

## **EXPLANATORY STATEMENT**

**Prepared by the Australian Communications and Media Authority**

### ***Telecommunications Numbering Plan 2015***

#### **Purpose**

The Australian Communications and Media Authority (the ACMA) has made the *Telecommunications Numbering Plan 2015* (the Numbering Plan 2015) to replace the *Telecommunications Numbering Plan 1997* (Numbering Plan 1997). While significant structural changes have been made, the substantive content of the Numbering Plan 2015 largely replicates the requirements of the Numbering Plan 1997. The Numbering Plan 2015 incorporates changes that:

- address the impending sunset of two numbering declaration instruments made under the Numbering Plan 1997;
- streamline the application and decision-making processes that were set out in the Numbering Plan 1997, to better facilitate the efficient performance of the ACMA's numbering functions;
- remove number types that are no longer necessary to include in the plan (specifically internal numbers);
- deal with the allocation of mobile network codes;
- introduce over-the-counter sales, to members of the public, of enhanced rights of use for particular types of freephone and local rate numbers (known as smartnumbers); and
- make the Numbering Plan easier to understand and consistent with best drafting practice.

The *Telecommunications Numbering Plan Declaration 2000* and the *Telecommunications Numbering Plan Declaration 2004* (collectively referred to as the Declarations) are made under section 3.39 of the Numbering Plan 1997 and are due to sunset (i.e. to be automatically repealed) on 1 April 2015, by operation of Part 6 of the *Legislative Instruments Act 2003* (LIA). The Declarations form an essential part of the numbering arrangements under the Numbering Plan 1997, as they set out the freephone, local rate and premium rate numbers that are available to be allocated under the Numbering Plan 1997.

In order to ensure the smooth transition from the arrangements for numbering allocation, transfer, surrender and withdrawal under the Numbering Plan 1997 to the new arrangements under the Numbering Plan 2015, most of the substantive provisions of the Numbering Plan 2015 (sections 5 to 135 and the Schedules, including the provisions repealing the Numbering Plan 1997) will commence on a later date to be set by the ACMA by legislative instrument, or at the latest on 1 October 2015 (the day on which the Numbering Plan 1997 is scheduled to sunset). Until that time the Numbering Plan 1997 remains in effect.

For this reason, the operative provisions of the Declarations must continue to be in force until the repeal of the Numbering Plan 1997 takes effect. However, these Declarations will not be required after that time, as they will not be required under the Numbering Plan 2015.

Therefore, the Numbering Plan 2015 includes a transitional provision (section 136) that ensures that between 1 April 2015 and the date that the Numbering Plan 1997 is repealed, references to declarations in force under section 3.39 of the Numbering Plan 1997 will be read as if they referred to the Declarations that were in force immediately before 1 April 2015. This will enable the effect of the Declarations to continue until the Numbering Plan 1997 is repealed and replaced by the new regulatory arrangements.

### **Legislative provisions**

Under subsection 455(1) of the *Telecommunications Act 1997* (the Act) the ACMA must, by legislative instrument, make a plan for the numbering of carriage services in Australia and the use of numbers in connection with the supply of such services. This numbering plan must *specify* the numbers that are for use in connection with the supply of carriage services to the public in Australia and may also set out rules about the *allocation* of numbers to carriage service providers, the transfer of allocated numbers between carriage service providers, the surrender or withdrawal of allocated numbers, the portability of allocated numbers, and the use of allocated numbers in connection with the supply of carriage services to the public (including rules about the *issue* of allocated numbers to customers)<sup>1</sup>.

Accordingly, the ACMA's predecessor agency, the Australian Communications Authority, made the Numbering Plan 1997 in December 1997.

The ACMA makes the Numbering Plan 2015 under subsection 455(1) to replace and update the Numbering Plan 1997.

In making the Numbering Plan 2015, the ACMA must have regard to two matters under subsection 455(10) of the Act:

- the obligations imposed on carriage service providers by Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to provide continued access to untimed local calls (see paragraph 455(10)(a) of the Act). The ACMA considers the manner in which geographic numbers are specified for use (see Part 1 of Chapter 3 of the Numbering Plan 2015) is consistent with these obligations;
- recognised international standards (see paragraph 455(10)(b)). The ACMA has, in making the Numbering Plan 2015, had regard to relevant recognised international standards, such as recommendations made by the International Telecommunication Union, including ITU-T E.164 'The international public telecommunications numbering plan', ITU-T Q.708 'Assignment procedures for international signalling point codes', and ITU-T E.212 'The international identification plan for public networks and subscriptions'.

Section 457 of the Act also requires the ACMA to impose requirements for applications for allocation of numbers through the numbering plan to be accompanied by the charges (if any) fixed by a determination under section 60 of the *Australian Communications and Media Authority Act 2005* (the ACMA Act), and for the applicant to pay any charge imposed on the allocation of the number under Part 2 of the *Telecommunications (Numbering Charges) Act 1997* (the Numbering

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<sup>1</sup> The Act describes "specification", "allocation" and "issue" as "first tier", "second tier" and "third tier" concepts, respectively (see the notes to section 455 of the Act).

Charges Act). Accordingly, such obligations have been included upon the application for allocation of numbers under the Numbering Plan 2015.

Under subsection 458(1) of the Act, the ACMA may only include rules about number portability if it has been directed to do so by the Australian Competition and Consumer Commission (ACCC) under subsection 458(2). The ACCC has given directions to the ACMA<sup>2</sup> in relation to portability in 1997, 1999, 2000, 2001, and 2003. The 1999 direction was revoked by the direction given in 2001, which also revoked parts of the 1997 direction. The direction given in 2003 was revoked in 2009. The ACMA must exercise its powers under section 455 in a manner consistent with any such directions (subsection 458(4)). The current directions are available on the ACMA website at [www.acma.gov.au](http://www.acma.gov.au)

Accordingly, the ACMA has included rules about portability in the Numbering Plan 2015 which are consistent with the ACCC directions. These rules are contained in Chapter 10, Number Portability.

Before making the Numbering Plan 2015, the ACMA publicly consulted on a draft Numbering Plan 2015 in accordance with the requirements of section 460 (see below) for a period of 90 days. The ACMA also consulted with the ACCC, as required by section 461 of the Act.

A carrier or carriage service provider must comply with the Numbering Plan 2015 (subsection 462(1) of the Act).

Under subsection 33(3) of the *Acts Interpretation Act 1901*, the power to make an instrument includes the power to revoke or repeal the instrument, unless the contrary intention appears.

## **Background**

The Numbering Plan 2015 forms part of the telecommunications regulatory framework under the Act for the numbering of carriage services, replacing and improving the arrangements that were made under the Numbering Plan 1997.

Between 2010 and 2012, the ACMA examined a wide range of issues related to the regulatory framework for telephone numbers that emerged as a result of deep changes in industry structures, service offers and consumer behaviour. This work is known as the Numbering Work Program. The aim of the Numbering Work Program was to identify what, if any, changes were needed to enable flexible, efficient and effective numbering arrangements for the future communications environment.

Under section 467 of the Act, the ACMA is able to delegate any or all of the powers conferred on it by the Numbering Plan 2015 to a body corporate. For many years, some of the ACMA's powers and functions in relation to the allocation of some freephone, local rate and premium rate numbers had been delegated to an external provider.

As a result of the Numbering Work Program, the ACMA examined alternatives for the sustainable provision of numbering services in the long term. The ACMA found it would be timely to test the market for the provision of a numbering system for the

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<sup>2</sup> The directions were originally given to the Australian Communications Authority, but see subclause 8(1) of Schedule 4 to the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005*.

number allocation and transaction services that the ACMA is required to provide under the Act and a numbering plan made under section 455.

The ACMA conducted a Request for Tender to identify a provider and, on 12 September 2014, awarded ZOAK Solutions Pty Ltd the contract to build a numbering system and to provide allocation and administrative services for most of Australia's telephone numbers from August 2015.

In order to facilitate the delegation of the majority of the ACMA's numbering functions and powers to the new provider, the ACMA has updated and streamlined the decision-making requirements that apply to number transactions in the Numbering Plan 2015. This is expected to make it easier to automate the processing of certain number applications.

To ensure continuity of the numbering arrangements under the Numbering Plan 1997, including the effect of the Declarations, during the transition to the new numbering system, the majority of the provisions of the Numbering Plan 2015 will not commence until a later date, to be set by the ACMA by legislative instrument, or at the latest, on 1 October 2015. At that time the Numbering Plan 1997 will be repealed. The Numbering Plan is, in any event, scheduled to sunset on 1 October 2015 under Part 6 of the LIA. The Numbering Plan 2015 includes transitional provisions (at section 136) to preserve the effect of the Declarations until the Numbering Plan 1997 is repealed and the new arrangements commence.

In addition, the Numbering Work Program found that the allocation of smartnumbers (particular freephone and local rate numbers with enhanced rights of use) using the ACMA's previous auction system was no longer an effective mechanism of allocation for these types of numbers. Previously the ACMA allocated smartnumbers and sold the enhanced rights of use to these numbers through an auction allocation system determined under the *Telecommunications (Freephone and Local Rate Numbers) Allocation Determination 2007 (No. 1)*, made under section 463 of the Act. As a result of the Numbering Work Program the decision has been made to move from to an over-the-counter allocation of these numbers which is expected to benefit individuals and organisations by reducing delay, uncertainty and complexity in purchasing the rights to use smartnumbers. The Numbering Plan 2015 facilitates the transition to over-the-counter allocation.

## **Operation**

The Numbering Plan 2015 sets out the framework for the numbering of carriage services in Australia and the use of numbers in connection with the supply of these services. It specifies the rules for the allocation, transfer, surrender, withdrawal, portability and use of different types of numbers. The Numbering Plan 2015 also places obligations on carriage service providers when using numbers to supply carriage services.

Carriers and carriage service providers are required to comply with the Numbering Plan 2015 under subsection 462(1) of the Act. Compliance with the Act is a requirement of the service provider rules under Schedule 2 to the Act, and is a condition on a carrier licence under Schedule 1 to the Act. Compliance with the service provider rules is required under section 101 the Act, which is a civil penalty

provision. Compliance with a carrier licence condition is required by section 68 of the Act, which is also a civil penalty provision.

The rights and responsibilities of carriers, carriage service providers, members of the public and the ACMA pertaining to numbers are spread across a wide range of legislation and regulatory instruments. Industry codes and guidelines, and contractual arrangements between parties, also affect how numbers are managed.

## **Consultation**

The ACMA has consulted with industry stakeholders and the general public on the making of the Numbering Plan 2015.

Subsection 17(1) of the LIA requires the ACMA to be satisfied, before making a legislative instrument, that all consultation that is appropriate and reasonably practicable to undertake has been undertaken. The ACMA has undertaken consultation with industry on the proposed changes, both through the Numbering Work Program and through the Numbering Advisory Committee (NAC) over the last four years.

Subsection 460(1) of the Act requires that, before making a numbering plan, the ACMA must publish a notice stating that it has prepared a draft of the plan, setting out that draft and inviting interested persons to give written comments about the draft to the ACMA within 90 days after publication of the notice. Between 31 October 2014 and 29 January 2015, the ACMA conducted a public consultation process inviting submissions on the proposed changes through the release of a draft instrument and a consultation paper on the ACMA's website and in a national newspaper advertisement.

The consultation paper discussed the proposed changes to improve the operation of the Numbering Plan, better facilitate the automation of number transactions and move from an auction to an over-the-counter allocation of smartnumbers. The consultation paper also explained the sunseting (automatic repeal) process and the ACMA's preliminary view that the Numbering Plan 1997 and related instruments are operating effectively and efficiently, and continue to form a necessary part of the regulatory framework.

The ACMA also consulted the ACCC in accordance with subsection 461(1) of the Act before making the Numbering Plan 2015, and with the Department of Communications through its role on the NAC.

The ACMA received 7 submissions in response to the consultation paper and considered all relevant issues raised when making of the Numbering Plan 2015. The ACCC informed the ACMA that it had no comments.

## **Regulation impact**

The Office of Best Practice Regulation (OBPR) has determined that although the changes to the structure and wording of the instrument are likely to be substantial, the overall effect of the changes is minor and machinery in nature. Accordingly, the OBPR advised that no further regulatory impact analysis (in the form of a Regulation Impact Statement) was required. The OBPR reference number is 17181.

## **Detailed description of the Numbering Plan 2015**

Details of the Numbering Plan 2015 are in Attachment A.

## **Documents incorporated in the Numbering Plan 2015 by reference**

The Numbering Plan 2015 incorporates relevant international agreements by reference, including relevant ITU telecommunications recommendations available at <http://www.itu.int/ITU-T/recommendations/index.aspx>. At the time of preparation, ITU-T Recommendation Q.708 'Assignment procedures for international signalling point codes' and ITU-T Recommendation E.212 'The international identification plan for public networks and subscriptions' were relevant to decisions to be made under the Numbering Plan 2015.

The Numbering Plan 2015 also incorporates by reference lists of charging districts and standard zone units (including designated standard zone units), which are published on the ACMA's website (see the definitions of those terms in section 15).

## **Statement of compatibility with human rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule maker in relation to a legislative instrument to which section 42 (disallowance) of the LIA applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

This statement has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Numbering Plan 2015, which specifies numbers that are available for use in connection with the supply of carriage services to the public in Australia, sets out the procedures for allocation, transfer, withdrawal and surrender of numbers, and makes rules about the use and portability of numbers by carriage service providers, is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The ACMA has considered whether the Numbering Plan 2015 engages any applicable human rights or freedoms and has formed the view that it does not. The Numbering Plan 2015 is compatible with human rights as it does not raise any human rights issues.

## **Attachment A**

### **Notes on Sections**

#### **CHAPTER 1 — PRELIMINARY**

This Chapter deals with the formal provisions of the Numbering Plan 2015, such as its objects and when it will come into effect. It also includes a Dictionary which defines key terms used throughout the Numbering Plan 2015.

#### **Part 1 — General**

##### **Section 1     Name**

Section 1 names the instrument as the *Telecommunications Numbering Plan 2015*.

##### **Section 2     Commencement**

Section 2 sets the commencement times for each provision of the Numbering Plan 2015.

Sections 1 to 4 and section 136 commence the day after the instrument is registered on the Federal Register of Legislative Instruments (FRLI).

Sections 5 to 135 of, and Schedules 1 to 8 to, the Numbering Plan 2015 will commence on a date to be fixed by the ACMA by legislative instrument, or, if they have not commenced before 1 October 2015, on that day. This is to allow for the smooth transition to a new numbering system which will implement the rules and procedures in accordance with the Numbering Plan 2015.

Section 136 is a transitional provision that modifies the effect of the Numbering Plan 1997 so that references to declarations in force under section 3.39 of the Numbering Plan 1997 are read as references to the Declarations as in force immediately before 1 April 2015, until the Numbering Plan 1997 is repealed under Schedule 8 to the Numbering Plan 2015. This provision preserves the effect of the Declarations, such that the numbers declared under those instruments immediately prior to 1 April 2015 are available for allocation until the *Telecommunications Numbering Plan 2015* commences in its entirety.

##### **Section 3     Authority**

Section 3 provides that the Numbering Plan 2015 is made under subsection 455(1) of the Act.

##### **Section 4     Schedules**

Section 4 provides that any instrument specified in a Schedule to the Numbering Plan 2015 is amended or repealed as set out in the applicable items in the Schedule concerned and that any other items in a Schedule have effect according to their terms.

Schedule 8 of the Numbering Plan 2015 repeals the Numbering Plan 1997. Schedules 1 – 6 specify numbers that are available for use in connection with the supply of various types of carriage services to the public in Australia. Schedule 7

sets out the size of the 'standard units' for allocation or surrender of different types of numbers. These Schedules have effect according to their terms.

## **Section 5 Dictionary**

This section provides that the Dictionary in section 15 of the Numbering Plan 2015 lists every term that is defined in the Numbering Plan 2015. Each term is either defined in the Dictionary itself or elsewhere in the Numbering Plan 2015. Where a term is defined elsewhere, the Dictionary includes a signpost.

## **Section 6 Regard to be had to objects and other matters**

This section provides guidance on interpreting and making decisions under the Numbering Plan 2015, requiring regard to be had to:

- (a) the objects of the Numbering Plan 2015, set out under Part 2;
- (b) the desirability of ensuring consistency with the object of the telecommunications access regime under Part XIC of the *Competition and Consumer Commission Act 2010*; and
- (c) the desirability of ensuring that the management of numbers under the Numbering Plan 2015 is consistent with the requirements of other instruments made under the Act.

## **Part 2 — Objects**

This Part sets out the primary and secondary objects of the Numbering Plan 2015. These are largely the same as the primary and secondary objects of the Numbering Plan 1997.

### **Division 1 Primary objects**

#### **Section 7 Primary objects**

This section identifies four primary objects of the Numbering Plan 2015. They are to:

- (a) establish an effective and efficient framework for the numbering of carriage services in Australia which has regard to recognised international standards;
- (b) establish an effective and efficient framework for the use of numbers in connection with the supply of services;
- (c) specify the numbers for use in connection with the supply of carriage services to the public in Australia; and
- (d) establish an effective and efficient framework for the allocation and portability of numbers.

### **Division 2 – Secondary objects**

#### **Sections 8 to 14**

The secondary objects of the Numbering Plan 2015 are set out in sections 8 to 14. These objects are to:



- facilitate any-to-any connectivity, which is the ability of an end-user using services on one telecommunications network to contact an end-user using services on another telecommunications network (section 8);
- ensure the availability of numbers by promoting the efficient issue and use of numbers by registered carriage service providers and customers (section 9);
- promote and facilitate fairness and equity in the allocation of numbers to registered carriage service providers and the issue of numbers to customers (section 9);
- minimise obstacles to customers so that they can continue to use numbers issued to them (section 9);
- ensure the availability of numbers by facilitating the introduction and supply of new carriage services, appropriate access to services for end-users and correct routing of calls by carriage service providers (section 10);
- enable end-users to:
  - understand the level of call charge for calls to a number;
  - understand which numbers can be used with the supply of particular services;
  - apply this understanding to managing their call costs (section 11);
- accommodate the use of different technologies and terminal equipment in Australia (section 12);
- establish a framework for the transfer, surrender and withdrawal of numbers that promotes the long-term interests of end-users, facilitates the efficient supply of carriage services and facilitates the collection of annual numbering charges under the Numbering Charges Act (section 13);
- recognise and support the role and contribution of the telecommunications industry in the management of numbers (section 14).

### **Part 3 — Dictionary**

#### **Section 15 Dictionary of defined terms**

Section 15 defines terms used in the Numbering Plan 2015 to help readers to understand the instrument. A term is either defined in this section or elsewhere in the Plan. Where a term is defined elsewhere, the Dictionary includes a signpost reference to the relevant section.

The Numbering Plan 2015 also uses a number of expressions that are defined in the Act, including carriage service provider, directory assistance service and public mobile telecommunications service.

#### **CHAPTER 2 — NUMBERS FOR USE**

Subsection 455(3) of the Act provides that the Numbering Plan 2015 must specify numbers that are for use by carriage service providers in connection with the supply of services to the public in Australia. The purpose of this Chapter is to make a distinction between numbers specified in the Numbering Plan 2015 for use in connection with the supply of services to the public and numbers that may be used for other purposes. (For the purposes of the Numbering Plan 2015, the term *supply to the public* is defined in section 456 of the Act.)

## **Section 16 Numbers for use – public**

Section 16 sets out the numbers that are used in connection with the supply of carriage services to the public in Australia. These include geographic numbers, some special service numbers (including digital mobile numbers), and freephone, local rate and premium rate numbers. These different classes of numbers are defined in the Numbering Plan 2015.

A number that is not set out in subsection 16(1) cannot be used in connection with the supply of carriage services to the public in Australia.

## **Section 17 Numbers for use – non-public**

Section 17 explains that numbers that are not listed in section 16 but are referred to in the Numbering Plan 2015, as well as numbers that are not specified in the Numbering Plan 2015, may be used in connection with the supply of carriage services other than to the public.

## **CHAPTER 3 — SPECIFICATION OF TELEPHONE NUMBERS**

Telephone numbers provide access to carriage services. The purpose of Chapter 3 (when read with Chapter 2) is to specify those telephone numbers that are to be used with specific carriage services and how the numbers may be used in connection with the supply of carriage services in Australia.

### **Part 1 — Geographic numbers**

#### **Section 18 Definition of *geographic number***

This section defines a geographic number to be a 10-digit number consisting of a 2-digit area code set out in column 1 of an item in Schedule 1, followed by an 8-digit local number beginning with the digit(s) listed in the item after the area code. Schedule 1 identifies all the numbers that are geographic numbers.

#### **Section 19 Use of geographic numbers**

This section specifies that geographic numbers must only be used to supply a local service or a location independent communications service. This does not prevent a number other than a geographic number being used to supply those services.

Geographic numbers are allocated to a standard zone unit (SZU), which is a geographic area for charging purposes. Standard zone units are listed on the ACMA's website. A geographic number allocated to a SZU must only be used to supply carriage services that either terminate calls to the number at a location within the SZU, or that are charged as if the calls were terminated within the SZU. A geographic number is specified for use in a particular SZU if the SZU is mentioned for the number in Schedule 1, or the SZU is in a charging district mentioned for the number. A charging district is a collection of SZUs. Charging districts are listed on the ACMA's website.

This section also requires consistency in how geographic numbers are used to supply carriage services, particularly for areas where geographic numbers with the same first 6 digits have been issued.

## **Section 20 Notice of geographic number that may terminate in different locality**

This section applies to a carriage service provider when offering to supply a local service or location independent communications service using a geographic number in circumstances where:

- calls to that number may not terminate in the SZU for which the number was allocated; and
- there is no relevant industry code setting out the relevant information the CSP must provide.

At the time of offering to supply the service, the CSP must give written notice to all potential customers of the limitations of the service, namely that:

- even if the customer is located outside the geographic number's specified SZU, calls to the number will be charged as if the customer was located within the SZU; and
- the customer may not be able to port that number to another carriage service provider.

If the CSP uses the internet to make the offer, the notice must be prominently displayed on the primary webpage used to make the offer in legible text with a font size of at least 10 point and written in plain English.

The CSP must also obtain an acknowledgement from the customer that the customer understands the limitations of the service as set out in the notice.

## **Section 21 Use of local numbers**

This section provides that a CSP must treat a local number (i.e. a geographic number that has been dialled without an area code) dialled from a carriage service as a geographic number having the same area code as the area code of the originating service.

## **Part 2 — Freephone, local rate and premium rate numbers**

### **Division 1 – Freephone numbers**

#### **Section 22 Definition of *freephone number***

This section defines a freephone number as a number beginning with the digits set out in an item at column 1 of Schedule 2 and with the number of digits set out in column 2 for that item. These numbers all commence with the digits 180.

#### **Section 23 Use of freephone numbers**

This section specifies that freephone numbers may only be used to supply a freephone service. 'Freephone service' is defined in section 15 of the Numbering Plan 2015 to mean a carriage service where:

- the customer *issued with* the number is charged for calls to the number for the service; and

- the call charge for calls made to the number for the service from a standard telephone service (with some exceptions) is nil.

This section also provides that a freephone number may only be used in connection with the supply of a service which routes incoming international calls from outside Australia if column 3 of Schedule 2 for the relevant number indicates it can be so used.

## **Division 2 – Local rate numbers**

### **Section 24 Definition of *local rate number***

This section defines a local rate number as a number beginning with the digits set out in an item at column 1 of Schedule 3 and with the number of digits set out in column 2 for that item. These numbers all commence with the digits 13.

### **Section 25 Use of local rate numbers**

This section specifies that a local rate number may only be used to supply a local rate service. ‘Local rate service’ is defined in section 15 of the Numbering Plan 2015 and relevantly requires that the call charges for calls made using a standard telephone service to the number used for the local rate service must be equal to or less than the call charge for local calls, with some exceptions. ‘Standard telephone service’ is defined in the Act. The call charge for local calls is regulated by Part 4 the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

This section also provides that a local rate number may only be used in connection with the supply of a service which routes incoming international calls from outside Australia if column 3 of Schedule 3 for the relevant number indicates that it can be so used.

Section 25 also stipulates that a local rate number beginning with ‘1345’ may only be used for monitoring security alarms.

## **Division 3 – Premium rate numbers**

### **Section 26 Definition of *premium rate number***

This section defines a premium rate number as a number beginning with the digits set out in at item at column 1 of Schedule 4 and with the number of digits set out in column 2 for that item. These numbers all commence with the digits 19.

### **Section 27 Use of premium rate numbers**

This section specifies how premium rate numbers must be used. A premium rate number may only be used to supply a premium rate service. ‘Premium rate service’ is defined in section 15 of the Numbering Plan 2015 and means a carriage service that is charged at a premium rate, independent of content or delivery technology. This section also refers to column 3 of Schedule 4 to indicate which premium rate numbers may be used in connection with the supply of a service which routes incoming international access from outside Australia.

Section 27 further stipulates that a premium rate number beginning with:

- ‘195’ or ‘196’ may be used only for age-restricted services; and

- '1901' may be used only for a registered premium rate service.

These services are defined in section 15 of the Plan. An 'age-restricted service' is a service that, broadly speaking, provides:

- audio-visual content that is MA 15+ content or R 18+ content, within the meaning of clause 15 of Schedule 7 to the *Broadcasting Services Act 1992*; or
- a text service likely to be used by a person for the sole or principal object of deriving sexual gratification from the service.

A 'registration premium rate service' is, broadly speaking, a premium rate service for which a person using the service must register with the content service provider that provides the content of the service.

### **Section 28    Restriction on providing age-restricted services on other numbers**

Under this section, a mobile carriage service provider is precluded from supplying an age-restricted service by way of a premium rate SMS or MMS on any number other than a number beginning with '195' or '196'.

A mobile carriage service provider will not be taken to have contravened this rule if, at the time of supply, the carriage service provider did not know or could not have reasonably found out that it was supplying such a service on the number. In determining whether the mobile carriage service provider could, with reasonable diligence, have found out they were supplying such a service, regard must be had to the following:

- whether the content service provider who supplied the content service is contractually obligated to notify the carriage service provider of the nature of the content;
- whether the carriage service provider monitors, or arranges for the monitoring of, advertisements for premium SMS or MMS services;
- whether the mobile carriage service provider checks, or arranges for the checking of, those advertisements against the content of the services being advertised.

Regard may be had to any other relevant matter in determining whether a contravention of this rule has occurred.

### **Section 29    Restriction on providing registration premium rate service on other numbers**

This section stipulates that a mobile carriage service provider must not supply a registration premium rate service other than on a number beginning with '1901'.

## **Part 3 – Emergency service numbers**

### **Section 30 Emergency service numbers**

Under the Act, an emergency service number is a number specified in the Numbering Plan 2015 for the purpose of subsection 466(2). This section specifies the following numbers as emergency service numbers for the purposes of the Act:

- ‘000’ (which is the general emergency service number);
- ‘106’ (which is for use with teletypewriters);
- ‘112’ (which is an alternative available for use with digital mobile phones).

Section 30 states that ‘000’, ‘106’ and ‘112’ are emergency service numbers for the purpose of subsection 466(2) of the Act. The first note following this section explains that the general emergency service number is ‘000’; the number ‘106’ is for use with teletypewriters; and ‘112’ is an alternative available for digital mobile phones.

The requirements in relation to the provision of emergency call services are set out in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and the *Telecommunications (Emergency Call Service) Determination 2009*, made by the ACMA under section 147 of that Act.

In making the Numbering Plan 2015, the ACMA has had regard to the objective that, as far as practicable, there should be no more than one emergency service number throughout Australia, as required by subsection 466(6) of the Act. In respect of this, Triple Zero (000) is promoted widely as Australia’s primary emergency call service number. However, the ACMA considers that there should be an alternative number, which is in place to assist those in the community who have a hearing or speech impairment. This number is 106 and is currently available via teletypewriter. Those with a hearing or speech impairment may also contact Triple Zero (000) via internet, video, or SMS relay through the National Relay Service. 112 is an international secondary emergency number and is accessible from digital mobile phones in Australia. Special capabilities, including roaming, once only existed when dialing 112; however, mobile phones manufactured since January 2002 also provide these capabilities when dialing Triple Zero (000) to access the emergency call service.

## **Part 4 – Special services numbers**

### **Section 31 Definition of *special services number***

This section defines a special services number, as a number:

- beginning with the digits set out in column 1 of an item in a table in Schedule 5; and
- with the number of digits set out in column 2 for that item.

### **Section 32 Use of special services numbers**

This section specifies how special services numbers must be used. There are two types of special services numbers: shared and not shared. They are listed in separate tables in Schedule 5.

Shared numbers (listed in the table at clause 2 of Schedule 5) are numbers which can be used by all carriage service providers, as they are not allocated to a particular provider. Numbers that are not shared are allocated to an individual carriage service provider for use, and are listed in the table at clause 1 of Schedule 5.

Schedule 5 specifies the different types of special services numbers, their digit lengths and the type of service for which a particular special service number can be used. For example, a special service number that begins with the digits '04' and which is 10 digits in length, may only be used for a digital mobile service. Each of the relevant service types are defined in section 15 or in the Act.

Generally, a special services number can *only* be used with the type of service specified for the number in Schedule 5. Where a special services number is also an access code specified for use with an incoming only international service, the number may be used for both purposes.

#### *Incoming international access*

This section also provides that a special services number may only be used in connection with the supply of a service which routes incoming international calls from outside Australia if column 4 of Schedule 5 for the relevant number indicates that it can.

#### *Low charge amount*

Calls made by a customer to a special services number identified in column 5 of Schedule 5 as subject to the 'low charge amount' must not be charged at more than the low charge amount if they are made using a standard telephone service other than a public mobile telecommunications service. The charge must be worked out based on the number of calls, regardless of their length and regardless of any optional discounts and surcharges applied by the relevant carriage service provider. 'Low charge amount' is defined in section 15 by reference to the highest call charge for an eligible local call made using a standard telephone service, excluding public telecommunications mobile services, supplied by a primary universal service provider. Call charges for 'eligible local calls' using services provided by a primary universal service provider are regulated under Part 4 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

### **Section 33 Use of 1223 for operator services on carriage service with price control arrangements**

The special services number '1223' is specified in Schedule 5 as a shared special services number for use only for the provision of a directory assistance service, and, if a carriage service provider wishes, an optional operator service (optional service). Section 33 allows a carriage service provider to use '1223' to supply an optional service, in addition to the directory assistance service, in response to calls made using a carriage service that is not a public mobile telecommunication service which has a charge which is subject to price control arrangements specified by the Minister under subsection 154(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, as long as the optional service is provided in accordance with an approved operation plan. An example of an optional service is 'through connect', where a caller can be connected to the number identified in response to a request to the directory assistance service, at an extra cost.

Subsection 33(2) requires an operation plan to set out the arrangements that will ensure the following outcomes:

- (a) the carriage service provider continues to supply a directory assistance service;
- (b) the supply of optional services on '1223' will not diminish access to, or the supply of, the directory assistance service;
- (c) consumers will be adequately informed about the availability of the optional service and the applicable charges.

#### **Section 34 Approval of operation plan**

Section 34 provides that a carriage service provider may apply to the ACMA for approval of an operation plan in relation to the supply of an optional service and sets out the approval process. A carriage service provider must consult with relevant consumer organisations, and customers to whom the carriage service provider proposes to supply the optional service, about the proposed optional service before making an application.

The application must be in a form approved by the ACMA and include a copy of the operation plan and a documented record of the consultation taken. The ACMA may request further information about matters relevant to the application.

The ACMA must make a decision on whether to approve the application no later than 60 business days after receiving the application. The ACMA's consideration of the application must take into account the opinion of each consumer organisation that the carriage service provider has consulted and any other matter it considers relevant. If the ACMA is not satisfied that:

- the operation plan sets out appropriate arrangements for ensuring the outcomes set out in subsection 33(2) are met;
- the operation plan is consistent with the objects of the Act; or
- the carriage service provider has undertaken adequate consultation;

the ACMA must not approve the operation plan.

#### **Section 35 Amendment or replacement of operation plan on application by carriage service provider**

Section 35 allows a carriage service provider that has an approved operation plan to apply to the ACMA for approval of an amendment or replacement of its operation plan. The application must be in a form approved by the ACMA and include a copy of the proposed amendment or replacement operation plan. The ACMA may request further information about matters relevant to the application.

The ACMA must make a decision on whether to approve the application no later than 60 business days after receiving the application. The ACMA must not approve the amendment or replacement operation plan if it is not satisfied that the proposed arrangements will be:

- more effective than the arrangements in the current approved operation plan in ensuring the outcomes set out in subsection 33(2); or
- consistent with the objects of the Act.



The ACMA is required to notify the carriage service provider of its decision in writing.

### **Section 36 Amendment or replacement of operation plan at ACMA's discretion**

Section 36 enables the ACMA to direct a carriage service provider with an approved operation plan, to amend or replace the operation plan as set out in the direction. The ACMA must make the direction in writing and must only make such a direction if it considers that the amended or replacement operation plan will be more effective in ensuring the outcomes mentioned in subsection 33(2).

The ACMA must make a decision, no later than 60 business days after receiving the amended or the replacement operation plan, on whether the carriage service provider has complied with the direction. The ACMA must approve the amended or replacement operation plan if it is satisfied the carriage service provider has complied with the direction.

The ACMA is required to notify the carriage service provider of its decision in writing.

If the ACMA gives a direction under subsection 36(1) and the amended operation plan or replacement operation is not approved at the end of a 120 day period commencing on the day the direction was given, the current operation plan is taken to be no longer approved.

### **Section 37 Cessation of service under operation plan**

If a carriage service provider with an approved operation plan for an optional service intends to cease supply of the service, it must notify the ACMA in writing beforehand, and as soon as practicable. The notification must include the likely cessation date of the service.

## **Part 5 – Access codes**

### **Section 38 Definition of *access code***

Section 38 defines an access code as a number beginning with the digits set out in column 1 of an item in a table in Schedule 6 and with the number of digits set out in column 2 of the item.

### **Section 39 Use of access codes**

This section specifies how access codes must be used in accordance with Schedule 6. There are two types of access codes: shared and not shared. They are listed in separate tables in Schedule 6.

Shared access codes (listed in the table at clause 2 of Schedule 6) are codes which can be used by all carriage service providers as they are not allocated to a particular carriage service provider. Access codes that are not shared are allocated to an individual carriage service provider for use, and are listed in the table at clause 1 of Schedule 6.

Schedule 6 specifies the different types of access codes, their digit lengths, and the type of service for which a particular access code can be used. This section provides that an access code may only be used to supply a type of carriage service identified in column 3 for that particular access code and as a prefix to a type of

number identified in column 4 for that particular access code. Each of the types of carriage services and number types are defined in section 15 of the Plan.

For example, the access code '0010' may only be used to provide an international service and can only prefix an international number.

Carriage service identification codes may also be used to identify a telecommunications network or to interconnect routing of a call between carriage service providers, without being dialled, and may prefix an address digit for routing a call across a point of interconnection.

Generally, an access code can only be used with the type of service specified for the number in Schedule 6. However, where an access code that is specified for use with an incoming only international service is also a special services number specified for use with a type of service, the number may be used for both purposes.

#### **Section 40 Charge for call to international freephone numbers**

Section 40 provides that the call charge for a call made using the shared access code '0011' followed by the digits '800' must be worked out based on the number of calls, regardless of their length and must not be more than the low charge amount, disregarding any optional discounts and surcharges.

### **Part 6 – Shared numbers**

#### **Section 41 Definition of *shared number* and *selectable shared number***

Shared numbers are not allocated to any particular carriage service provider. Section 41 defines a shared number as a special services number listed in the table at clause 2 of Schedule 5 and an access code listed in the table in clause 2 of Schedule 6.

Special services numbers that are shared numbers can also be 'selectable', which allows a caller to choose to use the services of a particular carriage service provider supplying certain services. Whether a shared special services number is a selectable shared number is identified in column 6 of the table in clause 2 of Schedule 5.

#### **Section 42 Use of shared numbers**

This section explains that shared numbers can be used by a carriage service provider without being allocated. The requirements for the use of special services numbers that are shared numbers are set out in Part 4; and the requirements for the use of access codes that are shared numbers are set out in Part 5.

## **CHAPTER 4 — PRIVATE NUMBERING SCHEMES**

The purpose of this Chapter is to set out the rules relating to use of private numbering schemes. A private numbering scheme is a feature of a carriage service, where a customer may establish a series of numbers to be used only by a select group of users. The users in the group can call each other by dialling established numbers. Some private numbering schemes provide escape codes, where the users can dial a certain digit and gain access outside the select group and onto the public network. A business may use a private numbering scheme for use by its employees. An example of this type of service is a Centrex service, which is a centralised phone

system operated by a carriage service provider and generally offered to businesses as an alternative to installing and managing a private exchange or PABX.

#### **Section 43 Restrictions on use do not apply to use in private numbering scheme**

Section 43 provides that geographic numbers, local numbers, special services numbers and access codes may be used as a number in a private numbering scheme. An emergency service number cannot be used.

#### **Section 44 Private numbering scheme with escape code**

Section 44 provides that a number used in a private numbering scheme with an escape code must not begin with the escape code. In relation to a private numbering scheme, an escape code is a single digit prefix used to indicate that the digits dialled following the escape code are for calls 'outside' of the select group established by the private numbering scheme (see definition in section 15 of the Numbering Plan 2015).

#### **Section 45 Private numbering scheme without an escape code**

Section 45 sets out the requirements relating to numbers used in a private numbering scheme without an escape code. Subsection 45(2) provides that where these schemes utilise private numbers beginning with 0 or 1, these numbers must not be treated as if they are special services numbers by the originating access service provider. Subsection 45(3) provides that if a number used in a private numbering scheme begins with any digit from 2 to 9, the number must not have more than 8 digits.

Subsections 45(2) and 45(3) do not apply to a number issued to a customer in a private numbering scheme without an escape code if the customer requested the number and the carriage service provider informs the customer that use of the number in the private numbering scheme is likely to affect the ability of end-users to use the number to access other types of carriage services (subsection 45(4)). Certain numbers – such as an access code specified for use with a calling number display over-ride service and numbers issued to an emergency service organisation – may not, despite the arrangements described in subsection 45(2) and 45(3), be used as numbers in a private numbering scheme.

### **CHAPTER 5 — INTERNATIONAL SIGNALLING POINT CODES AND MOBILE NETWORK CODES**

Australia is a member of the International Telecommunications Union (ITU), which is the United Nations specialised agency for information and communication technologies. The ITU, amongst other things, makes recommendations about the use of particular numbers. The ACMA is the designated administrator for Australia for the ITU and allocates these numbers in accordance with the relevant ITU recommendations.

Chapter 5 specifies international signalling point codes (ISPC) and mobile network codes (MNC) as numbers available for allocation, and makes arrangements for the allocation, transfer, surrender or withdrawal of such numbers by the ACMA in a manner that is consistent with ITU recommendations.

## **Part 1 — International signalling point codes**

### **Section 46 Definition of *international signalling point code***

Section 46 defines an international signalling point code (ISPC) to be a 5-digit number (other than a special services number or an access code) consisting of:

- a 4-digit signalling area network code that has been allocated to the ACMA by the ITU;
- followed by a single digit between 0 and 7 (inclusive).

An ISPC is a unique, five-digit code used at the international level to identify an international signalling point associated with a specific international signalling point operator. A signalling point may be an exchange or a switching centre, and can be understood as the point in the network at which signals or messages either originate or are received. In the case of international signals, the signalling point is an international gateway.

ISPCs are used by network operators to manage the efficient routing and delivery of calls. ISPCs are administered by the ACMA as the designated administrator for Australia, consistently with the ITU Recommendation Q.708, which sets out the assignment procedures for ISPCs.

### **Section 47 Application for allocation of international signalling point code**

Section 47 provides that a registered carriage service provider that is an international signalling point operator may apply to the ACMA for an ISPC. A signalling point operator broadly means a registered carriage service provider that either already operates a signalling point that has at least one message transfer part in the international signalling network, or that wishes to operate a signalling point of that kind (see section 15 of the Numbering Plan). Signalling points, broadly, are discrete points in a network that send and receive signalling messages or transfer messages from one signalling link to another (see section 15 of the Numbering Plan).

This section requires the application to be made in a form approved by the ACMA and notes that strict compliance with the approved form is required. The application must also be accompanied by any applicable application charge that is fixed by a determination made under section 60 of the ACMA Act. The registered carriage service provider must pay the allocation charge imposed by Part 2 of the Numbering Charges Act. If the application is not successful, this amount will be refunded under subsection 457(2) of the *Telecommunications Act 1997*.

### **Section 48 Decision on application**

Section 48 provides that the ACMA may approve the application made by a registered carriage service provider if the ACMA is satisfied that it is appropriate to do so in all the circumstances. In considering whether it is appropriate in all the circumstances, the ACMA must take into account whether allocation of the ISPC is consistent with the requirements of an international agreement that is relevant to the allocation. The ACMA must also take into account, if the ISPC applied for has previously been withdrawn under section 53 of the Numbering Plan 2015, whether the allocation of the ISPC will take effect at least 6 months after the withdrawal.

The current relevant international recommendation is the ITU's recommendation 'Assignment procedures for international signalling point codes' (ITU-T Q.708). This

recommendation is available from the ITU's website [www.itu.int/en/pages/default.aspx](http://www.itu.int/en/pages/default.aspx). As a member of the ITU, Australia, through the ACMA as the designated administrator, uses its best endeavours to ensure its rules and procedures in relation to such numbers conform to the ITU recommendations to the greatest extent practicable.

If the ACMA approves an application, the ACMA must allocate the ISPC to the registered carriage service provider. The ACMA must also notify the registered carriage service provider that the ISPC has been allocated and the date of allocation.

The ACMA is also required to notify the registered carriage service provider if a decision has been made not to approve the application. A decision not to approve such an application is a reviewable decision (see Part 3 of Chapter 11).

Under the Act, the ACMA, or another person that enters into an arrangement with the ACMA, must maintain a register of allocated numbers (section 465 of the Act). If the ACMA is not the designated authority, the ACMA must notify the designated authority of the allocation of the ISPC and the date of allocation. This is to ensure the register of numbers, maintained by the designated authority, is kept up to date.

## **Part 2 — Mobile network codes**

### **Section 49 Definition of *mobile network code***

Section 49 defines a mobile network code (MNC) to be a 2-digit number or a 3-digit number that is for use as part of an international mobile subscription identification (IMSI) number. IMSI numbers are used to identify unique mobile phone subscribers, or customers, and whether they are roaming. The IMSI number is a string of digits, up to a maximum 15 digits in length, and consisting of three fields: the mobile country code (MCC) (which is assigned to the ACMA by the ITU), the MNC (which is allocated by the ACMA to CSPs under this Part and which can be 2 or 3 digits in length), and the mobile subscription identification number (which is the number issued by a CSP to identify its subscribers or customers).

### **Section 50 Application for allocation of mobile network code**

Section 50 provides that a registered carriage service provider may apply to the ACMA for an MNC. This section requires the application to be made in a form approved by the ACMA and notes that strict compliance with the approved form is required. The application must also be accompanied by any applicable application charge that is fixed by a determination under section 60 of the ACMA Act. The registered carriage service provider must also pay the allocation charge imposed by Part 2 of the Numbering Charges Act. If the application is not successful, this amount will be refunded under subsection 457(2) of the *Telecommunications Act 1997*.

### **Section 51 Decision on application**

This section provides that the ACMA may approve an application made by a registered carriage service provide under section 50 if the ACMA is satisfied that it is appropriate to do so in all the circumstances. In considering whether it is appropriate in all the circumstances, the ACMA must take into account whether the allocation of the MNC would be consistent with the requirements of an international agreement that is relevant to the allocation.

The current relevant international recommendation is the ITU's recommendation 'The international identification plan for public networks and subscriptions' (ITU-T E.212). This recommendation is available from the ITU's website [www.itu.int/en/pages/default.aspx](http://www.itu.int/en/pages/default.aspx). As a member of the ITU, Australia, through the ACMA as the designated administrator, uses its best endeavours to ensure its rules and procedures in relation to such numbers conform to the ITU recommendation to the greatest extent practicable.

If the ACMA approves an application, the ACMA must allocate the MNC to the registered carriage service provider. The ACMA must also notify the registered carriage service provider that the MNC has been allocated and the date of allocation.

The ACMA is also required to notify the registered carriage service provider if a decision has been made not to approve the application. A decision not to approve such an application is a reviewable decision (see Part 3 of Chapter 11).

If the ACMA is not the designated authority, the ACMA must notify the designated authority of the allocation of the MNC and the date of allocation. This is to ensure the register of numbers, maintained by the designated authority is kept up to date.

### **Part 3 — Transfer, surrender and withdrawal of international signalling point codes and mobile network codes**

#### **Section 52 Transfer of codes**

Section 52 sets out the rules that apply to the transfer of ISPCs and MNCs. The rules are intended to be consistent with the relevant ITU recommendations (ITU-T Q.708 and ITU-T E.212) as far as is practicable. Therefore, a carriage service provider who holds an ISPC or a MNC may only transfer the code to another registered carriage service provider in the case of a transfer of business involving the providers. That is, where a carriage service provider is selling a business that involves the use of an ISPC or MNC to a second registered carriage service provider, the first carriage service provider may also transfer the ISPC or MNC to the second registered carriage service provider.

Notice of the transfer must be given to the ACMA in an approved form and strict compliance with the form is required. The transfer takes effect when the ACMA acknowledges receipt of the completed notice of transfer.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of the transfer of the number and the date of transfer. This is to ensure the register of numbers, maintained by the designated authority, is kept up to date.

#### **Section 53 Withdrawal of codes**

Section 53 allows the ACMA to withdraw an ISPC or a MNC held by a carriage service provider if the ACMA is satisfied that the withdrawal is appropriate in all the circumstances and is consistent with Australia's obligations under any relevant international agreement. The ACMA may also withdraw an ISPC or MNC under section 93 or 95 of the Numbering Plan 2015.

The ACMA must notify the carriage service provider of its decision to withdraw an ISPC or MNC held by the carriage service provider. If the ACMA is not the designated authority, the ACMA must notify the designated authority of the

withdrawal of the code and the date of the withdrawal. This is to ensure the register of numbers, maintained by the designated authority, is kept up to date.

#### **Section 54 Application to surrender codes**

Section 54 provides that a carriage service provider that holds an ISPC or MNC may apply to the ACMA to surrender the code if there is no carriage service being provided using the code.

This section requires the application to be made in a form approved by the ACMA and strict compliance with the approved form. The application must also be accompanied by any applicable application charge that is fixed by determination made under section 60 of the ACMA Act.

#### **Section 55 Decision on application to surrender codes**

Section 55 requires the ACMA to make a decision on an application made by a carriage service provider under section 55 no later than 10 business days after receiving the application.

#### **Section 56 Notice of decision**

Section 56 requires the ACMA to notify the carriage service provider of its decision on an application to surrender an ISPC or MNC in writing as soon as practicable after making the decision.

If the ACMA approves the application, it must notify the carriage service provider of the date of surrender. If the ACMA is not the designated authority, it must notify the designated authority of the codes surrendered and the date of surrender, to ensure the designated authority is able to update the register of numbers kept under section 465 of the Act. The date of surrender must be the date of the ACMA's decision.

### **CHAPTER 6 — ALLOCATION OF NUMBERS**

Chapter 6 sets out the rules for the allocation of numbers by the ACMA to carriage service providers for use in connection with the supply of carriage services.

#### **Part 1 — Numbers able to be allocated**

##### **Section 57 ACMA to list numbers able to be allocated**

Section 57 requires the ACMA to make a list of the following types of numbers that are able to be allocated:

- geographic numbers
- freephone numbers
- local rate numbers
- premium rate numbers
- special services numbers
- access codes

The ACMA must make the list for each type of number available to the public. The list of freephone numbers and local rate numbers must specify which of those numbers are smartnumbers.

Each of these number types is defined in section 15 of the Numbering Plan 2015 and has been specified for use in connection with the supply of carriage services to the public in Australia. The purpose of the listing of particular numbers within these categories is to make it easy for applicants to identify the numbers and number ranges that are currently available for allocation and use.

The list may include a number that is held by a carriage service provider but does not need to include a number that has not been allocated. A number that has been allocated to a carriage service provider, and is listed, may be reallocated after it has been surrendered or withdrawn. The ACMA is not required to list all numbers that may be made available for allocation at some point in the future.

This section also provides that the ACMA must not list the following:

- a shared number
- a special services number specified for use with a location independent communications service (these numbers are to be phased out and the ACMA will not be allocating these numbers in future but will accept applications for surrender or these numbers under the Numbering Plan).

Shared numbers are not allocated to an individual carriage service so are available for use by any carriage service provider. Examples of shared numbers include 1223 and 1225, which are used for the supply of national and international directory assistance services. There are also access codes which are shared. For example, 0011 which is used with the international direct dial service.

The special service number 0550 that is specified for use in connection with a location independent communications service, such as a VoIP service, is being phased out as these numbers have not proven useful for such services. The ACMA will not be making any more of these numbers available for allocation. Carriage service providers that still hold 0550 numbers will be able to surrender them under the Numbering Plan 2015. Carriage service providers who supply location independent communications services can apply for geographic numbers to use in connection with these services.

## **Part 2 — Standard procedure for allocation of numbers**

### **Section 58 Application for allocation of numbers**

Section 58 sets out the standard application procedure for applications made by registered carriage service providers seeking allocations of numbers.

A registered carriage service provider may apply to the ACMA for an allocation of a number that is:

- listed under section 57 and not currently held by a carriage service provider;
- a smartnumber for which there is an enhanced rights of use holder (EROU) but which is not allocated to a carriage service provider under section 61. This type of smartnumber is referred to as an assigned unallocated smartnumber (see the definition in section 15).



A registered carriage service provider may also apply to the ACMA for an allocation of a number that is any of the following:

- a freephone number that is not a smartnumber; or
- a local rate number that is not a smartnumber; or
- a premium rate number

if the number is held by the carriage service provider who is making the application and was allocated to that carriage service provider with effect for 14, 30 or 90 days. See subsections 59(5) to (9) and section 62.

If a registered carriage service provider has an unpaid liability for an annual charge or late penalty payment, within the meaning of section 468 of the Act, which has been due for more than 3 months, the CSP will not be able to apply for an allocation of numbers under this section.

This section imposes the following application requirements:

- the application must be in a form approved by the ACMA and must strictly comply with that form;
- the application must be accompanied by any applicable application charge that has been fixed by a determination under section 60 of the ACMA Act;
- the registered carriage service provider must pay any allocation charge imposed on the allocation of the numbers by Part 2 of the Numbering Charges Act.

An application will not be complete unless it satisfies all of the requirements of this section and section 59.

### **Section 59 Application for allocation of numbers — additional requirements**

Section 59 sets out additional requirements for an application made under section 58.

Subsection 59(2) provides that an application for a number must be for multiples of the standard unit for that number type. A standard unit is a contiguous block of numbers in sequence. The quantity of numbers in the block depends on the type of number and is set out in Schedule 7. For example, a standard unit for applications for geographic numbers in a particular standard zone unit is 1,000 numbers (or 100, in some cases), whereas for freephone numbers it is a single number.

Subsection 59(3) requires applications for geographic numbers to state the standard zone unit for which the numbers are requested and, if the registered carriage service provider identifies the numbers it wishes to be allocated, those numbers must be specified for use within that standard zone unit.

Subsection 59(4) requires applications for a special service number or an access code to specify the type of service for which the number is requested and, if the registered carriage service provider identifies the numbers it wishes to be allocated, those numbers must be specified for use with that type of service.

*Special allocation rules for freephone and local rate numbers (other than smartnumbers) and premium rate numbers – allocations for limited periods*

Subsection 59(5) requires that applications for:

- a freephone number that is not a smartnumber; or
- a local rate number that is not a smartnumber; or
- a premium rate number;

must specify the period of allocation that the number is being applied for in accordance with subsections 59(6) to 59(9).

This allows registered carriage service providers who apply for 'non-smartnumber' freephone or local rate numbers, or for premium rate numbers, to choose to be allocated the number for particular periods of time. A carriage service provider may also apply for the number for an unlimited period of time.

The length of time of allocation for which the registered carriage service provider will be able to apply depends on whether the registered carriage service provider has already been allocated the number for a particular time period. That is, if the registered carriage service provider does not currently hold the number, the carriage service provider may apply for an allocation of the number for 14 days, for 90 days or without a time limit.

If the registered carriage service provider already holds the number and it was allocated to it with effect for 14 days, the carriage service provider will in effect be able to apply for an allocation for a further 14 days, for a further 90 days or an unlimited (permanent) allocation. However, if the registered carriage service provider has already extended its initial 14 days allocation by a further 14 day allocation, it will only be able to apply for an allocation for 90 days or without a time limit.

Similarly, if the registered carriage service provider holds the number and it was allocated for an initial 90 day period, the carriage service provider will only be able to effectively apply for another allocation of 30 days, or apply for an allocation without a time limit.

If the carriage service provider holds the number and has exhausted all of the allocations of limited duration, as outlined above, the carriage service provider can only apply for an allocation without a time limit (see subsection 59(9)).

Allocations of these freephone, local rate or premium rate numbers that are subject to a time limit will automatically be withdrawn from the carriage service provider after the period expires (see section 96 of the Numbering Plan 2015).

Under the Numbering Plan 1997, carriage service providers used these time-based allocations to effectively temporarily reserve a number for a period of time while the carriage service provider found a customer for a service on the number. The ability to apply for such 'temporary' allocations allows carriage service providers to be allocated numbers on a temporary basis without requiring the carriage service provider to surrender the numbers if they are not needed at the end of that time. During the period of allocation, however, all the usual rules apply, including any obligations in relation to payment of annual numbering charge under the Numbering Charges Act.

## **Section 60 Decision on application**

Subsection 60(1) provides that the ACMA must approve an application if it is complete and none of the grounds set out in the section for not approving the application apply.

Where more than one application is received for the same number, the ACMA must make a decision on the application it received first and not approve any later application.

Subsection 60(3) imposes a limitation on the allocation of a carriage service provider identification code (a type of access code identified in Schedule 6 to the Numbering Plan 2015 as being for use with an interconnect and routing service; see section 15). The ACMA must not approve an application for an allocation of a carriage service provider identification code if the registered carriage service provider holds such a code that was allocated on or after 5 September 2013, unless the ACMA is satisfied that special circumstances justify the allocation of an additional code to the registered carriage service provider.

This limitation does not apply if there is a registered industry code in place that the ACMA has declared as a replacement code for the purposes of subsection 60(3).

The purpose of this limitation is to ensure that the available supply of codes is not exhausted by a few carriage service providers, which could adversely affect competition in the telecommunications market. This limitation was first included in the Numbering Plan 1997 in 2013 to address potential increase in demand for these codes following the removal of annual numbering charge liability for these numbers (see section 6.21A of the Numbering Plan 1997).

The ACMA must notify a registered carriage service provider in writing if it has decided not to approve an application for a carriage service provider identification code. Such a decision is a reviewable decision (see Part 3 of Chapter 11).

Subsection 60(6) provides that the ACMA may regard a particular application as complete even if subsections 58(6) and (7) are not met by a registered carriage service provider (which require the application to be accompanied by any applicable charges), if the ACMA has determined in writing that this subsection applies to the carriage service provider and has not revoked that determination. This allows for situations where the ACMA has a post-payment arrangement in place with a carriage service provider. Any such determinations will be published on the ACMA's website at [www.acma.gov.au](http://www.acma.gov.au).

## **Section 61 Allocation of numbers**

Subsection 61(1) provides that if the ACMA approves an application under section 58 for a specified number or numbers, the ACMA must allocate those numbers to the registered carriage service provider.

Subsection 61(2) provides that if the ACMA approves an application that does not specify any number or numbers, the ACMA will select the number or numbers to allocate from numbers that are:

- types of numbers to which the application relates;
- listed under section 57 as numbers that are able to be allocated;

- not already allocated;
- if the application is for geographic numbers – specified for use in the standard zone unit to which the application relates; and
- if the application is for special services numbers or access codes – specified for use with the type of service to which the application relates.

Allocations made under this section may be subject to conditions (see subsection 61(3)).

The ACMA may decide to allocate a number with effect from, or until, a specified date (see subsection 61(4), and for freephone and local rate numbers (other than smartnumbers) and premium rate numbers, see subsections 59(6) to (9), and 62(2)).

Subsection 61(5) requires the ACMA to notify the registered carriage service provider, in writing, of the numbers that have been allocated and the date of allocation. The ACMA must also notify whether the allocation is subject to any conditions, and, if applicable, the date the allocation will end. If the ACMA is not the designated authority, the ACMA must notify the designated authority of these matters in writing. This is to ensure that the designated authority is able to update the register of numbers it keeps under section 465 of the Act.

### **Section 62 Particular matters relating to allocation of freephone, local rate and premium rate numbers**

Section 62 applies to the allocation of freephone and local rate numbers (that are not smartnumbers), and premium rate numbers when the ACMA approves an application made by a registered carriage service provider under section 58.

As explained above, applications for such numbers must specify the period for which the allocation is applied in accordance with subsections 59(5) to (9). The ACMA must allocate the number for the period of time that is set out in the application.

If the application was for an allocation without a time limit:

- the ACMA must not specify an end date for the allocation; and
- the number must be allocated subject to a condition that it must be issued to a customer or used by the registered carriage service provider not later than 5 business days after the date of the notice under subsection 61(5).

The notice of allocation that the ACMA must provide under subsection 61(5) must state that if this does not occur the ACMA may withdraw the number. The ACMA has the power to withdraw the number under Part 3 of Chapter 8 of the Plan.

## **Part 3 — Application for allocation of numbers in special circumstances**

### **Section 63 Application for allocation of numbers**

Section 63 allows registered carriage service providers to apply to the ACMA for non-standard allocations of numbers. The allocations are ‘non-standard’ as they are for a number or numbers that have not been listed as available by the ACMA under section 57 or the application is not for a standard unit size (or a multiple of a standard unit size) for that type of number or numbers.

A registered carriage service provider will not be able to apply for an allocation under this section if the provider has an unpaid liability for an annual charge or late penalty payment which has been due for more than 3 months (see subsection 63(2)). A registered carriage service provider may not apply for a shared number as such numbers are available for use by all carriage service providers without allocation (subsection 63(3)).

This section imposes the following application requirements:

- the application must be in a form approved by the ACMA (subsection 63(4));
- the application must be accompanied by any application charge fixed by a determination made under section 60 of the ACMA Act (subsection 64(6));
- the registered carriage service provider must pay the allocation charge imposed by Part 2 of the Numbering Charges Act (subsection 64(7)).

Subsection 63(5) also requires applications for a freephone number, local rate number or a premium rate number made under this Part to specify whether it is for an allocation for 14 days, 90 days or without a time limit.

It should be noted that this section will not apply to the allocation of smartnumbers. Freephone or local rate numbers must be listed as smartnumbers under section 57 in order to be smartnumbers, and smartnumbers have a standard unit of one. Since the only freephone and local rate numbers that may be allocated under this Part are those that are not listed, they cannot include smartnumbers.

#### **Section 64 Decision on application**

Subsection 64(1) requires the ACMA to make a decision to approve or not approve an application under section 63 no later than 60 business days after receiving the application. The ACMA has a wide discretion to approve an application if it is satisfied that it is appropriate to do so in all circumstances. The ACMA will take into account the matters listed at section 65 when considering if it is appropriate to allocate the numbers.

This section also provides that the ACMA must not approve an application in which the registered carriage service provider identified specific numbers if these numbers are not the type of numbers to which the application relates or if the numbers are held by a carriage service provider (subsection 64(3)). If the ACMA receives multiple requests for allocation of the same number, the ACMA must make a decision in the order that the requests were received (subsection 64(4)).

#### **Section 65 Matters to take into account**

In considering whether it is appropriate to allocate the numbers under section 63, the ACMA must take into account the following matters:

- the efficient use of a number, to enable future requirements for numbers to be met at the least cost to carriage service providers and customers;
- the desirability of promoting access by end-users to a range of carriage services and carriage service providers;

- the desirability of promoting flexible management by carriage service providers of any expansion in the use of numbers in connection with the supply of carriage services for which the number is to be allocated;
- the objects of the Numbering Plan 2015;
- any other matter the ACMA considers relevant.

### **Section 66 ACMA may ask for further information**

Section 66 enables the ACMA to request, in writing, further information from a registered carriage service provider about relevant matters to assist in the consideration of an application for a non-standard allocation of numbers. The 60 business days for making a decision on an application under section 63 does not include a period starting when the ACMA makes a request for further information and ending when the ACMA receives the information.

Unless the ACMA specifies otherwise, the registered carriage service provider must provide this information in writing. The carriage service provider is taken to have withdrawn the application if the information is not given to the ACMA within 40 business days from the date the request was made.

### **Section 67 Notice that application has not been approved**

Section 68 requires the ACMA to notify a registered carriage service provider in writing if the ACMA decides not to approve an application made under section 63. Such a decision is a reviewable decision under Part 3 of Chapter 11.

### **Section 68 Allocation of numbers**

Subsection 68(1) provides that if the ACMA has approved an application for a number or numbers under section 63, the ACMA must allocate those numbers to the registered carriage service provider.

If the ACMA approves an application that does not specify any number or numbers, the ACMA will select the number or numbers to allocate that are:

- types of numbers to which the application relates;
- not already allocated;
- if the application was for geographic numbers – numbers specified for use in the standard zone unit to which the application relates;
- if the application was for special services numbers or access codes – numbers specified for use with the type of service to which the application relates.

The ACMA may decide to allocate numbers under this section subject to conditions (subsection 68(3)) or with effect from, or until, a specified date (subsection 68(4), and for freephone, local rate and premium rate numbers, see section 69).

Subsection 68(5) requires the ACMA to notify the registered carriage service provider, in writing, of the numbers that have been allocated and the date of allocation. The ACMA must also notify the carriage service provider if the allocation is subject to any conditions and whether the allocation is to have effect until a specified date. If the ACMA is not the designated authority, the ACMA must notify

the designated authority of these matters in writing to ensure that the designated authority is able to update the register of numbers maintained under section 465 of the Act.

### **Section 69 Particular matters relating to allocation of freephone local rate and premium rate numbers**

Section 69 applies to the allocation of freephone, local rate and premium rate numbers when the ACMA approves an application made by a registered carriage service provider under section 63.

As explained above, the applications for such numbers must specify whether the allocation is for 14 days, 90 days or without time limit (see subsection 63(5)). The ACMA must allocate the number for the period of time set out in the application.

If the application was for an allocation without a time limit:

- the ACMA must not specify an end date for the allocation; and
- the number must be allocated subject to a condition that it must be issued to a customer or used by the registered carriage service provider not later than 5 business days after the date of the notice under subsection 68(5).

The notice the ACMA is required to give under subsection 68(5) must state that if this does not occur the ACMA may withdraw the number. The ACMA has the power to withdraw the number under Part 3 of Chapter 8.

## **Part 4 — Variation to standard zone units to which geographic numbers are allocated**

### **Section 70 Application by carriage service provider for variation of allocation**

Section 70 enables a registered carriage service provider to apply, in writing, to the ACMA to vary the standard zone unit to which one or more geographic numbers are allocated. The registered carriage service provider must use the application form approved by the ACMA and must:

- identify the standard zone unit to which the numbers are allocated;
- be for a multiple of 100 numbers;
- include an explanation of how and why the standard zone unit is inappropriate.

The application must be accompanied by any applicable application charge that has been set out in a determination under section 60 of the ACMA Act.

### **Section 71 Decision on application**

Section 71 provides that the ACMA must decide to approve or not to approve an application under section 70 no later than 10 business days after the day on which it receives the application. If the ACMA needs to consult on the application, it may extend that period to a total of no more than 40 business days by giving notice in writing of the extension to the applicant.

The ACMA must decide not to approve an application under section 70 to vary a standard zone unit to which one or more geographic numbers are allocated if it is satisfied that any of following applies:

- the numbers were deliberately issued for use in an inappropriate standard zone unit; or
- the variation would be inconsistent with the number analysis capabilities of telecommunications networks operated in Australia; or
- the numbers do not relate to:
  - the terminating charging district in which calls to the number terminate or appear to terminate for charging purposes; or
  - a standard zone unit that is adjacent to the first standard zone unit and is in a charging district that has the same prefix as the terminating charging district; or
- the use of the numbers would substantially reduce the geographic significance of the numbers; or
- the decision to vary the allocation would have disadvantages for another carriage service provider, customer or end-user that outweigh the advantages.

Unless the ACMA is required not to approve an application under subsection 71(1), the ACMA may approve an application to vary the standard zone unit under subsection 71(2) if:

- the ACMA is satisfied that the carriage service provider making the application has issued the numbers; and
- the carriage service provider has given the ACMA adequate information to allow the ACMA to make a decision.

The ACMA's must notify the carriage service provider of its decision in writing and, if the ACMA is not the designated authority, the ACMA must notify the designated authority of its decision.

## **Section 72 Request for further information**

Section 72 allows the ACMA to request, in writing, further information from a carriage service provider who has made an application under section 70. The ACMA can request that this information be given no later than 30 business days after the request is made.

The period for making a decision on the application under subsection 71(1) does not include the period from which the ACMA asks the carriage service provider for further information until the ACMA receives the information. If the applicant does not give the ACMA the further information requested within 30 business days after the request is made, the applicant is taken to have withdrawn the application.

## **CHAPTER 7 — SPECIAL RULES ABOUT SMARTNUMBERS**

Chapter 7 sets out specific rules relating to smartnumbers. Smartnumbers are freephone and local rate numbers that the ACMA has specified as 'smartnumbers' in the list it creates under section 57 of the Numbering Plan 2015. The freephone and



local rate numbers that are specified to be smartnumbers are generally patterned (for example, 1800 222 222) or capable of being translated into one or more 'phonewords' (for example, 13 CATS), making these numbers more memorable and therefore valuable to end-users.

Smartnumbers are different to other freephone and local rate numbers as end-users initiate the allocation process by effectively applying to obtain enhanced rights of use (EROU) for a smartnumber. There are additional rights, conferred on the EROU-holder of a smartnumber, that do not apply in relation to other numbers. Enhanced rights of use include the ability for the EROU-holder of the smartnumber to sell or licence the number, and hold the number without service for up to three years.

The ACMA (and, before it, the Australian Communications Authority) has been allocating smartnumbers since 2004. Smartnumbers were previously allocated through an auction system, determined under section 463 of the Act (most recently through the the *Telecommunications (Freephone and Local Rate Numbers) Allocation Determination 2007 (No.1)*). The ACMA has decided to move to an 'over-the-counter' system for the sale of smartnumbers to increase the efficiency of the allocation process.

There are two stages to the allocation of a smartnumber. First, if the EROU for an 'unassigned unallocated smartnumber' (that is, a smartnumber without an EROU-holder) are assigned to an EROU-applicant, the smartnumber is also initially allocated to a carriage service provider under Chapter 7. However, that carriage service provider immediately surrenders the number (subsection 75(3)) and the EROU-holder can arrange for another carriage service provider to apply for the allocation of an assigned unallocated smartnumber to that carriage service provider (which occurs under Part 2 of Chapter 6).

## **Part 1 — Special procedure for initial allocation of smartnumbers**

### **Section 73 Application for initial allocation of smartnumbers**

Section 73 sets out the requirements for the initial allocation of an unassigned unallocated smartnumber. The rules regarding the allocation of assigned unallocated smartnumbers (that is, those smartnumbers that have an EROU-holder) are in Part 2 of Chapter 6.

Once a smartnumber has been allocated under section 75, it becomes an assigned, unallocated smartnumber. An assigned unallocated smartnumber can become an unassigned unallocated smartnumber again if the EROU are cancelled (under sections 84 and 85) or waived by the EROU-holder (section 83).

The application for the initial allocation is made jointly by a registered carriage service provider and a person (the EROU-applicant). In practice, the application will be initiated by the EROU-applicant, by selecting an unassigned unallocated smartnumber through the ACMA's numbering system. It is expected that the ACMA's numbering system will automatically select a random registered carriage service provider to act as the joint applicant for the application. This is consistent with arrangements that the ACMA has made with the major carriage service providers. This automatic selection does not require the carriage service provider to have, or enter, any commercial arrangement with the EROU-applicant.

This section imposes the following application requirements:

- the application must be in a form approved by the ACMA and strict compliance with the form is required;
- the application must be accompanied by any applicable application charge that has been fixed by a determination under section 60 of the ACMA Act;
- the registered carriage service provider must pay any allocation charge imposed on the allocation of the smartnumbers by Part 2 of the Numbering Charges Act. An EROU-applicant may pay the charge on behalf of the registered carriage service provider.

An application will not be complete unless it satisfies all of the requirements of this section.

#### **Section 74 Decision on application**

Section 74 requires the ACMA to approve a complete application made under subsection 73(1). However, if more than one application for allocation of the same unassigned unallocated smartnumber is received, the ACMA must make a decision on the applications in the order that they were received. Once an application is approved, the ACMA cannot approve any later applications for the same smartnumber.

The ACMA must give written notice of a decision not to approve an application under subsection 73(1) to the registered carriage service provider and the EROU-applicant.

#### **Section 75 Initial allocation of smartnumbers**

If the ACMA approves an application for a smartnumber made under subsection 73(1), section 75 requires the ACMA to allocate that smartnumber to the registered carriage service provider that applied with the EROU-applicant.

The EROU applicant becomes the EROU-holder at the time the ACMA allocates the smartnumber to the registered carriage service provider.

Immediately following the allocation of the smartnumber to the registered carriage service provider, the allocation is taken to have been surrendered by the carriage service provider and the smartnumber becomes an 'assigned unallocated smartnumber'. This surrender occurs automatically under subsection 75(3), and is part of the arrangements the ACMA has entered into with major carriage service providers to facilitate the assignment of EROU to EROU-holders. This allows the EROU-holder to approach a carriage service provider of its choice when it wishes a service to be provided on the smartnumber.

Subsection 75(4) requires the ACMA to notify the EROU holder of the following:

- that the smartnumber was allocated to the registered carriage service provider and the allocation ceased immediately after the smartnumber was allocated; and
- that until the smartnumber is allocated under section 60, the smartnumber is an assigned unallocated smartnumber; and
- the date of the allocation and cessation.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of the matters set out in subsection 75(4). This ensures that the designated

authority is able to accurately maintain the register of numbers in accordance with section 465 of the Act.

The ACMA is also required to update the register of smartnumbers under section 78.

## **Part 2 — Enhanced rights of use**

### **Section 76 Enhanced rights of use**

Section 76 lists the rights of use that are conferred on the EROU-holder for the smartnumber. These are the rights to:

- request a registered carriage service provider to provide a service on the smartnumber to the EROU-holder;
- trade the EROU;
- have the smartnumber surrendered by a registered carriage service provider;
- give up all rights in relation to the smartnumber;
- have no active service in place for the smartnumber (but see section 85);
- ask a registered carriage service provider to apply for the allocation of the smartnumber under section 58;
- ask for the disconnection of a service on the smartnumber at any time.

The section further explains that an EROU-holder's right to disconnection of an active service does not affect the validity of any agreement for the delivery of services between the carriage service provider and the person to whom the service is provided.

This section also provides that a carriage service provider does not need to act on a request by a person purporting to be the EROU-holder unless the carriage service provider is satisfied that the person who made the request is the current EROU-holder. The carriage service provider is entitled to rely on the register of smartnumbers maintained by the ACMA under section 78 in order to be so satisfied.

### **Section 77 Reallocation and issue**

Section 77 gives effect to an EROU-holder's right to make a request to a particular registered carriage service provider for the supply of a service on its smartnumber. Essentially, it provides that if the EROU-holder asks a registered carriage service provider to apply for allocation of an assigned unallocated smartnumber (whether the smartnumber is an assigned unallocated smartnumber because the initial allocation has been automatically surrendered, or because a subsequent allocation has been surrendered or withdrawn), the registered carriage service provider must apply for the allocation of the smartnumber under section 58.

Once the smartnumber is allocated to that registered carriage service provider, it must issue the smartnumber to the EROU-holder as soon as practicable after the allocation has occurred and agreement has been reached between the carriage service provider and the EROU-holder about the delivery of the services for the smartnumber.

## **Section 78 Register of smartnumbers**

Section 78 requires the ACMA to maintain a register of smartnumbers. The register must contain the following information for each smartnumber for which there is a EROU-holder:

- the smartnumber;
- the name of the EROU-holder;
- if the EROU-holder agrees, the EROU-holder's address, telephone and fax numbers and email address.

The register of smartnumbers is able to be relied upon by carriage service providers to determine whether a person requesting that the carriage service provider perform an act in relation to a smartnumber actually is the EROU-holder for that smartnumber (see subsection 76(3)).

The ACMA will make a form available for EROU-holders to update their details on the register. An EROU-holder must keep the register up to date if there are any changes to the EROU-holder's details contained in the register. A person who becomes the EROU-holder for a smartnumber as the result of a trade must also update the details in the register.

The ACMA must make the register available to the public and the register may be in an electronic form. The ACMA may correct any error or omission in information held in the register in relation to the EROU-holder for a smartnumber.

## **Section 79 Trading the enhanced rights of use and licensing a smartnumber**

Section 79 provides that the EROU-holder for a smartnumber may trade all their EROU but is not entitled to trade only some of the EROU.

The EROU-holder for a smartnumber may also license another person to have an active service on the smartnumber.

A trade of the EROU does not come into effect until the ACMA is notified of the trade in the ACMA approved form. Strict compliance with the form is required. This ensures that the register of smartnumbers maintained by the ACMA under section 78 is accurate.

This section also provides that a carriage service provider who is allocated the smartnumber must not do anything that would hinder the trading of the EROU or the licensing of the smartnumber.

## **Section 80 Application to surrender smartnumber**

Section 80 enables a carriage service provider that holds a smartnumber to apply to the ACMA to surrender the smartnumber if there is no carriage service being provided using the smartnumber.

If the surrender has been requested by the EROU-holder, the carriage service provider must make an application to the ACMA no later than 5 business days after receiving the request from the EROU-holder. The EROU-holder retains the right to

trade the EROU for the smartnumber and to ask a carriage service provider to apply for the allocation of a smartnumber under section 77.

The application must be in a form approved by the ACMA and must strictly comply with that form. The application must be accompanied by any applicable application charge that has been fixed by a determination under section 60 of the ACMA Act.

### **Section 81 Decision on application to surrender smartnumber**

Section 81 requires the ACMA to make a decision on an application made by a carriage service provider under section 80 no later than 10 business days after receiving the application.

### **Section 82 Notice of decision**

Section 82 requires the ACMA to notify the carriage service provider of its decision on an application by a carriage service provider under section 80 in writing as soon as practicable after making the decision. If the ACMA approves the application, it must notify the carriage service provider of the date of surrender.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of the smartnumber surrendered and the date of surrender. This is to ensure that the designated authority is able to update the register of numbers it keeps under section 465 of the Act. The date of surrender is the date of the ACMA's decision.

### **Section 83 Waiver of enhanced rights of use**

Section 83 entitles the EROU-holder to waive the enhanced rights of use of an assigned unallocated smartnumber by notifying the ACMA, in an approved form. If the EROU-holder wants to waive the EROU in relation to an allocated smartnumber, the EROU-holder would first need to request that the carriage service provider surrenders the number under section 80.

When the ACMA receives notice under subsection 83(1), the smartnumber becomes an unassigned unallocated smartnumber and the EROU-holder ceases to be the EROU-holder for the smartnumber. The smartnumber may then become the subject of an application for an initial allocation under section 73, if it remains listed as a smartnumber on the list maintained under section 57 of the Numbering Plan 2015.

### **Section 84 Cancellation of enhanced rights of use – false statement**

Section 84 applies if the EROU-holder for a smartnumber was the joint applicant for the smartnumber and is convicted of making a false statement in the application, within the meaning of subsection 136(1) of the *Criminal Code*.

The ACMA must cancel the enhanced rights of use, withdraw the smartnumber from the carriage service provider and notify the EROU-holder of its decision in writing.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of its decision.

### **Section 85 Cancellation of enhanced rights of use – no allocation for 3 years**

Section 85 requires the ACMA to cancel the enhanced rights of use for a smartnumber if it has been an assigned unallocated smartnumber for a continuous period of 3 years. That is, if the number has not been allocated to a registered carriage service provider in that time, the ACMA must cancel the enhanced rights of use. This is designed to prevent the hoarding of smartnumbers without putting those numbers into service. The ACMA must notify the EROU-holder for the smartnumber of its decision in writing.

## **CHAPTER 8 — TRANSFER, SURRENDER AND WITHDRAWAL OF NUMBERS**

Chapter 8 sets out the rules for the transfer of numbers between registered carriage service providers, surrender of numbers by carriage service providers and the withdrawal of numbers by the ACMA.

### **Part 1 — Transfer of numbers**

#### **Section 86 Transfer of process**

Section 86 provides that a registered carriage service provider that holds a number may transfer the number to another registered carriage service provider with the agreement of the receiving carriage service provider. However, a freephone number, local rate number or premium rate number that is allocated with effect for 14, 30 or 90 days must not be transferred (subsection 86(2)).

This section does not apply to international signalling point codes and mobile network codes. Rules about the transfer of these numbers are set out in section 52.

The ACMA must be given notice of the transfer in a form approved by the ACMA and strict compliance with the form is required. The notice of transfer must be accompanied by any applicable charge that has been fixed by a determination under section 60 of the ACMA Act.

The transfer does not take effect until the ACMA acknowledges receipt of the completed notice of transfer. If the ACMA is not the designated authority, the ACMA must notify the designated authority of the transfer of the number and the date of transfer. This is to ensure that the designated authority is able to update the register of numbers it maintains under section 465 of the Act.

#### **Section 87 Transfer not to affect customer's right to use number**

Section 87 requires carriage service providers to ensure that a transfer of a number between providers does not affect a customer's ability to use the number.

### **Part 2 — Surrender of numbers**

#### **Section 88 Application to surrender numbers**

Section 88 provides that a carriage service provider that holds a number may apply to the ACMA to surrender the number if there is no carriage service provided using that number. This section does not apply to smartnumbers, ISPC or MNC, as surrender of these numbers is dealt with separately in section 80 (smartnumbers) and section 54 (ISPCs and MNCs).

The application must be in a form approved by the ACMA and must strictly comply with that form. The application must be accompanied by any applicable application charge that has been fixed by a determination under section 60 of the ACMA Act.

### **Section 89 Decision on application to surrender numbers**

Section 89 requires the ACMA to make a decision on an application to surrender a number made by a carriage service provider under section 88 no later than 10 business days after receiving the application.

The ACMA must decide not to approve an application for numbers that are not a multiple of standard units for that type of number, unless:

- the ACMA is satisfied that the surrender is consistent with the current number analysis capabilities of telecommunications networks operated in Australia; or
- the ACMA is satisfied that:
  - the surrender will not hinder the later allocation of the numbers; and
  - the carriage service provider is unable to, or would be significantly disadvantaged or inconvenienced if they were required to, surrender the numbers as a multiple of standard units.

In any other case, the ACMA must approve an application for a surrender of numbers under section 88.

### **Section 90 Notice of decision**

Section 90 requires the ACMA to notify the carriage service provider of a decision on an application to surrender numbers in writing as soon as practicable after making the decision. If the ACMA approves the application, it must notify the carriage service provider of the date of surrender. The date of surrender is the date of the ACMA's decision.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of the numbers surrendered and the date of surrender. This is to ensure that the designated authority is able to update the register of numbers it maintains under section 465 of the Act.

## **Part 3 — Withdrawal of numbers**

This Part sets out the circumstances under which the ACMA may withdraw numbers from carriage service providers. In addition to the provisions in this part, section 84 also provides additional rules for the withdrawal of a smartnumber and section 53 sets out the rules for the withdrawal of ISPCs and MNCs.

### **Section 91 Inconsistency with numbering plan**

Section 91 provides that the ACMA may withdraw a number (other than an ISPC or MNC) if:

- the number has been allocated, transferred or issued in a way that is inconsistent with the Numbering Plan 2015; and
- the ACMA is satisfied that the benefits of withdrawing or the problems that would be avoided by withdrawing the number, are more significant for end-

users and carriage service providers than the technical and financial consequences of withdrawing the number.

If the ACMA decides to withdraw a number, the ACMA must give written notice to the carriage service provider. The notice must set out the reasons for the decision and specify the date of withdrawal. The decision to withdraw a number under this section is a reviewable decision under Part 3 of Chapter 11.

This section requires that the period of time between the date of the notice and the date on which the number is to be withdrawn is to be at least the shorter of the following periods:

- 44 business days plus the period for which, at the date of the notice, the carriage service provider has held the number;
- 14 months.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of a decision to withdraw a number as soon as reasonably practicable after the decision is made. This is to ensure that the designated authority is able to update the register of numbers it maintains under section 465 of the Act.

### **Section 92 Inconsistency with conditions**

Section 92 provides that the ACMA may withdraw a number (other than an ISPC or a MNC) under the following circumstances:

- if the number has been transferred, issued or used in a way that is inconsistent with the conditions placed by the ACMA on the allocation of the number; and
- the ACMA is satisfied that the benefits of withdrawing, or the problems that would be avoided by withdrawing, the number, are more significant for end-users and carriage service providers than the technical and financial consequences of withdrawing the number.

If the ACMA decides to withdraw a number, the ACMA must give written notice to the carriage service provider. The notice must set out the reasons for the decision and specify the date of withdrawal. The decision to withdraw a number under this section is a reviewable decision under Part 3 of Chapter 11.

This section requires that the period of time between the date of the notice and the date on which the number is to be withdrawn is to be at least the shorter of the following periods:

- the period for which, at the date of the notice, the carriage service provider has held the number;
- one year.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of a decision to withdraw a number as soon as reasonably practicable after the decision is made. This is to ensure that the designated authority is able to update the register of numbers it maintains under section 465 of the Act.

### **Section 93 Non-payment of annual numbering charge**



Section 93 provides that the ACMA may withdraw a number held by a carriage service provider if:

- annual charge is payable under the Numbering Charges Act by the carriage service provider for any number held by the carriage service provider; and
- the charge has remained unpaid for at least 3 months from the date it was due;
- the ACMA is satisfied the carriage service provider is aware of the liability; and
- the ACMA is satisfied the withdrawal of the number will not produce any significant adverse consequences for end-users.

The ACMA must not withdraw a number under subsection 93(1) if the number is exempt from annual numbering charge in accordance with section 22 of the Numbering Charges Act; or the rate of annual charge for that number is nil.

If the ACMA decides to withdraw a number, the ACMA must give written notice to the carriage service provider. The notice must set out the reasons for the decision and specify the date of withdrawal. The decision to withdraw a number under this section is a reviewable decision under Part 3 of Chapter 11.

This section requires that the period of time between the date of the notice and the date on which the number is to be withdrawn is to be at least 20 business days.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of a decision to withdraw a number as soon as is reasonably practicable after the decision is made. This is to ensure that the designated authority is able to update the register of numbers it maintains under section 465 of the Act.

#### **Section 94 Withdrawal of numbers not in use**

Section 94 provides that the ACMA may withdraw a number (other than an ISPC or MNC) held by a carriage service provider if:

- either:
  - the number has been held by the carriage service provider for 24 months and has not been in use in that time; or
  - the number has been held by the carriage service provider for less than 24 months and the ACMA reasonably believes that the number will not be in use before the number is held for 24 months; and
- the ACMA reasonably believes that the number is additional to the ongoing business needs of the carriage service provider; and
- the ACMA reasonable believes that the benefits of withdrawing, or the problems that would be avoided by withdrawing, the number are greater than the costs of withdrawal.

Before making a decision to withdraw the number, the ACMA must notify the carriage service provider in writing that the ACMA proposes to withdraw the number and of the reasons for the proposed withdrawal. The notice must also inform the carriage service provider that it may object, in writing, to the proposed withdrawal of

the number in the period of 20 business days after the date of notice of proposed withdrawal. This period is known as the 'objection period'.

The ACMA must consider any objection received by a carriage service provider during the objection period when deciding whether to withdraw a number.

The ACMA must make a decision on whether to withdraw a number under this section as follows:

- if an objection is received during the objection period – within 20 business days after the day the ACMA received the objection;
- if an objection is not received during the objection period – within 20 business days after the end of the objection period.

The ACMA must give written notice to the carriage service provider of its decision in writing. If the ACMA decides to withdraw the number, the notice must set out the reasons for the decision and specify the date of withdrawal. The decision to withdraw a number under this section is a reviewable decision under Part 3 of Chapter 11.

This section requires that the period of time between the date of the notice under subsection 94(5) and the date on which the number is to be withdrawn is to be at least 20 business days.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of a decision to withdraw a number as soon as reasonably practicable after the decision is made. This is to ensure that the designated authority is able to update the register of numbers it maintains under section 465 of the Act.

## **Section 95 Cessation of business**

Section 95 enables the ACMA to withdraw a number held by an entity that was a carriage service provider if the ACMA is satisfied that the entity is no longer a carriage service provider and there are no proposed arrangements to permanently transfer the number to another registered carriage service provider.

The ACMA must give written notice to the entity of its decision to withdraw a number under this section. The notice must set out the reasons for the decision and specify the date of withdrawal.

This section requires that the period of time between the date of the notice and the date on which the number is to be withdrawn must to be at least 20 business days.

If the ACMA is not the designated authority, the ACMA must notify the designated authority of a decision to withdraw a number as soon as is reasonably practicable after the decision is made. This is to ensure that the designated authority is able to update the register of numbers it maintains under section 465 of the Act.

## **Section 96 End of allocation period**

Section 96 provides that a number that is allocated until a specified date is automatically withdrawn at the end of that day. This applies to allocations for set periods of times, including allocations of freephone, local rate and premium rate numbers that were requested to be for a period of 14, 30 or 90 days (see subsections 59(5) and 63(5)).

## **CHAPTER 9 — Obligations of carriage service providers**

Chapter 9 sets out the obligations of carriage service providers in relation to numbers that they hold and which have been issued to their customers.

### **Part 1 — Recall and issue of replacement number**

#### **Section 97 Recall of issued number and issue of replacement number**

Section 97 sets out the circumstances in which carriage service providers may recall an issued number (current number) from a customer and issue a replacement number. A carriage service provider may only recall a number issued to a customer and issue a replacement number if the recall and replacement:

- is required by law; or
- is asked for, or agreed to, in writing by the customer; or
- will avoid the need to modify or replace plant or equipment in a way that would have significant technical and financial consequences for the carriage service provider or its customers, or cause significant difficulties to the customer of the current number; or
- is approved by the ACMA under section 98.

The carriage service provider is required to notify the customer of its intention to recall the number and issue the customer with a replacement number, and of the date on which this will occur.

The time between the date of the notification and the recall and replacement must be for at least the shorter of a period as long as the number to be recalled has been issued to the customer, or 1 year. Despite this, the time may be shorter if:

- the customer asked for recall and replacement in writing; or
- the customer agreed to a shorter period in writing; or
- the number is recalled under section 98 and it is not reasonably practicable to give the minimum period of notice.

#### **Section 98 Application to recall issued number and issue replacement number**

Section 98 provides for a carriage service provider to make an application to the ACMA for approval to recall an issued number from a customer and issue the customer with a replacement number.

The application must be in writing and must include the reasons for requesting the recall and replacement.

The ACMA must make a decision to approve or not to approve the recall and replacement no later 65 business days after receiving the application.

The ACMA may request, in writing, further information from the carriage service provider about relevant matters to assist in its consideration of the application. If the ACMA does so, the 65 business days within which the ACMA must decide to approve or not approve the application will not include the period starting when the ACMA makes a request for further information and ending when the ACMA receives the information.

In considering the application, the ACMA may have regard to any matter that it considers relevant. The ACMA may consult the ACCC or an advisory committee established under the ACMA Act about the application.

The ACMA must give the carriage service provider written notice of the ACMA's decision.

### **Section 99 Recall of issued number without issue of replacement number**

Section 99 sets out the circumstances under which a carriage service provider may recall an issued number from a customer without issuing a replacement number. These are only if:

- the customer asks in writing for the number to be recalled; or
- the customer agrees in writing for the number to be recalled; or
- the customer asks in writing for the number to be issued to another customer; or
- the customer agrees in writing to the number being issued to another customer; or
- the carriage service provider ceases to offer the kind of carriage service associated with the number; or
- the carriage service provider ceases to offer the carriage service in the customer's location; or
- the supply of the carriage service to the customer is otherwise terminated; or
- the customer has not subscribed, within a reasonable time, to the carriage service for which the number was issued; or
- the number was issued to the customer on the condition that it would be recalled on or from a specified date; or
- the ACMA directs the carriage service provider to recall the number.

(Note the ACMA has a general power under section 581 of the Act to give written directions to a carriage service provider in connection with performing any of the ACMA's telecommunications functions or exercising any of the ACMA's telecommunications powers. In some circumstances this could include giving directions to recall issued numbers.)

### **Section 100 Restriction on reissuing recalled number**

Section 100 sets out the time restrictions for issuing a recalled number to another customer. If a carriage service provider recalls a number from a customer because

of nuisance calls, that number must not be issued to another customer for at least one year from the day it was recalled.

A number that was recalled from a customer (the previous customer) for any other reason must not be issued to another customer (the new customer) for a period of six months from the day it was recalled. Exceptions to this requirement are where:

- the carriage service provider does not hold any other suitable numbers and the new customer is informed that the number has been recalled within the last six months and agrees to be issued the number; or
- for a geographic number – the new customer moves into premises where calls to the number previously terminated and the new customer does not ask for a new number; or
- the number will be moved from the previous customer to the new customer, and the new customer and the carriage service provider agree to the issue of the number.

## **Part 2 — General obligations of carriage service providers**

### **Section 101 Use of numbers not to be subject to certain conditions**

Section 101 lists certain conditions that a carriage service provider must not impose on a customer in relation to the use of a number. These are:

- a condition that the customer must pay a debt owed to the carriage service provider by a customer who was previously issued the number;
- a condition that the customer must not request to port the number to another carriage service provider;
- a condition that the customer must not change carriage service providers.

### **Section 102 Carriage service provider must not issue a number that it has not been allocated**

Section 102 ensures that a carriage service provider can only issue a number that the provider holds. This means that the carriage service provider who holds the number has the exclusive ability to issue the number to a customer. No other carriage service provider may issue the number to a customer.

The holder of a number is the carriage service provider to whom the number has been allocated or transferred (see the definition of *holds* in section 15 of the Numbering Plan 2015).

Paragraph 455(1)(a) of the Act provides that the Numbering Plan 2015 is for, among other things, “the numbering of carriage services in Australia”. Carriage service providers issue numbers to their customers (see paragraph 455(5)(e) and note 2 to subsection 455(5) of the Act).

The issued number is, therefore, the number to be used in relation to the carriage service to be supplied to the customer by that carriage service provider. Nothing prevents a customer from being issued more than one number by the carriage service provider. Whether or not another carriage service provider may provide a service on that number is a matter for agreement between the carriage service providers and customers involved (subject to the rules about portability in Chapter 10

of the Plan). That is, nothing in the Numbering Plan 2015 prevents a carriage service provider who holds the number arranging with another carriage service provider for that provider to supply a service to a customer and take any and all practical steps to facilitate the provision of that service. The ACMA understands that such arrangements might be called different names by different carriage service providers (such as 'sub-allocations' or 'on-selling').

### **Section 103 Notice of carriage service provider's obligations**

Section 103 requires a carriage service provider to notify its customer about the provider's obligations in relation to the use of a number issued to the customer. The notification must be provided in writing and within six months of issuing the number to the customer.

The notice must inform the customer:

- that the carriage service provider has obligations in relation to the use of the number;
- that the customer can obtain information about the obligations;
- how they may obtain the information.

However, the notification requirement under subsection 103(1) does not apply if the customer has been previously issued a number by the carriage service provider and the information has not changed since the customer was last issued a number by the provider (see subsection 103(2)).

The information that can be obtained by the customers must explain the carriage service provider's obligations under Chapter 9 of the Numbering Plan 2015 and must be included in any telephone directory published by the carriage service provider (see subsections 103(3) and 103(4)).

### **Section 104 Application for exemption from obligation in this Chapter**

Section 104 enables a carriage service provider to apply for an exemption from compliance with a provision in Chapter 9. The application must be in writing and may be made in relation to all customers, or to a class of customers. The ACMA must make a decision to grant or not to grant the exemption within 65 business days after receiving the application.

The ACMA may request, in writing, further information from the carriage service provider about relevant matters to assist in its consideration of the application. If it does so, the 65 business days under subsection 104(4) will not include a period starting when the ACMA makes a request for further information and ending when the ACMA receives the information.

In considering the application, the ACMA may have regard to any matter that it considers relevant. The ACMA may consult the ACCC or an advisory committee established under the ACMA Act about the application.

The ACMA must give the carriage service provider written notice of the ACMA's decision.

## **Section 105 Replacement of provisions by industry code**

Section 105 provides that if there is a registered industry code that applies to a carriage service provider, and in the ACMA's opinion the industry code has substantially the same effect as one or more of the provisions in sections 97, 99, 100, 101 and 103, then those provisions do not apply to the carriage service provider. This is to encourage industry to develop its own standards of conduct in relation to the recall and replacement of numbers, and the provision of information to customers about their rights of use in relation to numbers.

## **CHAPTER 10 — NUMBER PORTABILITY**

Number portability is the ability of a customer of a carriage service provider to change carriage service providers and retain the same telephone number. Number portability is important in facilitating competition in the telecommunications industry because it removes a barrier to changing carriage service providers for end-users who wish to keep the same telephone number. It allows customers to choose and move between competing providers without the inconvenience of changing their phone number.

Under subsection 458(1) of the Act, the ACMA must not include rules about portability of allocated numbers unless the ACMA has been directed to do so by the ACCC under subsection 458(2). The ACCC has given directions to the ACMA in relation to portability in 1997, 1999, 2000, 2001 and 2003. The 1999 direction was revoked by the direction given in 2001, which also revoked parts of the 1997 direction. The direction given in 2003 was revoked in 2009. The current directions are available on the ACMA website at [www.acma.gov.au](http://www.acma.gov.au)

Subsection 458(4) of the Act requires the ACMA to act consistently with the ACCC's directions when making rules about portability in the Numbering Plan 2015. The ACMA has considered the directions and considers that the rules set out in Chapter 10 are consistent with the ACCC directions still in effect, given in 1997, 2000 and 2001. The rules set out in this Chapter are the same as those that were including in the Numbering Plan 1997, with some minor drafting changes.

Chapter 10 sets out the general obligation on carriage service providers to provide number portability for certain services. The ACMA has also registered two industry codes under section 117 of the Act (the Industry Code C570:2009 - Mobile Number Portability and the Industry Code C540:2013 – Local Number Portability). These codes set out the procedural arrangements carriage service providers are required to follow when porting numbers between providers. The codes specify the general rules for porting numbers, including timeframes for portability performance levels, and the porting processes, including the requirements for customer authorisations.

The obligations in this Chapter generally apply to carriage service providers and carriers providing a carriage service that is a 'portable service'. Portable service is defined in section 15 of the Numbering Plan 2015 to mean:

- a local service;
- a freephone service;
- a local rate service; or
- a public mobile telecommunications service other than a satellite telephone service.

## **Part 1 — Implementation dates**

### **Section 106 Determining implementation dates**

Section 106 provides for the ACMA to determine an implementation date, which is the date by which a carrier or a carriage service provider must implement number portability for portable services in relation to their customers. In making the determination, the ACMA must have regard to the network capacity and support systems of the carrier or carriage service provider, and any other matter relevant to giving effect to number portability.

Implementation dates for local number portability and mobile number portability were determined under the Numbering Plan 1997, and these are taken to continue to apply for these portable numbers. Further information about the implementation dates is available on the ACMA's website at [www.acma.gov.au](http://www.acma.gov.au).

### **Section 107 Public notice period for implementation date**

Section 107 requires that, at least 44 days before an implementation date, the ACMA must publish on its website a notice stating the implementation date and the portable services to which the date relates.

### **Section 108 Application of Chapter to carriage service providers and carriers**

The number portability obligations imposed on carriage service providers or carriers under Chapter 10 apply on and after the relevant implementation date for the portable service to which the number relates. Further information about the implementation dates is available on the ACMA's website at [www.acma.gov.au](http://www.acma.gov.au).

## **Part 2 — Providing portability**

### **Section 109 Technical capability and technology**

Section 109 requires a carriage service provider or carrier that is involved with providing a portable service to ensure that it has the technical capability to give effect to number portability for the portable service. The carriage service provider or carrier must also have the technology available for use within its network to give effect to number portability in a way that provides equivalent service and enables end-to-end connectivity.

### **Section 110 Meaning of *equivalent service***

Section 110 explains what is meant by an 'equivalent service' provided by a carriage service provider in relation to a ported number. An equivalent service is a service where any differences in quality, reliability, service or features, between that service and the service provided by the carriage service provider in relation to a number that has not been ported, are not apparent to end-users using or calling the ported number to the extent that they might affect their choice of carriage service provider.

Subsection 110(2) provides that regard may be had to the following matters in determining whether a carriage service is an equivalent service:

- any relevant criteria that have been specified by the ACMA for the purpose of identifying an equivalent service;



- the network capacity of, and the support systems available to, the carriage service providers and carriers; and
- any other matters relevant to providing number portability.

### **Section 111 Obligation to provide number portability to customers**

Section 111 sets out the obligations on a carrier or carriage service provider involved in providing a portable service to a customer, requiring that they must:

- ensure that the customer is able to exercise their rights in relation to number portability;
- do everything necessary to port a customer's number in response to a request made by another carrier or carriage service provider on behalf of the customer;
- port the number:
  - at the time agreed with the customer or the new carriage service provider or carrier; or
  - if no time is agreed, within a period of time determined by the ACMA under subsection 111(5); or
  - if a registered industry code that applies to the carrier or carriage service provider determines a period of time within which the number must be ported, within that period; or
  - in any other case, as soon as practicable;
- ensure that the customer is not prevented from keeping the same portable number when changing to the new provider or carrier.

Subsection 111(5) enables the ACMA to determine the period of time after a porting request is made within which a number must be ported. The period of time determined could apply to a particular case or a class of cases. In making the determination, the ACMA must have regard to the following:

- the network capacity of, and the support systems available to, the carriage service providers and carriers; and
- any other matters relevant to ensure that customers are able to exercise their right to port numbers.

The ACMA has not made any such determinations to date. The following industry codes establish the relevant porting timeframes that apply to carriage service providers or carriers:

- the Industry Code C540:2013 – Local Number Portability sets the timeframes for porting of local services provided on geographic numbers; and
- the Industry Code C570:2009 - Mobile Number Portability sets the timeframes for porting of mobile services.

## **Section 112 Obligation to ensure that equivalent service is provided**

This section requires a carriage service provider to provide an equivalent service to a person to whom a ported number has been issued, to the extent that the provision of such a service is within the provider's control. When routing a call to or from a ported number, a carriage service provider must ensure that no action or inaction on its part prevents:

- the carriage service provider from providing an equivalent service to the customer to whom the ported number has been issued; and
- an end-user receiving an equivalent service when using or calling the ported number.

## **Section 113 Routing arrangements**

Subsection 113(1) provides that a carriage service provider or carrier must not prevent, by its action or inaction in routing calls to or from a ported number, the provision of an equivalent service in relation to that number.

Subsection 113(2) requires the carriage service provider or carrier who has 'routing responsibility' in relation to a call to a portable number to enable calls to the number to be completed by:

- routing the call appropriately; or
- ensuring correct routing of the calls to the appropriate carriage service provider or carrier.

Subsection 113(3) sets out which carriage service provider has routing responsibility of a call in most instances, providing that the originating access carriage service provider (as defined in section 15) has routing responsibility unless one of the following applies to the call:

- if pre-selection of a carriage service provider or use of a carriage service provider identification code was applied to the call, the calling party's preselected carriage service provider has routing responsibility;
- if the call originated outside Australia, the first carriage service provider or carrier in Australia receiving the call has routing responsibility;
- if the call requires number translation from the dialled number to the appropriate network address, the carriage service provider or carrier providing the number translation service has routing responsibility from the point at which translation is applied;
- if the call is being diverted from one number to another, the carriage service provider or carrier providing the diversion service has routing responsibility from the point at which the diversions begins.

## **Section 114 Cancellation of service to ported number**

Section 114 sets out the obligations that apply to carriage service providers when a customer cancels the service to which a number relates which was ported from one carriage service provider to another.

The carriage service provider to which the number was ported must:

- if the number was a freephone or local rate number - surrender the number to the ACMA;
- in any other case – give the number back to the carriage service provider that holds the number.

The carriage service provider that holds the number will be the carriage service provider who has been allocated the number by the ACMA, or who has been transferred the number under the Numbering Plan 2015 or the Numbering Plan 1997, and who has not subsequently transferred or surrendered the number (see definition of 'holds' in section 15 of the Numbering Plan 2015).

It is the responsibility of the carriage service provider who holds the number to notify each relevant carriage service provider and carrier that the number is no longer ported and of the carrier it nominates as the carrier that will terminate calls to the number. The timeframes for giving the number back under subsection 114(2) are matters that have been agreed to by industry and are set out in the relevant industry codes on number portability.

## **Part 2 — Exemptions from obligations**

### **Section 115 Application for exemption from obligations in this Chapter**

Section 115 provides that a carriage service provider or carrier may apply to the ACMA, in writing, for an exemption from the portability obligations in Chapter 10. The application must identify:

- the obligation or obligations for which the applicant is seeking an exemption; and
- the period for which the applicant is seeking an exemption.

If the exemption is sought only in relation to particular exchanges or areas, the application must identify the exchanges or areas.

The application must include the reasons why the applicant is seeking the exemption and, if practicable, these reasons should be supported by documented evidence.

If the request for an exemption is being made due to an inability to meet the obligations, the application must include:

- a detailed statement of the actions the applicant has taken to try to meet its obligations; and
- the time by which the applicant believes it can complete any network or other requirements to meet its obligations and a list of proposed key dates before that time.

### **Section 116 Compliance not required while application is considered**

Section 116 states that carriage service provider or carrier is not required to comply with an obligation that is the subject of an application for exemption made under section 115 until the ACMA notifies the applicant of its decision on that application under section 120.

## **Section 117 Consultation with ACCC**

Section 117 provides that the ACMA may consult with the ACCC when considering an application for exemption under section 115, in relation to whether granting the exemption would be in the long-term interests of end-users. If the ACMA consults with the ACCC, the ACMA must give the ACCC the following:

- a copy of the application no later than 5 business day after receiving it; and
- all relevant information, documents and records in relation to the application.

## **Section 118 Deciding application for exemption**

Section 118 sets out the requirements relating to a decision on an application for exemption from an obligation under section 115. This section requires the ACMA to decide whether to grant or not grant the exemption no later than 65 days after receiving the application.

In considering the application, the ACMA may have regard to:

- the network capacity of, and the support systems available to, the carriage service providers and carriers;
- if the ACMA consulted the ACCC under section 117, any comments made by the ACCC on the long-term interests of end-users; and
- any other matters it considers relevant to providing number portability.

The ACMA must grant the exemption if it is satisfied that it is not practicable for the applicant to meet the obligation. The ACMA may grant the exemption if it is satisfied that it would be in the long-term interests of end-users to exempt the applicant from the obligation. Otherwise, the ACMA must not grant the exemption.

The ACMA may grant an exemption:

- for a specified period; or
- for specified purposes; or
- in relation to a specified customer or class of customers; or
- subject to specified conditions.

## **Section 119 Request for further information**

Section 119 provides that the ACMA may ask for further information from the applicant at any time to assist it to consider its application under section 115. The 65 business days mentioned in subsection 118(1) do not include a period:

- starting when the ACMA asks the applicant for further information; and
- ending when the ACMA receives the information.

The ACMA may nominate a date by which the information it requests must be provided and, at any time, replace this date with a later nominated date. The application lapses if the applicant does not provide the requested information by the nominated date.

## **Section 120 Notice of decision about exemption**

Section 120 sets out the requirements on the ACMA to notify the applicant in writing of its decision under section 118.

If the ACMA decides to grant an exemption, the notice must:

- describe each obligation from which the applicant is exempted; and
- describe the scope of the exemption, such as the period of the exemption or the class of customers to which the exemption relates; and
- include any conditions on the granting of the exemption.

If the ACMA grants the exemption, the ACMA must publish a notice on its website stating:

- that the ACMA has granted the exemption; and
- how a copy of the text of the ACMA's decision to grant the exemption can be obtained.

The ACMA must also give notice of the decision to grant an exemption to any person whom the ACMA believes may have an interest in the decision.

If the ACMA makes a decision not to grant an exemption, that decision is a reviewable decision under Part 3 of Chapter 11 and therefore notice of the decision must include a statement to the effect that the affected person may apply for reconsideration of the decision (see subsection 128(1)).

## **CHAPTER 11 — GENERAL MATTERS RELATING TO ADMINISTRATION. REVIEW AND REPORTING**

Chapter 11 sets out the administrative matters relating to the operation of the Numbering Plan 2015. These relate to the registration of carriage service providers for the purposes of the Numbering Plan 2015, monitoring and reporting requirements and review of decisions made by the ACMA.

### **Part 1 — Registration of carriage service providers**

#### **Section 121 Application for registration**

Section 121 provides that a carriage service provider may apply to the ACMA to be registered under section 122. The application must be in a form approved by the ACMA and strict compliance with the form is required. The application must be accompanied by any applicable charge fixed in a determination made under section 60 of the ACMA Act.

#### **Section 122 Registration of carriage service provider**

Section 122 requires the ACMA to register a carriage service provider if the carriage service provider has made a complete application and has paid any required charge.

Registration under section 122 is intended to facilitate the efficient and effective administration of numbering transactions by the ACMA through its numbering system. It is not intended to be a barrier to entry or otherwise to regulate who may be

a carriage service provider. Carriage service providers are only required to register if they want to apply for allocation, transfer or surrender of numbers.

Registration enables the ACMA to ensure it has accurate contact details of all carriage service providers using the system, which assists the ACMA to collect charges where applicable and otherwise to contact carriage service providers where necessary.

### **Section 123 Registered carriage service provider must update information**

Section 123 requires a registered carriage service provider to ensure that the ACMA has up to date information about the provider's name, Australian Company Number or Australian Registered Body Number (if any) and contact details.

### **Section 124 Transitional – registration under previous numbering plan**

Section 124 provides that a carriage service provider registered under the Numbering Plan 1997 immediately before the commencement of Part 1 of Chapter 11 of the Numbering Plan 2015, will automatically be taken to be registered under section 122 immediately after such commencement. Section 3.41 of the Numbering Plan 1997 required carriage service providers to register in order to be able to apply for allocation of a freephone, local rate or premium rate number.

## **Part 2 — Monitoring and reporting**

### **Section 125 Report on numbers transferred for purposes of numbering charge**

Section 125 sets out the reporting requirements that apply to a carriage service provider (the reporting carriage service provider) who holds a digital mobile number and is also a carrier in relation to a digital mobile service.

The purpose of these reports is to enable the ACMA to accurately determine the 'holder' of a number within the meaning of the Numbering Charges Act, so that it can correctly determine each carriage service provider's annual numbering charge liability and collect these charges efficiently.

Under the Numbering Charges Act, annual numbering charges are imposed on the 'holder' of a number as determined under the Numbering Charges Act. The holder of a number has a different meaning under that Numbering Charges Act to the carriage service provider that 'holds' a number under the Numbering Plan 2015. This is because the meaning of 'transfer' of a number in the Numbering Charges Act includes the porting of numbers to another carriage service provider and includes other rules about transfers that apply solely for the purposes of the Numbering Charges Act. The carriage services providers that 'hold' the numbers under the Numbering Charges Act may not be recorded as holding the numbers in the manner set out in the Numbering Plan 2015.

The information provided through these reports allows the ACMA to determine which of the numbers that a carriage service provider holds for the purpose of the Numbering Plan 2015 have actually been ported or otherwise transferred to another carriage service provider within the meaning of the Numbering Charges Act.

The reporting carriage service provider must give a report to the ACMA at the following times:

- each time a day is determined under subsection 18(2) of the Numbering Charges Act – no later than 10 business days after the day that is determined;
- if the ACMA requests a report from the carriage service provider in writing – no later than 20 business days after the request is given.

The report must be in a form approved by the ACMA and must be given to the ACMA by a method approved by the ACMA. The form must include the following:

- the name of the reporting carriage service provider;
- the digital mobile numbers held by the reporting carriage service provider (within the meaning of the Numbering Plan 2015 – i.e. allocated or transferred to that carriage service provider under the Numbering Plan 2015) at the time of the report;
- the name of each other carriage service provider that holds each of those digital mobile numbers within the meaning of section 17 of the Numbering Charges Act (that is, those carriage service providers to which the numbers have been ported, or otherwise transferred, within the meaning of section 5A of the Numbering Charges Act);
- any other information required by the ACMA that relates to the administration of annual numbering charge.

### **Section 126 ACMA usage of reports**

Section 126 provides that the ACMA must only use a report given by a carriage service provider under section 125 for the following reasons:

- to identify the holder of the number within the meaning of section 17 of the Numbering Charges Act ;
- to work out an amount of annual numbering charge; or
- to otherwise administer annual numbering charge.

If the ACMA is not given a report by a carriage service provider by the time required under section 125, the ACMA may rely on any other available information to undertake these activities.

### **Part 3 — Review of decisions**

Part 3 of Chapter 11 provides a mechanism through which affected persons may apply for merits review of certain decisions that the ACMA makes under the Numbering Plan 2015. This Part sets out which decisions are reviewable, the information that is to be provided to affected persons when those decisions are made and the manner in which affected persons may apply for internal reconsideration by the ACMA and further review by the Administrative Appeals Tribunal.

## **Section 127 Reviewable decisions**

Section 127 lists each of the decisions made by the ACMA which are reviewable decisions under the Numbering Plan 2015. There are 22 decisions that affected persons may apply for reconsideration of, ranging from refusal of applications for allocations of numbers in special circumstances to decisions not to grant exemptions from obligations under the Numbering Plan 2015.

## **Section 128 Statement to accompany notice of reviewable decision**

Subsection 128(1) requires the ACMA, when giving notice of a reviewable decision, to advise the person affected by the decision that the person may, if dissatisfied with the decision, apply to the ACMA under section 129 for reconsideration of the decision.

The affected person may apply to the ACMA for reconsideration of the decision. The application must be made within 20 business days after the affected person is notified of the decision, or, if the ACMA has extended the period within which the person may apply, before the end of that period.

The ACMA may extend the period before or after the 20 business day period has ended.

The application must be in a form approved by the ACMA and set out the reasons for the application.

Subsection 128(7) also provides that a failure to comply with the notice requirement in subsection 128(1) does not affect the validity of the decision concerned.

## **Section 129 Reconsideration by ACMA**

Section 129 requires the ACMA to reconsider a reviewable decision if it receives an application under section 128. The ACMA must make a decision (an internal review decision) whether to affirm, vary or revoke the reviewable decision. The ACMA must notify the applicant of an internal review decision and the reasons for that decision no later than 65 business days after receiving the application. If the ACMA does not notify the applicant of its decision in that time, the ACMA will be taken to have affirmed the reviewable decision.

## **Section 130 Statements to accompany notice of decision on reconsideration**

The notice of a decision on reconsideration of a reviewable decision required to be given under section 129 must include a statement to the effect that:

- the person notified of the internal review decision may apply to the Administrative Appeals Tribunal for review of the internal review decision; and
- the person may request a statement under section 28 of the *Administrative Appeals Tribunal Act 1975* in relation to the internal review decision.

This section also provides that a failure to comply with this notice requirement does not affect the validity of the reconsideration decision concerned.



## **Section 131 Review by Administrative Appeals Tribunal**

Section 131 provides that an application may be made to the Administrative Appeals Tribunal to review an internal review decision.

## **Part 4 — General matters**

### **Section 132 Use of computer program to make decisions**

Section 132 provides that the ACMA may use, or arrange for the use, under its control, of a computer program for any purpose for which the ACMA may make decisions under the Numbering Plan 2015. A decision made by the operation of a computer program under this arrangement is taken to be a decision made by the ACMA. A reference in this section to a decision includes, but is not limited to, a reference to the creation of a list.

Broadly speaking, this section allows the ACMA to automate a range of decisions under the Numbering Plan 2015. The ACMA intends to automate decisions to allocate numbers under Part 2 of Chapter 6 of the Numbering Plan 2015, and decisions to allocate unassigned unallocated smartnumbers under Part 1 of Chapter 7, amongst others. Section 132 allows the ACMA to use a computer program for the automatic allocation of numbers under those Parts, where the applications for those numbers comply with the requirements of those Parts.

The ACMA also intends to use a computer program to maintain the list of numbers that are available for allocation, required by section 57 of the Numbering Plan 2015. Section 132 also facilitates any automation of that maintenance.

The ACMA will maintain oversight of the automation of decision-making under these parts of the Numbering Plan 2015.

## **CHAPTER 12 — TRANSITIONAL PROVISIONS**

Chapter 12 makes arrangements to manage the transition from the provisions of the Numbering Plan 1997 and related numbering instruments.

### **Section 133 Previous allocations not affected by repeal**

Section 133 provides that the repeal of the Numbering Plan 1997 does not affect any allocation, transfer, surrender or withdrawal of a number that occurred under that instrument.

### **Section 134 Mobile network codes assigned before commencement**

Section 134 applies if:

- before the commencement of this section, a person has been assigned an MNC for use; and
- the MNC has not been transferred, surrendered or withdrawn before the commencement of this section.

This section provides that the person is taken to be a carriage service provider that holds the MNC for the purposes of Part 3 of Chapter 5 and Part 3 of Chapter 8. This ensures that those persons who have been previously assigned MNCs by the ACMA

before the commencement of the relevant provisions of the new Numbering Plan 2015 will be taken to hold the MNCs and will be able to apply to transfer or surrender those codes under the Numbering Plan 2015.

However, this section does not allow that person to apply as a carriage service provider for an allocation of another MNC or other number if the person is not a carriage service provider within the meaning of section 87 of the Act.

As part of the ACMA's role as the national administration for Australia with the ITU, the ACMA notifies the ITU of the MNCs that are currently assigned and the ITU publishes these details on its website at [www.itu.int/en/pges/default.aspx](http://www.itu.int/en/pges/default.aspx).

### **Section 135 Applications not dealt with under 1997 numbering plan**

Section 135 provides that applications made under the Numbering Plan 1997, for which decisions have not yet been made by the time that instrument is repealed, will be dealt with in accordance with the Numbering Plan 1997 as if that instrument had not been repealed.

### **Section 136 References to declarations in 1997 numbering plan**

Section 136 is a transitional provision that modifies the effect of the Numbering Plan 1997, so that references to declarations in force under section 3.39 of the Numbering Plan 1997 are read as references to the Declarations that were in force immediately before 1 April 2015, until the Numbering Plan 1997 is repealed under Schedule 8 of the Numbering Plan 2015.

Section 3.39 of the Numbering Plan 1997 allows the ACMA to declare freephone numbers, local rate numbers or premium rate numbers available for allocation. As explained above, the ACMA made the Declarations under this section. These two instruments will be automatically repealed (sunset) on 1 April 2015 by operation of Part 6 of the LIA. The two instruments will not be necessary once section 57 of the Numbering Plan 2015 commences; however, until that time this provision preserves the effect of those instruments, such that the numbers declared under those instruments immediately prior to 1 April 2015 are available for allocation.

## **SCHEDULES 1 — 8**

### **Schedule 1**

Schedule 1 lists geographic numbers that are specified for allocation and use in connection with the supply of local services in Australia. This Schedule contains four tables corresponding to four regions in Australia: Central East Region; South East Region; North East Region; and Central and West Region. Each table denotes the area code, at least the first two digits of the geographic number and the localities (standard zone units or charging districts) that the geographic numbers are specified for use in (see section 18).

### **Schedule 2**

Schedule 2 lists the freephone numbers that are specified for allocation and use in connection with the supply of freephone services in Australia. The table in Schedule 2 specifies the prefixes of freephone numbers, their digit length and whether incoming international access is available on the numbers.

### **Schedule 3**

Schedule 3 lists the local rate numbers that are specified for allocation and use in connection with the supply of a local rate service in Australia. The table in Schedule 3 specifies the prefixes of local rate numbers, their digit length and whether incoming international access is available on the numbers.

### **Schedule 4**

Schedule 4 lists the premium rate numbers that are specified for allocation and use in connection with the supply of a premium rate service in Australia. The table in Schedule 4 specifies the prefixes of premium rate numbers, their digit lengths and whether incoming international access is available.

### **Schedule 5**

Schedule 5 lists the special services numbers that are specified for use in connection with the supply of various types of carriage services to the public in Australia. Schedule 5 contains two tables, one listing special service numbers that are not shared and the second listing special service numbers that are shared numbers. Shared numbers are numbers that can be used by a carriage service provider without being allocated.

Each table specifies the first digits of the numbers; their digit length; the type of service for which the numbers are specified for use; and whether incoming international access is available on the numbers. The table for special service numbers that are not shared also specifies whether the number is a low charge number. The table for the special service numbers that are shared numbers specified whether the number is a selectable number. Each of the service types specified for the particular numbers are defined in section 15 of the Numbering Plan 2015.

### **Schedule 6**

Schedule 6 lists the access codes that are specified for use in connection with the supply of various types of carriage services to the public in Australia.

Schedule 6 contains two tables, one listing access codes that are not shared and the second listing access codes that are shared. Shared access codes are codes that that can be used by a carriage service provider without being allocated.

Each table specifies the first digits of the access code, its digit length; the type of service for which that the access codes is specified for use; and the types of numbers that can be prefixed by the access code. Each of the service types specified for the particular numbers are defined in section 15 of the Numbering Plan 2015.

### **Schedule 7**

Schedule 7 sets out the quantity of numbers in a standard unit for different types of numbers. The quantity of numbers in a standard unit depends on the type of number. Numbers are usually allocated in standard units and are preferably surrendered in standard units.

**Schedule 8**

Schedule 8 repeals the Numbering Plan 1997.