supplied, or offered to be supplied, to meet the obligation specified in paragraph 9 (1) (a) of the Act.

customer means:

- (a) a customer of a carriage service provider; or
- (b) a person who requests, or has requested, the connection of a specified service;

but does not include a carrier or a carriage service provider.

eligible telephone service means:

- (a) a standard telephone service; or
- (b) a carriage service that would be a standard telephone service but for the fact that it is used for a purpose other than the purpose specified in paragraph 6 (1) (a) or (b) of the Act.

enhanced call handling feature means any of the following features when activated by a carriage service provider:

- (a) call waiting (enabling a customer to receive a second call on a telephone service while engaged on a call);
- (b) call forwarding (causing a call directed to a number to be redirected to a stored number);
- (c) call barring (enabling a customer to control access to some, or all, network numbers before a call is established), but not a call barring option that a carriage service provider programs into its network;
- (d) calling number display (enabling a customer to identify the number of a calling party);
- (e) calling number display blocking (enabling a customer to prevent the display of his, her or its number to a called party).

exemption means an exemption under Part 3.

external plant facility means a facility that is:

- (a) not located in a telephone exchange; and
- (b) accessible by a carriage service provider to connect a customer of the carriage service provider to a standard telephone service.

extreme weather conditions means weather conditions that meet one or more of the criteria specified in Schedule 3.

fault or service difficulty, in relation to a specified service, means:

- (a) absence of a dial or ring tone; or
- (b) inability to make or receive calls; or
- (c) disruption to communications because of excessive noise levels; or
- (d) repetition of service cut offs; or
- (e) another condition that makes the service wholly or partly unusable; or
- (f) if the service includes an enhanced call handling feature — the feature is not operative.

Section 4

guaranteed maximum connection period is a connection period mentioned in section 8.

guaranteed maximum rectification period is a rectification period mentioned in section 11.

interim service means a service:

- (a) that provides a customer with:
 - (i) a service for voice telephony; or
 - (ii) if voice telephony is not practical for a customer with a disability — a service equivalent to a service for voice telephony; which may or may not include at the provider's discretion a data capability or any enhanced call handling feature; and
- (b) for which that customer is, or may be, charged an amount for the ongoing supply of that service at the location requested by the customer that does not exceed the amount that the customer would have been charged if the customer were supplied with a CSG service on request; and
- (c) that is supplied to a customer:
 - (i) for a period that does not exceed 6 months from the time of the customer's request for the connection of a standard telephone service; or
 - (ii) with the agreement of the customer, for a longer period.

Example of provision of an interim service

Provision of a mobile telephone service (at standard telephone service rates) to replace a standard telephone service.

performance standard means a requirement under Part 2 with which a carriage service provider must comply.

rectification period means the period taken to rectify a fault or service difficulty in a specified service, whether in response to a report by the customer or in other circumstances mentioned in Division 3 of Part 2.

remote location without infrastructure means:

- (a) a site outside a standard zone that:
 - (i) is not in close proximity to external plant facilities (being facilities used in the supply of a telephone service); or
 - (ii) is in close proximity to such facilities, where the facilities needed to supply the service do not have sufficient available capacity to support the service requested by the customer at the time of the request; or
- (b) a site that is within a standard zone (but not within an urban centre or a locality or other recognised community grouping with a population equal to or greater than 200 people) that:
 - (i) is not in close proximity to external plant facilities (being facilities used in the supply of a telephone service); or
 - (ii) is in close proximity to such facilities, where the facilities needed to supply the service do not have sufficient available capacity to support the service requested by the customer at the time of the request.

Section 4

Note Information about the current method of delimitation of urban centres and localities, and a listing of current urban centres and localities, may be found in the Australian Bureau of Statistics publication *Statistical Geography: Volume 3 – Australian Standard Geographical Classification (ASGC) Urban Centres/Localities*, 2006 Cat. No. 2909.0.

reseller means a carriage service provider who acquires a carriage service from another carriage service provider for the purpose of supplying that service to a customer.

satellite service has the same meaning as in subsection 106 (4) of the Act.

site means:

- (a) land; or
- (b) a building, or other structure, on land.

specified service means:

- (a) a CSG service; or
- (b) an enhanced call handling feature.

standard zone has the same meaning as in section 108 of the Act.

TIO means the Telecommunications Industry Ombudsman.

working day, in a location, means a day that is not a Saturday, Sunday or public holiday in the location.

Note 1 Each of the following expressions used in this instrument has the meaning given by the Act:

- approved standard marketing plan
- primary universal service provider
- service obligation
- standard telephone service
- Telecommunications Industry Ombudsman
- universal service area.
- universal service obligation

Note 2 Each of the following words and expressions used in this instrument has the meaning given by the *Telecommunications Act 1997*:

- | | |
|-----------------------------|--|
| • ACMA | • facility |
| • carriage service | • numbering plan |
| • carriage service provider | • public mobile telecommunications service |
| • carrier | |
| • communications | • telecommunications industry. |
| • connected | |

- (2) For the purposes of this instrument, if a report to, or request by a customer of, a carriage service provider that is made under a performance standard is received by the carriage service provider after 5 pm on a working day, the report or request is taken to be received by the provider on the next working day.

Part 2 Performance standards

Note 1 Section 115 of the Act provides for ACMA to make standards to be complied with by carriage service providers.

Note 2 Section 122 of the Act provides that a contravention of a standard in force under section 115 of the Act is not an offence.

Division 1 Preliminary

5 Arrangements with customers

- (1) A carriage service provider of a specified service may make arrangements with a customer of the carriage service provider for the provider:
 - (a) to connect the customer to the service; and
 - (b) to rectify faults or service difficulties for the customer.
- (2) The carriage service provider must make reasonable efforts to obtain the agreement of its customers to the terms of arrangements, particularly in regard to connection and rectification periods.
- (3) The carriage service provider must comply with arrangements, made under this section, to which it is a party.
- (4) The carriage service provider must keep a record of its arrangements and retain a copy of the record for a period of not less than 2 years.
- (5) If, when making arrangements to connect a customer to a service, or to rectify a fault or service difficulty, a carriage service provider has relied, or is likely to rely, on an exemption, the carriage service provider must inform the customer of its reliance, or likely reliance, on the exemption when making the arrangements.

Note Part 3 deals with exemptions.

6 Information to be given to customers

- (1) As soon as practicable after a carriage service provider connects a customer to a CSG service, the carriage service provider must give written information to the customer about:
 - (a) the performance standards that apply to supply of specified services; and
 - (b) the obligations of the provider under those standards; and
 - (c) the customer's entitlements to damages under section 116 of the Act for contravention of a performance standard.
- (2) The carriage service provider must, at least once in each period of 2 years, make available to its customers written information about:
 - (a) the performance standards that apply to supply of specified services; and

- (b) the obligations of the provider under those standards; and
- (c) the customers' entitlements to damages under section 116 of the Act for contraventions of those standards.

Example of information to be given to customers in writing

Publication of information in a telephone directory or as part of other general information published by the carriage service provider.

- (3) If a carriage service provider is asked by a customer of the carriage service provider for information about a performance standard, the provider must give the information to the customer.

7 Cooperation of customers with carriage service providers

- (1) A performance standard does not apply where:
 - (a) a carriage service provider has made a reasonable offer to supply the customer with an interim service or an alternative service, and the customer has refused to accept the supply of the interim service or alternative service; or
 - (b) a carriage service provider offers a customer an interim service and an alternative service, and:
 - (i) in making this offer, the carriage service provider supplies sufficient information to the customer about the functionality of each service and the terms and conditions of supply of each service to enable the customer to make an informed judgement about the relative merits of each service; and
 - (ii) the customer accepts the offer of an alternative service.
- (2) For the purposes of paragraph (1) (a), an offer by a carriage service provider to supply a customer with an alternative service is a reasonable offer if the offer:
 - (a) provides the customer with a choice between an interim service and an alternative service to enable the customer to make an informed judgment about the relative merits of both services as offered; and
 - (b) provides sufficient information about how the functionality and the terms and conditions of supply of the alternative service would be of benefit to the customer, relative to an interim service.
- (3) For the purposes of paragraph (2) (b), a carriage service provider is taken to have supplied sufficient information to a customer about the functionality of a service, and the terms and conditions of supply of that service, if the carriage service provider has supplied to the customer details of:
 - (a) any enhanced call handling features that may be supplied with the service; and
 - (b) charges payable by the customer; and
 - (c) connection timeframes; and
 - (d) the estimated period of supply of the service, taking into account the estimated time to repair or connect the service and the maximum period allowed for the supply of an interim service.

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- (4) In determining whether a carriage service provider has contravened a performance standard in relation to a customer, regard must be had to whether the customer:
 - (a) requested the carriage service provider in good faith to connect a specified service or rectify a fault or service difficulty; or
 - (b) unreasonably withheld agreement to arrangements, or an appointment, proposed by the carriage service provider; or
 - (c) missed an appointment with the provider without giving reasonable notice to the provider; or
 - (d) unreasonably refused permission to the provider to enter a site.
- (5) A carriage service provider must not, without the agreement of a customer, supply the customer with an interim service for a period exceeding 6 months from the time of the customer's request for the connection of a standard telephone service.

Division 2 Connection to specified services

8 Guaranteed maximum connection periods

- (1) The period specified in Part 2 of Schedule 1 is the *guaranteed maximum connection period* for a customer if:
 - (a) the site at which the customer requests a specified service to be connected is in close proximity to an external plant facility used to supply the service; and
 - (b) the facility has sufficient capacity available to supply the service when the request is made.
- (2) However, if subsection (1) does not apply, the *guaranteed maximum connection period* for a customer is a period determined in accordance with an approved standard marketing plan for a primary universal service provider for the universal service area in respect of a service obligation where the service is supplied or is being offered to be supplied.

Note Clause 2.4.3 of the instrument titled 'TELSTRA'S Universal Service Obligation STANDARD MARKETING PLAN' (as approved by the Australian Communications Authority on 30 October 2001 and subsequently varied) provides that, if Telstra cannot supply the standard telephone service on the date the customer requires it to be connected, Telstra will aim to supply the standard telephone service within one month (equivalent to 20 working days) from the date of the customer's request.

- (3) A carriage service provider must comply with a request by a customer for connection in the guaranteed maximum connection period unless the arrangements for the connection include provision mentioned in section 9.
- (4) A customer is not taken to have made a request mentioned in this section to a carriage service provider until the customer has given to the carriage service provider the information reasonably required by the provider for those purposes.

- (5) This section does not apply if a customer who is connected by a carriage service provider to a specified service requests another carriage service provider to supply the service.

9 Arrangements about connection periods

- (1) Arrangements to connect a customer of a carriage service provider to a specified service may provide for connection in a period that is shorter than the guaranteed maximum connection period.
- (2) Arrangements to connect a customer of a carriage service provider to a specified service may provide for connection in a period that is longer than the guaranteed maximum connection period:
- (a) if the customer wants the connection to be made on a day after the end of that period; or
- (b) if:
- (i) the carriage service provider makes an offer to the customer, and to a significant number of its other customers, to connect the service after the end of the relevant guaranteed maximum connection period; and
- (ii) the customer accepts the offer; and
- (iii) the customer would obtain a significant service benefit as a result of accepting the offer.

Example of a significant customer service benefit

A substantially cheaper price than would be charged to the customer for connecting the service in the guaranteed maximum connection period.

- (3) Before, or at the same time as, arrangements to which paragraph (2) (b) apply are made, the carriage service provider must inform the customer to the effect that:
- (a) as a result of the arrangements, the connection will be made after the end of the guaranteed maximum connection period; and
- (b) otherwise, the protection and rights under Part 5 of the Act apply in relation to supply of the service to the customer by the provider.

Division 3 Rectification of faults or service difficulties

10 Application of Division 3

This Division does not apply to a fault or service difficulty in relation to a CSG service in respect of:

- (a) call barring; or
- (b) a limitation on the making of external calls;

if the service was supplied to a customer of a carriage service provider with that feature because of the credit standing of the customer.

Section 11

11 Guaranteed maximum rectification periods

- (1) This section applies to a site at which a specified service is supplied by a carriage service provider to a customer of the carriage service provider.
- (2) If the site is in an urban centre with a population equal to or greater than 10 000 people, the guaranteed maximum rectification period ends at the end of the first full working day after the carriage service provider receives the report of a fault or service difficulty made by the customer.
- (3) Subject to sections 12 and 14, if the site is:
 - (a) an urban centre with a population less than 10 000 people; or
 - (b) a locality or other recognised community grouping with a population greater than 200 people;the guaranteed maximum rectification period ends at the end of 2 full working days after the carriage service provider receives the report of a fault or service difficulty from the customer.
- (4) Subject to sections 12 and 14, if the site is not mentioned in subsection (2) or (3), the guaranteed maximum rectification period ends at the end of 3 full working days after the carriage service provider receives the report of a fault or service difficulty from the customer.
- (5) Subject to section 14, a carriage service provider must, in the relevant guaranteed maximum rectification period, rectify a fault or service difficulty that is reported to the carriage service provider by the customer.
- (6) In this section:
 - (a) a reference to an *urban centre* is a reference to a geographic area defined as an urban centre in accordance with criteria used by the Australian Bureau of Statistics for the most recent Australian Census; and
 - (b) a reference to a *locality* is a reference to a geographic area defined as a locality in accordance with criteria used by the Australian Bureau of Statistics for the most recent Australian Census.

Note More information about the current method of delimitation of urban centres and localities, together with a listing of current urban centres and localities, may be found in the Australian Bureau of Statistics publication entitled *Statistical Geography: Volume 3 – Australia Standard Geographical Classification (ASGC) Urban Centres/Localities*, 2006 Cat. No. 2909.0.

12 Sites to which subsection 11 (3) or (4) applies

- (1) This section applies to a fault or service difficulty in relation to a specified service supplied to a customer at a site mentioned in subsection 11 (3) or (4), if:
 - (a) the fault or service difficulty can be rectified without:
 - (i) external or internal plant work; or
 - (ii) the carriage service provider attending the premises of the customer; or

- (b) the specified service has been disconnected by the carriage service provider as a result of an administrative error that does not involve damage to a facility.
- (2) The guaranteed maximum rectification period for the fault or service difficulty ends at the end of the first full working day after the carriage service provider receives a report from the customer about the fault or service difficulty.
- (3) If a person other than the customer reports on behalf of the customer a fault or service difficulty to the carriage service provider, the guaranteed maximum rectification period begins when the fault or service difficulty is reported.

13 Reports by carriage service providers of faults etc

- (1) This section applies to a carriage service provider (the *first provider*) if the carriage service provider becomes aware that:
 - (a) there is a fault or service difficulty in the network of another carriage service provider (the *second provider*); or
 - (b) an act or omission of the second provider may contribute to the first provider being wholly or partly in contravention of a performance standard.
- (2) The first provider must report a matter mentioned in subsection (1) to the second provider as soon as practicable after the first provider becomes aware of the matter.

14 Arrangements about rectification periods

Arrangements to rectify a fault or service difficulty for a customer may provide for rectification in a period:

- (a) that is shorter than the guaranteed maximum rectification period; or
- (b) that is longer than the guaranteed maximum rectification period if the customer wants the fault or service difficulty to be rectified on a day after the end of that period.

Division 4 Appointments with customers

15 Interpretation

- (1) In this Division, a reference to a customer of a carriage service provider includes a reference to someone who represents the customer.
- (2) In this Division, a reference to a proposed appointment includes a reference to an appointment that is changed in accordance with subsection 16 (4).

Section 16

16 Making and changing appointments

- (1) For the purposes of connecting a specified service or rectifying a fault or service difficulty:
 - (a) a customer of a carriage service provider may make an appointment with the carriage service provider; and
 - (b) a carriage service provider may make an appointment with a customer of the carriage service provider.
- (2) The day, and the time of day, proposed by the carriage service provider for an appointment must be convenient for the customer.
- (3) To comply with subsection (2), a carriage service provider may propose an appointment:
 - (a) for a particular time of day; or
 - (b) in the period between 2 particular times of day that are not more than 5 hours apart.
- (4) Either party to an appointment may change the day, time of day or location of the appointment:
 - (a) by giving at least 24 hours notice of the change to the other party; or
 - (b) by obtaining the agreement of the other party to the change.
- (5) A carriage service provider must keep an appointment to which the carriage service provider is a party.

17 Criteria for determining whether an appointment is kept

- (1) If a carriage service provider makes an appointment for a particular time of day, the carriage service provider is taken to have kept the appointment if the provider is present at the site of the appointment not later than 15 minutes after the time of the appointment.
- (2) If a carriage service provider makes an appointment for a period between 2 particular times of day that are not more than 4 hours apart, the carriage service provider is taken to have kept the appointment if the provider is present at the site of the appointment not later than 15 minutes after the end of the period.
- (3) If a carriage service provider makes an appointment for a period between 2 particular times of day that are more than 4, but not more than 5, hours apart, the carriage service provider is taken to have kept the appointment if the provider is present at the site of the appointment within the period.
- (4) If a carriage service provider makes an appointment for a period at a site mentioned in paragraph 202 (c) or (d) of Schedule 1 between 2 particular times of day that are more than 4, but not more than 5, hours apart, the carriage service provider is taken to have kept the appointment if:
 - (a) the provider must travel a long distance to keep the appointment; and
 - (b) the provider is present at the site of the appointment not later than 45 minutes after the end of the period.

- (5) If a carriage service provider does not keep an appointment in accordance with this section, the carriage service provider is taken to have missed the appointment.

Note Under section 7, in determining whether a carriage service provider has contravened a standard in relation to the making of an arrangement or an appointment with a customer, regard must be had to whether the customer cooperated with the carriage service provider.

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Part 3 Exemption from performance standards**18 Supply of more than 5 eligible telephone services**

- (1) If a carriage service provider supplies a customer with more than 5 eligible telephone services at one time, the carriage service provider is exempt from complying with a performance standard in relation to the supply of each of the services.
- (2) If a carriage service provider:
 - (a) is already supplying a customer with 5 eligible telephone services; and
 - (b) makes arrangements for the supply of 1 or more additional services to the customer —the carriage service provider is exempt from complying with a performance standard in relation to the supply of each of the services mentioned in paragraphs (a) and (b).

19 Maintenance and upgrades

- (1) A carriage service provider is exempt from complying with a performance standard in relation to the supply of a specified service to a customer to the extent that non-compliance with the standard is a result of maintenance or upgrading of a facility or network that is used to supply the service.
- (2) However, if an effect of non-compliance with the standard would be that a specified service is not supplied to a customer, the carriage service provider is not exempt unless the carriage service provider has given to the customer reasonable notice of the non-compliance.

Note The *Telecommunications (Emergency Call Service) Determination 2009* requires a carriage service provider who supplies an emergency telephone service to ensure that its controlled networks and controlled facilities give an end-user access to emergency call services unless it is not technically feasible to give the access or a matter beyond the control of the provider materially and adversely affects the provider's technical ability to give the access..

20 Credit standing of customers

- (1) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if:
 - (a) the customer would be lawfully obliged to pay to the provider a charge for:
 - (i) connection to the service; or
 - (ii) the use of the service; and
 - (b) the carriage service provider has reasonable grounds to believe that the customer would be unable or unwilling to pay the charge as it is due to be paid.

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- (2) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if the customer has been disconnected from the service in the following circumstances, and remains disconnected:
- (a) the carriage service provider gave to the customer written notice that the provider considers that the customer had not paid a charge for:
 - (i) connection to the service; or
 - (ii) the use of the service;
when it was due to be paid;
 - (b) the notice advised the customer that the customer could apply to the provider for reconsideration of the proposed decision to disconnect the service and, if not satisfied with the reconsidered decision, could make a complaint to the TIO about that decision;
 - (c) the notice offered the customer a period of 21 days, starting not earlier than when the customer received the notice, within which the customer could pay the charge or apply for reconsideration;
 - (d) within the period of 21 days, the customer:
 - (i) did not pay the charge; and
 - (ii) did not apply for reconsideration;
 - (e) the service was then disconnected.
- (3) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if the customer has been disconnected from the service in the following circumstances, and remains disconnected:
- (a) the carriage service provider gave to the customer the written notice mentioned in paragraph (2) (a);
 - (b) not later than 21 days after receiving the notice, the customer applied to the carriage service provider for reconsideration of the proposed decision to disconnect the service;
 - (c) the carriage service provider reconsidered the proposed decision after receiving the application for reconsideration, and confirmed the proposed decision;
 - (d) the customer did not make a complaint to the TIO about the decision on reconsideration within 7 days after receiving notice of the decision;
 - (e) the service was then disconnected.
- (4) A carriage service provider is exempt from complying with a performance standard in relation to connection of a customer to a specified service if the customer has been disconnected from the service in the following circumstances, and remains disconnected:
- (a) the carriage service provider gave to the customer the written notice mentioned in paragraph (2) (a);
 - (b) the carriage service provider reconsidered the proposed decision to disconnect the service in accordance with paragraph (3) (c), and confirmed the proposed decision;

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- (c) the customer made a complaint to the TIO about the decision on reconsideration within 7 days after receiving notice of the decision;
- (d) the TIO gave a direction about the complaint that had the effect of confirming the decision;
- (e) the service was then disconnected.

21 Circumstances beyond the control of carriage service providers

- (1) A carriage service provider is exempt from complying with a performance standard to the extent that non-compliance with the standard is a result of:
 - (a) circumstances beyond the control of the carriage service provider; or
 - (b) the need to move staff or equipment to an area affected by circumstances beyond the control of the provider.

Note An exemption under subsection (1) operates on a provisional level from the time at which the provider first seeks to rely on it. The exemption will cease to be available if the carriage service provider fails to comply with the notification requirements in either subsection 23 (1) or 24 (1). See section 22.

- (2) Circumstances beyond the control of the provider may include (but are not limited to) the following circumstances:
 - (a) damage to a facility of the carriage service provider that is not caused by the carriage service provider;
 - (b) a natural disaster that:
 - (i) causes mass outages of specified services; and
 - (ii) restricts connection to a specified service or rectification of a fault or service difficulty;
 - (c) extreme weather conditions that:
 - (i) cause mass outages of services; and
 - (ii) restrict connection to a specified service or rectification of a fault or service difficulty;
 - (d) the carriage service provider is requested by a public authority to provide emergency communications services to assist in emergency action, and the provision of those services restricts connection to a specified service or rectification of a fault or service difficulty;
 - (e) the carriage service provider is prevented from connecting a specified service, or rectifying a fault or service difficulty, because the provider is unable to obtain lawful access to land or a facility;
 - (f) a law of the Commonwealth, or of a State or a Territory, otherwise prevents the carriage service provider from complying with the performance standard.
- (3) However, a carriage service provider is not exempt from compliance with the performance standard to the extent that:
 - (a) the non-compliance is due wholly or partly to the act or omission of another carriage service provider; and

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- (b) the exemption does not apply to the other carriage service provider.
- (4) Also, a carriage service provider is not exempt from compliance with the performance standard unless the carriage service provider has procedures in place to ensure that the provider does not rely on the exemption in circumstances that are not beyond the control of the provider.
- (5) In paragraph (2) (d):
 - public authority** means:
 - (a) the Commonwealth or a State or Territory; or
 - (b) a Commonwealth, State or Territory authority, including:
 - (i) a police force or service; and
 - (ii) a fire service; and
 - (iii) an ambulance service; and
 - (iv) a local government authority.

22 Provisional exemption under section 21

- (1) A carriage service provider is taken to be exempt, on a provisional basis, from complying with a performance standard to the extent described in subsection 21 (1) during the period:
 - (a) starting when the provider first seeks to rely on the exemption; and
 - (b) ending when the provider first complies with subsection 23 (1), or complies with subsection 24 (1).
- (2) However, if the carriage service provider does not comply with either of sections 23 and 24:
 - (a) section 21 ceases to apply to the provider in relation to the provider's non-compliance with the performance standard; and
 - (b) the exemption under section 21 is taken never to have applied to the provider in relation to the provider's non-compliance with the performance standard.

Note Sections 23 and 24 provide different ways in which a carriage service provider may notify customers and/or ACMA.

- (3) If the provider complies with subsection 23 (1) or 24 (1):
 - (a) section 21 continues to apply to the provider in relation to the provider's non-compliance with the performance standard; and
 - (b) the exemption is taken not to be on a provisional basis from the time at which the provider complies with the subsection; and
 - (c) the provider may describe itself as having claimed the exemption.

Note Sections 23 and 24 provide different ways in which a carriage service provider may notify customers and/or ACMA.

Section 23**23 Notice to particular customers of provisional exemption under section 21**

- (1) A carriage service provider who is taken to be exempt, on a provisional basis, from complying with a performance standard to the extent described in subsection 21 (1) must give each customer to whom the exemption relates:
- (a) a statement in writing stating:
 - (i) the fact that the exemption is available to the provider under section 21; and
 - (ii) the grounds on which the exemption is based; and
 - (iii) if practicable, an estimate by the provider of the period of time for which the exemption will exist; and
 - (iv) the entitlement of the customer to dispute the exemption by:
 - (A) requesting the provider to reconsider whether the grounds mentioned in subparagraph (ii) are a proper basis for the exemption; and
 - (B) complaining to the TIO; and
 - (v) how a customer may contact the provider in relation to the exemption; and
 - (b) if the exemption relates to extreme weather conditions that cause mass outages of specified services and restrict connection to a specified service or rectification of a fault or service difficulty — evidence, in writing, that the weather conditions meet one or more of the criteria specified in Schedule 3.
- Note* For **extreme weather conditions** — see subsection 4 (1).
- (2) The carriage service provider must give the statement mentioned in paragraph (1) (a), and the evidence mentioned in paragraph (1) (b) (if applicable), to a customer:
- (a) if the grounds on which the exemption is based relate to circumstances mentioned in paragraph 21 (2) (e) or (f) — as soon as practicable, but in any event not later than 14 weeks after the first day on which the exemption becomes available to the provider under section 21; and
 - (b) in any other case — as soon as practicable, but in any event not later than 10 working days after the first day on which the exemption becomes available to the provider under section 21.
- (3) In estimating, for the purposes of subparagraph (1) (a) (iii), the period of time for which the exemption will exist, the carriage service provider must have regard to the following:
- (a) the effect, on the ability of the provider to comply with the relevant performance standard, of the circumstances that relate to the grounds on which the exemption is based;
 - (b) the resources that the provider would have to commit, proportionate to that effect, to:
 - (i) mitigate the consequences of the circumstances; and
 - (ii) minimise the duration of the circumstances.

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- (4) A customer of a carriage service provider is not prevented from disputing an exemption only because the provider has complied with this section.

24 General notice of exemptions

- (1) A carriage service provider who is taken to be exempt, on a provisional basis, from complying with a performance standard to the extent described in subsection 21 (1) is not required to comply with section 23 if the carriage service provider:
- (a) as soon as practicable, but in any event not later than 9 working days after the first day on which the exemption becomes available to the provider under section 21, requests a publisher to publish the notice mentioned in subsection 25 (1); and
 - (b) as soon as practicable, but in any event not later than 8 working days after the first day on which the exemption becomes available to the provider under section 21, gives to ACMA and the TIO:
 - (i) a copy of the notice; and
 - (ii) the telephone numbers of customers to whom the exemption relates; and
 - (c) as soon as practicable, but in any event not later than 8 working days after the first day on which the exemption becomes available to the provider under section 21, provides on the internet the information that is published in the notice; and
 - (d) as soon as practicable, but in any event not later than 9 working days after the first day on which the exemption becomes available to the provider under section 21, gives each of its resellers who has customers likely to be affected by the exemption, a copy of the notice.

Note Subsection 118A (1) of the Act provides that if a carriage service provider (the *first provider*) contravenes a standard in force under section 115 of the Act and the contravention is wholly or partly attributable to one or more acts or omissions of another carriage service provider (the *second provider*), the second provider may be liable to pay damages to the first provider for the acts or omissions.

- (2) If the carriage service provider is a reseller, the reseller may comply with paragraphs (1) (a), (b) and (c) by taking the action required as soon as practicable, but in any event not later than 2 working days after the day when the reseller receives notice from the carriage service provider from whom it acquires the service (the *supplier*) that an exemption is available to the supplier under section 21.

Note It would be sufficient, for compliance with paragraph (1) (a), for a notice published by the reseller to make reference to the notice published by the supplier.

- (3) As soon as practicable after a carriage service provider becomes aware that information given to ACMA and the TIO under paragraph (1) (b) is no longer current, or is otherwise inaccurate, the carriage service provider must:
- (a) give revised information (including a copy of any revision of a notice mentioned in subsection 25 (1)) to ACMA and the TIO in writing; and

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- (b) if there is a revision of a notice mentioned in subsection 25 (1):
 - (i) give a copy of the revision to each of its resellers who has customers likely to be affected by the exemption; and
 - (ii) provide on the internet the information that is contained in the revision.

25 Public notification

- (1) For the purposes of paragraph 24 (1) (a), a carriage service provider must publish a notice in at least 1 edition of a daily newspaper circulating, if a customer to whom the exemption relates usually resides:
 - (a) in the capital of a State or Territory, in the capital; and
 - (b) in a region of a State or Territory outside the capital, in that region.
- (2) The notice must contain at least:
 - (a) the information referred to in subparagraphs 23 (1) (a) (i), (ii), (iii), (iv) and (v) and paragraph 23 (1) (b) (if applicable); and
 - (b) the specified services to which, and the ranges of telephone numbers of customers to whom, the exemption relates; and
 - (c) the approximate number of affected customers; and
 - (d) the district, local government area, suburb or town in which the exemption applies; and
 - (e) if the exemption only applies in a part of the area of a district, local government area, suburb or town — the roads bounding that area; and
 - (f) information about how the customer may contact the carriage service provider in relation to the exemption.
- (3) Each notice must display a unique numeric or alphanumeric identifier of the circumstances to which the exemption relates.
- (4) A carriage service provider must, on request by a customer of the carriage service provider, give to the customer a copy of a notice under this section.
- (5) For paragraph (2) (a), the notice will be taken to contain the information referred to in paragraph 23 (1) (b) if the notice contains the address of an Internet website:
 - (a) that is accessible by each customer of the carriage service provider; and
 - (b) on which the information referred to in paragraph 23 (1) (b) is made available.

26 Cessation of exemptions

A carriage service provider ceases to be exempt from a performance standard:

- (a) if the circumstances to which the exemption relates are mentioned in section 18, 19 or 20 — when the circumstances cease to apply; or
- (b) if the circumstances to which the exemption relates are mentioned in section 21 — when the circumstances are no longer beyond the control of the carriage service provider.

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27 Review of circumstances of certain exemptions

As regularly as practicable, a carriage service provider to which an exemption is available under section 21 must review the grounds on which the exemption is based to ensure that the estimated duration of the exemption is no longer than necessary.

28 Temporary exemptions

- (1) A carriage service provider may apply to ACMA for a temporary exemption from compliance with performance standards.
- (2) An application must:
 - (a) be in writing; and
 - (b) describe the geographic area for which the exemption is sought; and
 - (c) state the period for which the exemption is sought; and
 - (d) give details of the current number of CSG services the provider supplies in the geographic area for which the exemption is sought; and
 - (e) give details of the number of CSG services the provider estimates it will supply in the geographic area for which the exemption is sought at the end of the period for which the exemption is sought; and
 - (f) give any additional information requested by ACMA so that it can determine the application.
- (3) ACMA may only grant a temporary exemption to a carriage service provider that applies under this section if it is satisfied that:
 - (a) the provider is not a primary universal service provider; and
 - (b) the provider has a small share in the market for CSG services in the geographic area for which the exemption is sought; and
 - (c) the proposed exemption is likely to result in a net benefit to end-users in the geographic area for which the exemption is sought.
- (4) In deciding whether the proposed exemption is likely to result in a net benefit to end-users in the geographic area for which the exemption is sought, ACMA must consider the following matters:
 - (a) the extent to which the proposed exemption would lower the cost of entering or competing in the market for CSG services in the geographic area;
 - (b) the extent to which the proposed exemption would be likely to promote sustainable competition for CSG services nationally and in the geographic area;
 - (c) the extent to which the proposed exemption would be likely to result in service improvements for end-users, including lower prices, increased quality of service and increased choice of service;
 - (d) the number of CSG services affected, or likely to be affected, by the proposed exemption;
 - (e) the proportion of the market for CSG services in that area likely to be affected by the proposed exemption;

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- (f) the proportion of the market for CSG services in Australia generally likely to be affected by the proposed exemption;
 - (g) the proposed exemption period;
 - (h) any other matters that ACMA thinks relevant.
- (5) The grant of a temporary exemption:
- (a) must be in writing; and
 - (b) must describe the geographic area for which the exemption is granted; and
 - (c) must state the period for which the exemption is granted; and
 - (d) must not be for more than 5 years; and
 - (e) may be subject to conditions, including conditions about when the exemption will end; and
 - (f) must be subject to a condition that the provider must comply with subsection (8).
- (6) For paragraph (5) (c), the period for which the exemption is granted may differ from the period specified in the application.
- (7) A temporary exemption:
- (a) takes effect from the date that it is granted or a date specified in the grant, whichever is the later; and
 - (b) does not affect any right, obligation or liability that arose before the exemption took effect.
- (8) A carriage service provider that has been granted a temporary exemption must notify those customers to whom it supplies a CSG service within the geographic area described in the exemption (including prospective customers), and who are likely to be affected by the exemption, of the following matters:
- (a) that the provider has been granted a temporary exemption from the performance standards by ACMA;
 - (b) a summary of the performance standards;
 - (c) the protection and rights of a customer that would be foregone if the customer entered into a contract for the supply of a CSG service with the provider;
 - (d) the period for which the exemption has been granted;
 - (e) the geographic area to which the exemption applies;
 - (f) how a customer (including a prospective customer) can get more information about a temporary exemption and its effect on the protection and rights of a customer.
- (9) For subsection (8), the notification must:
- (a) be given to a customer by the provider before the customer enters into a contract with the provider for the supply of a CSG service; and
 - (b) be included in the contract for supply of a CSG service; and
 - (c) be made available on the Internet; and
 - (d) be made available to any person on request.

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- (10) ACMA may, on application by or on behalf of a carriage service provider, renew a temporary exemption for a further period of up to 5 years.
- (11) This section applies to an application to renew a temporary exemption in the same way that it applies to an application for a temporary exemption.

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Part 4 Damages

Note Section 117 of the Act provides that ACMA may specify a scale of damages for contravention of standards under section 115 of the Act.

29 Categories of contraventions and damages

The categories of contravention of performance standards, and the damages payable for each category of contravention, are set out in Part 2 of Schedule 2.

Part 5 Waiver of protection and rights by customers

Note Subsection 120(1) of the Act provides that the ACMA may, by written instrument, make provision for customers of carriage service providers to waive, in whole or in part, their protection and rights under Part 5 of the Act in relation to a particular carriage service supplied, or proposed to be supplied, by the carriage service provider concerned.

30 Application

This Part does not apply in relation to a particular standard telephone service supplied, or proposed to be supplied, by the carriage service provider concerned if the service is supplied, or proposed to be supplied, in fulfilment of the universal service obligation.

Note Subsection 120(7) of the Act provides that a customer is not entitled to waive, in whole or in part, the customer's protection and rights under Part 5 of the Act in relation to a particular standard telephone service supplied, or proposed to be supplied, by the carriage service provider concerned if the service is supplied, or proposed to be supplied, in fulfilment of the universal service obligation.

31 Waivers

- (1) Subject to section 30, a customer is entitled to waive, in whole or in part, their protection and rights under Part 5 of the Act in relation to a particular carriage service supplied, or proposed to be supplied, by a carriage service provider to the customer.
- (2) For subsection 120(4) of the Act, two forms of waiver are specified:
 - (a) waivers in writing;
 - (b) oral waivers.

Waivers in writing

- (3) For paragraph (2)(a), a customer may waive their protection and rights under Part 5 of the Act in writing, if:
 - (a) immediately before the time at which the customer consents to waiving their protection and rights, the carriage service provider gives the customer the information specified in subsection (5) in writing;
 - (b) the writing has a prominent title containing the word 'waiver';
 - (c) the carriage service provider records the customer's written consent to the waiver including the date of the consent; and
 - (d) the written consent includes a statement that the customer understands the consequences of the waiver.

Note 1 Subsection 120(6) of the Act provides that a waiver must not be set out in a standard form of agreement formulated by a carriage service provider for the purposes of section 479 of the *Telecommunications Act 1997*.

Note 2 Information in writing can be given to a customer electronically, such as where it is displayed on a website as part of an online sign-up process used to enter into an agreement for the supply of a carriage service to the customer.

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Note 3 A customer may give written consent to a waiver electronically, including as part of an online sign-up process used to enter into an agreement for the supply of a carriage service to the customer.

Oral waivers

- (4) For paragraph (2)(b), a customer may waive their protection and rights under Part 5 of the Act by way of an oral waiver, if:
- (a) immediately before the time at which the customer consents to waiving their protection and rights, the carriage service provider:
 - (i) gives the customer the information in paragraphs (5)(d), (5)(e) and (5)(f);
 - (ii) informs the customer of its obligation to give a written statement under subsection (7);
 - (iii) informs the customer of the customer's right to withdraw consent to the waiver in the period mentioned in paragraph (8)(b); and
 - (b) the carriage service provider records the customer's oral consent to the waiver including the date of the consent.

Information to be given

- (5) The following information must be given to the customer in the manner and at the times specified in this section:
- (a) a description of the carriage service to which the waiver applies;
 - (b) the date when the waiver takes effect;
 - (c) the carriage service provider's name and contact details;
 - (d) an explanation of the protection and rights afforded to a customer under this instrument;
 - (e) a statement summarising the consequences of the waiver in relation to the particular carriage service to which the waiver applies; and
 - (f) a statement that the customer is under no obligation to consent to the waiver.

Summary of consequences of waiver

- (6) For paragraph (5)(e), a statement summarising the consequences of the waiver is a statement of the protection and rights under Part 5 of the Act that would be retained, and those that would be forgone, as a result of the waiver, and which, at a minimum, includes:
- (a) the performance standards that will apply to the carriage service, and those that will not apply, as a result of the waiver; and
 - (b) whether or not, as a result of the waiver, the customer will retain, or forgo, the customer's right to damages for contraventions of the performance standards that apply to the carriage service.

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Written statement for oral waivers

- (7) If the customer's consent to a waiver is procured under subsection (4), the carriage service provider must, within 3 working days after the customer consents to the waiver, give to the customer a written statement which:
- (a) has a prominent title containing the word 'waiver'; and
 - (b) contains the information specified in paragraphs (5)(a) to (5)(e).

Date when waiver takes effect

- (8) A waiver takes effect:
- (a) in the case of a waiver procured under subsection (3), on the day on which the customer consents to the waiver; or
 - (b) in the case of a waiver procured under subsection (4), 5 working days after the day on which the customer consents to the waiver under that subsection, unless, before the end of that period, the customer withdraws their consent to the waiver.

32 Record keeping

- (1) Carriage service providers must keep a copy of a record of a customer's waiver in accordance with subsections (2) and (3) for a minimum period of 2 years from the day on which the waiver takes effect.
- (2) In the case of a waiver procured under subsection 31(3), a record of a customer's waiver must include:
- (a) the customer's name and contact details;
 - (b) a record of the customer's consent to the waiver including the date of the consent; and
 - (c) the information specified in subsection 31(5).
- (3) In the case of a waiver procured under subsection 31(4), a record of a customer's waiver must include:
- (a) the customer's name and contact details;
 - (b) a record of the customer's consent to the waiver including the date of the consent; and
 - (c) a copy of the written statement given to the customer under subsection 31(7).

Note A record may be stored electronically.

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Part 6 Transitional arrangements

32 Definitions for Part 6

In this Part:

commencement day means the day on which the *Telecommunications (Customer Service Guarantee) Amendment Standard 2006 (No. 1)* commenced.

former Standard means the *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)* as in force immediately before the day on which the new Standard commences.

new Standard means the *Telecommunications (Customer Service Guarantee) Standard 2011*.

pre-31 October 2006 Standard means the *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)* as in force immediately before the commencement day.

33 Exemptions relied upon under pre-31 October 2006 Standard

- (1) If:
 - (a) a carriage service provider relied on an exemption under the pre-31 October 2006 Standard before the commencement day; and
 - (b) the provider had complied with section 23 or 24 of that Standard before the commencement day; and
 - (c) the exemption was still available to the provider immediately before the commencement day;subsection 22 (3) of the new Standard is taken to apply in relation to the provider.
- (2) In addition to subsection (1), the provider may describe itself as having claimed the exemption in accordance with paragraph 22 (3) (c) of the new Standard.
- (3) If:
 - (a) a carriage service provider relied on an exemption under the pre-31 October 2006 Standard before the commencement day; and
 - (b) the provider had not complied with section 23 or 24 of that Standard before the commencement day; and
 - (c) the exemption was still available to the provider immediately before the commencement day;section 22 of the new Standard applies in relation to the exemption.

34 Exemptions relied upon under former Standard

- (1) If, before the commencement of the new Standard:
 - (a) a carriage service provider was, by reason of subsection 22A(1) of the former Standard, taken to be exempt, on a provisional basis, from complying with a performance standard in the former Standard to the extent described in subsection 22(1) of the former Standard;
 - (b) the provider had not complied with section 23 or 24 of the former Standard; and
 - (c) the exemption had not ceased by reason of paragraph 26(b) of the former Standard;sections 21 and 22 of the new Standard are taken to apply in relation to the provider.
- (2) If, before the commencement of the new Standard:
 - (a) a carriage service provider was, by reason of subsection 22A(1) of the former Standard, taken to be exempt, on a provisional basis, from complying with a performance standard in the former Standard to the extent described in subsection 22(1) of the former Standard;
 - (b) the provider had complied with section 23 or 24 of the former Standard; and
 - (c) the exemption had not ceased by reason of paragraph 26(b) of the former Standard;section 21 and subsection 22(3) of the new Standard are taken to apply in relation to the provider.

35 General notice of exemptions under former Standard

If, before the commencement of the new Standard, a carriage service provider had complied with the requirement in paragraph 24(1)(b) of the former Standard to provide certain information to the ACMA and the TIO, subsection 24(3) of the new Standard applies to the provider as if that information had been provided to the ACMA and the TIO under paragraph 24(1)(b) of the new Standard.

36 Contraventions and damages payable under pre-31 October 2006 Standard

- (1) If a contravention set out in column 2 of item 201, 202, 203 or 204 of Part 2 of Schedule 2 to the pre-31 October 2006 Standard (a *delay*) occurred, or first occurred, before the commencement day, the damages payable in relation to the contravention are to be worked out as if:
 - (a) the pre-31 October 2006 Standard had not been amended by the *Telecommunications (Customer Service Guarantee) Amendment Standard 2006 (No. 1)*; and
 - (b) the former Standard had not been revoked by the new Standard.

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- (2) If a contravention set out in column 2 of item 205 of Part 2 of Schedule 2 to the pre-31 October 2006 Standard occurred before the commencement day, the damages payable in relation to the contravention are to be worked out as if:
- (a) the pre-31 October 2006 Standard had not been amended by the *Telecommunications (Customer Service Guarantee) Amendment Standard 2006 (No. 1)*; and
 - (b) the former Standard had not been revoked by the new Standard.

37 Contraventions and damages payable under former Standard

If:

- (a) a contravention of the former Standard occurred, or first occurred, before the commencement of the new Standard;
- (b) the contravention is not of a kind to which section 36 applies;
- (c) the contravention relates to a particular customer; and
- (d) damages were not paid to the customer in relation to the contravention, before the commencement of the new Standard;

the former Standard applies in relation to the contravention, and damages payable to the customer in relation to the contravention are to be worked out in accordance with the former Standard.

Part 7 Transitional arrangements for amendments to Part 5

38 Definitions for Part 7

In this Part:

amendment day means the day on which the *Telecommunications (Customer Service Guarantee) Amendment Standard 2011 (No. 1)* commences.

former waiver provisions means Part 5 of the *Telecommunications (Customer Service Guarantee) Standard 2011* as in force immediately before the amendment day.

39 Waivers under the former waiver provisions

- (1) If:
 - (a) a customer waived their protection and rights under Part 5 of the Act before the amendment day;
 - (b) the waiver was given in accordance with the former waiver provisions; and
 - (c) the waiver was in effect immediately before the amendment day, the former waiver provisions apply to the waiver.
- (2) If:
 - (a) a customer accepts a proposal made under subsection 31(1) of the former waiver provisions before the amendment day; and
 - (b) the period of 7 days referred to in subsection 31(4) of the former waiver provisions does not expire before the amendment day, section 31 of the former waiver provisions applies in relation to the waiver.

Schedule 1 Guaranteed maximum connection periods — sites in close proximity to external plant facilities

(subsection 8 (1))

Part 1 Interpretation

101 References to in-place connections

A reference in Part 2 of this Schedule to an in-place connection is a reference to the connection of a specified service at a site where a previous working CSG service:

- (a) has been cancelled; and
- (b) is available for automatic reconnection or reactivation by a carriage service provider.

102 References to geographic areas

- (1) A reference in Part 2 of this Schedule to an urban centre is a reference to a geographic area defined as an urban centre in accordance with criteria used by the Australian Bureau of Statistics for the most recent Australian Census.
- (2) A reference in Part 2 of this Schedule to a locality is a reference to a geographic area defined as a locality in accordance with criteria used by the Australian Bureau of Statistics for the most recent Australian Census.

Note More information about the current method of delimitation of urban centres and localities, together with a listing of current urban centres and localities, may be found in the Australian Bureau of Statistics publication entitled *Statistical Geography: Volume 3 – Australia Standard Geographical Classification (ASGC) Urban Centres/Localities*, 2006 Cat. No. 2909.0.

Part 2 Guaranteed maximum connection periods

201 Sites with in-place connections

If a site at which a customer requests a carriage service provider to connect a specified service has an in-place connection, the guaranteed maximum connection period is 2 working days after the carriage service provider receives the request.

202 Other sites

If item 201 does not apply, the guaranteed maximum connection period is:

- (a) if the site at which a customer requests a carriage service provider to connect a specified service is in an urban centre with a population

equal to or greater than 10 000 people — not later than 5 working days after the carriage service provider receives the request; and

- (b) if the site at which a customer requests a carriage service provider to connect a specified service is in an urban centre or other recognised community grouping with a population greater than 2 500 but less than 10 000 — not later than 10 working days after the carriage service provider receives the request; and
- (c) if the site at which a customer wishes a specified service to be connected is within an urban centre, locality or other recognised community grouping with a population greater than 200 but not more than 2 500 — within 15 working days of the customer's request; and
- (d) if paragraphs (a), (b) and (c) do not apply to the site at which a customer wishes a specified service to be connected — within 15 working days of the customer's request.

Schedule 2 Categories of contravention of performance standards and damages

(section 29)

Part 1 Interpretation

101 References to delays

- (1) A reference in Part 2 of this Schedule to a delay is a reference to a contravention of a performance standard for a specified service by:
 - (a) exceeding the guaranteed maximum connection period specified in the performance standard; or
 - (b) exceeding the guaranteed maximum rectification period specified in the performance standard; or
 - (c) if a carriage service provider and a customer of the carriage service provider arranged for a specified service to be connected, or for a fault or service difficulty to be rectified, on or by a particular day or in a particular period — not complying with those arrangements.
- (2) However, a reference to a delay in Part 2 of this Schedule is not a reference to a contravention of a performance standard for a specified service if a carriage service provider provides the customer with an interim service for the duration of the delay.

102 References to residential/charity customers

A reference in Part 2 of this Schedule to a residential/charity customer is a reference to:

- (a) a residential customer; or
- (b) a customer that is a charitable or welfare organisation.

103 References to business customers

A reference in Part 2 of this Schedule to a business customer is a reference to a customer except a residential/charity customer.

Part 2 Contraventions and damages

Item	Contraventions	Damages
201	Delay in connecting a CSG service, whether or not the service includes an enhanced call handling feature	<p>The damages payable, for each working day of delay, to the customer who requested the connection are:</p> <ul style="list-style-type: none">(a) in the first 5 working days of delay:<ul style="list-style-type: none">(i) if the customer is a residential/charity customer — \$14.52; and(ii) if the customer is a business customer — \$24.20; and(b) after the first 5 working days of delay — \$48.40
202	Delay in connecting an enhanced call handling feature to an existing CSG service	<p>The damages payable, for each working day of delay, to the customer who requested the connection are:</p> <ul style="list-style-type: none">(a) in the first 5 working days of delay, if 2 or more features have not been connected:<ul style="list-style-type: none">(i) if the customer is a residential/charity customer — \$14.52; and(ii) if the customer is a business customer — \$24.20; and(b) in the first 5 working days of delay, if paragraph (a) does not apply:<ul style="list-style-type: none">(i) if the customer is a residential/charity customer — \$7.26; and(ii) if the customer is a business customer — \$12.10; and(c) after the first 5 working days of delay:<ul style="list-style-type: none">(i) if 2 or more features have not been connected — \$48.40; and(ii) if subparagraph (i) does not apply — \$24.20
203	Delay in rectifying a fault or service difficulty of a CSG service, whether or not the service includes an enhanced call handling feature	<p>The damages payable, for each working day of delay, to the customer whose service required rectification are:</p> <ul style="list-style-type: none">(a) in the first 5 working days of delay:<ul style="list-style-type: none">(i) if the customer is a residential/charity customer — \$14.52; and(ii) if the customer is a business customer — \$24.20; and(b) after the first 5 working days of delay — \$48.40

Item	Contraventions	Damages
204	Delay in rectifying a fault or service difficulty of an enhanced call handling feature of a CSG service that does not prevent operation of the service	<p>The damages payable, for each working day of delay, to the customer whose service required rectification are:</p> <ul style="list-style-type: none">(a) in the first 5 working days of delay, if 2 or more enhanced call handling features have not been rectified:<ul style="list-style-type: none">(i) if the customer is a residential/charity customer — \$14.52; and(ii) if the customer is a business customer — \$24.20; and(b) in the first 5 working days of delay, if paragraph (a) does not apply:<ul style="list-style-type: none">(i) if the customer is a residential/charity customer — \$7.26; and(ii) if the customer is a business customer — \$12.10; and(c) after the first 5 working days of delay:<ul style="list-style-type: none">(i) if 2 or more features have not been rectified — \$48.40; and(ii) if subparagraph (i) does not apply — \$24.20
205	Missing an appointment on a day that is not a day in relation to which damages calculated in accordance with item 201, 202, 203 or 204 are payable	<p>The damages payable, for each missed appointment, to the customer with whom the appointment was made are:</p> <ul style="list-style-type: none">(a) if the customer is a residential/charity customer — \$14.52; and(b) if the customer is a business customer — \$24.20

Schedule 3 **Criteria for extreme weather conditions**

(subsection 4 (1), definition of ***extreme weather conditions***)

1. Large hail, being hail with a diameter of at least 2 centimetres.
2. Heavy rainfall, being rainfall that exceeds the 10 year average recurrence interval (ARI) (the rainfall amount that has a probability of 10% or less of being exceeded in a year over a given duration).
3. Flash flood, being a reported flash flood, or reported heavy rainfall that is conducive to flash flooding.
4. Hazardous winds, being gale force winds (10 minute mean winds of at least 63 kilometres per hour) or gusts of wind of at least 90 kilometres per hour.
5. Lightning, being ‘cloud to ground’ lightning strikes.
6. Blizzard, being gale force winds (10 minute mean winds of at least 63 kilometres per hour) combined with falling or blowing snow that reduces visibility to less than 200 metres.
7. Tornado.
8. Large waves, being unusually large surf waves (surf exceeding 5 metres) expected to cause dangerous conditions on the coast and leading to significant beach erosion.
9. Storm tides, being abnormally high tides caused by winds and expected to exceed highest astronomical tide.

Table of Instruments

Notes to the *Telecommunications (Customer Service Guarantee) Standard 2011***Note 1**

The *Telecommunications (Customer Service Guarantee) Standard 2011* (in force under sections 115, 117 and 120 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*) as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

Title	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
<i>Telecommunications (Customer Service Guarantee) Standards 2011</i>	11 Mar 2011 (see F2011L00413)	11 Mar 2011	
<i>Telecommunications (Customer Service Guarantee) Amendment Standards 2011 (No. 1)</i>	22 Aug 2011 (see F2011L01704)	1 Oct 2011	S. 4

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
Note 1 to s. 4.....	am. 2011 No. 1
Part 5	
Part 5	rs. 2011 No. 1
S. 30.....	rs. 2011 No. 1
S. 31.....	rs. 2011 No. 1
S. 32 (first occurring).....	ad. 2011 No. 1
Part 7	
Part 7	ad. 2011 No. 1
S. 38.....	ad. 2011 No. 1
S. 39.....	ad. 2011 No. 1

Table A

Table A Application, saving or transitional provisions

Telecommunications (Customer Service Guarantee) Amendment Standard 2011 (No. 1)

4 Application

The amendments to Part 5 of the *Telecommunications (Customer Service Guarantee) Standard 2011* specified in Schedule 1 apply in relation to waivers given after the commencement of this instrument.
