

# EXPLANATORY STATEMENT

*Australian Postal Corporation Act 1989*

## **Australian Postal Corporation (Performance Standards) Regulations 2019**

Issued by the Authority of the Minister for Communications and the Arts

### **Legislative authority**

Section 102 of the *Australian Postal Corporation Act 1989* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for the carrying out or giving effect to the Act.

Section 28C of the Act provides for the making of regulations that prescribe performance standards to be met by Australia Post. The performance standards must relate to:

- the frequency, speed or accuracy of mail delivery or
- availability or accessibility of post-boxes or other mail lodgement points, or offices of Australia Post or other places from which Australia Post products or services may be purchased.

Subsection 33(3) of the *Acts Interpretation Act 1901* relevantly provides that where an Act confers a power to make an instrument of a legislative character, the power shall be construed as including a power to repeal such instrument.

### **Purpose**

The purpose of the *Australian Postal Corporation (Performance Standards) Regulations 2019* (the Regulations) is to repeal the *Australian Postal (Performance Standards) Regulations 1998* (the 1998 Regulations) which are due to sunset on 1 April 2019, and remake them in substantially the same form with some minor changes to reflect current drafting practice and remove provisions that are now spent because of the lapse of time.

The Regulations set performance standards to be met by Australia Post and provide a legislative mechanism for monitoring and improving the performance of Australia Post.

There are four separate standards which Australia Post is required to meet:

- Letter delivery frequency – Australia Post is required to service 98% of all postal delivery points daily, excluding any Saturday, Sunday and public holiday, and 99.7% of all postal delivery points at least two days per week.
- Letter delivery accuracy and speed – Australia Post is required to deliver at least 94% of reserved services letters lodged with Australia Post (excluding those listed in subsections 8(2) and (3)), to the indicated or appropriate address according to the delivery timetable in subsection 8(6). For instance, regular letters for delivery within the same capital city should be delivered by the third business day after posting, while priority letters for delivery within the same capital city should be delivered the next business day.
- Mail lodgement points – Australia Post is required to maintain lodgement facilities at each of its retail outlets, and a minimum of at least 10,000 street posting boxes.

- Retail outlets – Australia Post is required to maintain at least 4,000 retail outlets:
  - at least 50% of retail outlets, and not less than 2,500 are required to be located in rural or remote areas
  - in metropolitan areas, retail outlets are required to be located such that at least 90% of residences are located within 2.5 kilometres of an outlet
  - in non-metropolitan areas, retail outlets are required to be located such that at least 85% of residences are located within 7.5 kilometres of an outlet.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

### **Commencement**

The Regulations commence on the day after registration of the instrument on the Federal Register of Legislation.

### **Consultation**

Australia Post was consulted in the development of the Regulations.

### **Regulatory Impact**

The Office of Best Practice Regulation (OBPR) has agreed that, because the Regulations are remade without substantive change, the regulatory impact has not changed and a Regulatory Impact Statement is not required. A certification letter to OBPR which advises that the 1998 Regulations are operating effectively and efficiently, and will be remade without substantive amendments, is at **Attachment A**.

OBPR ID Number: 23938

### **Statement of Compatibility with Human Rights**

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in **Attachment B**.

### **Other details**

The Act specifies no conditions that need to be satisfied before the power to make the new Regulations may be exercised.

Details of the accompanying Regulations are set out in **Attachment C**.

***Statement of Compatibility with Human Rights***

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Australian Postal Corporation (Performance Standards) Regulations 2019***

The *Australian Postal Corporation (Performance Standards) Regulations 2019* (the Regulations) are compatible with the human rights and freedoms recognised or declared in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the proposed Regulations**

The Regulations prescribe performance standards Australia Post is required to meet.

The Regulations repeal the existing *Australian Postal (Performance Standards) Regulations 1998* (the 1998 Regulations) and remake them in substantially the same form with some minor changes to reflect current drafting practice and to remove spent provisions to ensure Australia Post continues to meet the regulated performance standards.

There are four separate standards in the Regulations that Australia Post is required to meet:

- Letter delivery frequency – Australia Post is required to service 98% of all postal delivery points daily, excluding any Saturday, Sunday and public holiday, and 99.7% of all postal delivery points at least two days per week.
- Letter delivery accuracy and speed – Australia Post is required to deliver at least 94% of reserved services letters (excluding the delivery of letters included in subsections 8(2) and (3)), to the indicated or appropriate address according to the delivery timetable in subsection 8(6). For instance, regular letters for delivery within the same capital city should be delivered by the third business day after posting, while priority letters for delivery within the same capital city should be delivered the next business day.
- Mail lodgement points – Australia Post is required to maintain lodgement facilities at each of its retail outlets for the lodgement of postal articles other than bulk mail. Australia Post is also required to maintain at least 10,000 street posting boxes.
- Retail outlets – Australia Post is required to maintain at least 4,000 retail outlets:
  - at least 50% of retail outlets, and not less than 2,500 are required to be located in rural or remote areas
  - in metropolitan areas, retail outlets are required to be located such that at least 90% of residences are located within 2.5 kilometres of an outlet
  - in non-metropolitan areas, retail outlets are required to be located such that at least 85% of residences are located within 7.5 kilometres of an outlet.

**Human rights implications**

The Regulations do not engage any of the applicable rights or freedoms.

**Conclusion**

The Regulations are compatible with human rights as they do not raise any human rights issues.

**Details of the *Australian Postal Corporation (Performance Standards) Regulations 2019***

**PART 1 – PRELIMINARY**

**Section 1 – Name**

This section provides that the title of the Regulations is the *Australian Postal Corporation (Performance Standards) Regulations 2019*.

**Section 2 – Commencement**

This section provides for the Regulations to commence on the day after the instrument is registered on the Federal Register of Legislation.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Australian Postal Corporation Act 1989*.

**Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms. There is only one Schedule to the Regulations, and it lists the *Australian Postal (Performance Standards) Regulations 1998* (the 1998 Regulations), which is due to sunset on 1 April 2019. The effect of section 4 (by reference to Schedule 1) is to repeal the whole of the 1998 Regulations with effect from the date the Regulations (as the replacement) commences.

**Section 5 – Definitions**

This section defines certain terms used in the Regulations.

In particular, the term ***areas classification*** means the publication titled “Rural, Remote and Metropolitan Areas Classification 1991 Census Edition”, prepared by the Department of Primary Industries and Energy and the Department of Human Services and Health in November 1994, as existing on the day the Regulations commence.

A note to the definition for ‘areas classification’ states that, in 2019, the “Rural, Remote and Metropolitan Areas Classification 1991 Census Edition” could be viewed on the Productivity Commission’s website (at [www.pc.gov.au](http://www.pc.gov.au)).

**PART 2 – MAIL DELIVERIES**

**Section 6 – Purposes of this Part**

This section states that the purpose of Part 2 (Mail deliveries) of the Regulations is to prescribe performance standards to be met by Australia Post in respect of the frequency, speed and accuracy of mail delivery.

## **Section 7 – Frequency of delivery**

This section sets out the mail delivery frequency requirements.

Australia Post is required to service 98% of all delivery points daily, except on Saturdays, Sundays and public holidays, and 99.7% of all delivery points at least 2 days per week.

‘Delivery point’ is defined as “a mail address that, taking account of accessibility, delivery cost and general volume of mail for the address, it is practicable and reasonable to service frequently”. A note to subsection 7(2) provides that examples of delivery points include street and roadside letter delivery boxes, post office private boxes and locked bags, and private and community bags.

‘To service’ a delivery point is defined as “to be available to visit the delivery point and, if there is a postal article addressed to the delivery point, deliver the article”.

## **Section 8 – Accuracy and speed of delivery**

This section requires Australia Post to deliver at least 94% of reserved services letters lodged with Australia Post (excluding those listed in subsections 8(2) and (3)), to the indicated or appropriate address and according to the delivery timetable in subsection 8(6).

Subsection 8(1) provides that section 8 applies to the delivery of reserved services letters covered by subsection 29(2) of the Act. The note to subsection 8(1) states that subsection 29(2) of the Act sets out those services that are reserved services of Australia Post.

Subsection 8(2) provides that section 8 does not apply to the delivery of a letter:

- covered by section 30 of the Act which sets out 17 exceptions to Australia Post’s reserved services. These include, for example, the carriage of mail within Australia for a fee or charge that is at least 4 times the postage rate applying to a standard postal article carried by ordinary post; the carriage of a letter to or from the nearest office of Australia Post; and the carriage of certain letters to the provider of a letter aggregation service
- originating outside Australia
- lodged with Australia Post for delivery as bulk mail
- removed from the normal course of carriage by Australia Post under subsection 90UA(1) or (3) of the Act, unless the letter is returned to the normal course of carriage under subsection 90UB(3) or 90UC(3) of the Act.

The 1998 Regulations also excluded from the application of the obligations regarding accuracy and speed of delivery those letters lodged for delivery as off peak mail – this letter service has since been discontinued by Australia Post and so has not been included in the Regulations.

Subsection 8(3) also excludes from the application of section 8 those letters lodged for delivery to an address that is not normally serviced on a daily basis under paragraph 7(1)(a).

Subsection 8(4) requires Australia Post to deliver at least 94% of all reserved services letters lodged with Australia Post at a mail lodgement point in accordance with the requirements of subsections 8(5) and 8(6).

Under subsection 8(5) Australia Post is required to deliver reserved services letters to the indicated address or, if Australia Post knows that the indicated address is not the appropriate address, Australia Post must deliver it to the appropriate address.

Subsection 8(6) sets out the delivery speed for both regular and priority letters, and includes a table setting out the delivery time requirements based on the point of mail lodgement, identified in column 1 of the table, and the delivery address of the letter, identified in column 2 of the table. Column 3 of the table sets out the delivery time for priority letters, while column 4 of the table sets out the delivery time for regular letters. The delivery times set out in columns 3 and 4 of the table are based on the 'day of posting' of a letter, as defined in subsection 8(7) (see further below). The table is also separated into two parts, with Part 1 identifying delivery times for delivery within a State, and Part 2 setting out the delivery times for delivery between States.

For example, according to item 1 of the table in subsection 8(6), regular letters for delivery within the same capital city should be delivered by the third business day after posting. In this example, a letter posted on Monday should be delivered by Thursday. Priority letters for delivery within the same capital city should be delivered on the next business day. In this example, a letter posted on Monday should be delivered by Tuesday.

Subsection 8(7) defines the day of posting, which underpins the requirements in the delivery table at subsection 8(6). For mail lodged at a mail lodgement point, the day of posting is the period of 24 hours ending at the time notified as the latest time on a day for posting at that mail lodgement point. For street posting boxes, Australia Post is responsible for determining the daily clearance times boxes and displays a notice setting out the latest time for posting before clearance of each box. This is detailed in a note to subsection 8(7).

If a letter is removed from the normal course of carriage by Australia Post under subsection 90UA(1) or (3) of the Act, and the letter is returned to the normal course of carriage under subsection 90UB(3) or 90UC(3) of the Act (and it is therefore no longer excluded from the application of section 8 of the Regulations), the day of posting for such a letter is the day on which the letter is returned to the normal course of carriage by Australia Post.

Subsection 8(8) states that a reference in the table in subsection 8(6) to a state includes a reference to the Australian Capital Territory and the Northern Territory.

## **PART 3 – ACCESSIBILITY OF SERVICES**

### **Section 9 – Purposes of this Part**

This section states that the purpose of Part 3 (Accessibility of services) of the Regulations is to prescribe performance standards to be met by Australia Post in respect of the availability and accessibility of:

- post-boxes and other mail lodgement points

- offices of Australia Post from which Australia Post products or services may be purchased.

### **Section 10 – Mail lodgement points – articles other than bulk mail**

Subsection 10(1) outlines Australia Post’s obligation to maintain mail lodgement points in Australia. It comprises a requirement to provide mail lodgement points at each of Australia Post’s retail outlets and to maintain at least 10,000 street posting boxes.

Subsection 10(2) states that a lodgement facility at a retail outlet may be a street posting box.

### **Section 11 – Retail outlets**

This section outlines Australia Post’s obligation to maintain offices from which Australia Post products or services may be purchased.

Subsection 11(1) requires that Australia Post maintain a minimum of 4,000 retail outlets from which a selection of Australia Post products and services can be purchased. At least 50% of these outlets and, in any case, at least 2,500 must be located in areas that are classified as being in a rural or remote zone as defined in the “Rural, Remote and Metropolitan Areas Classification 1991 Census Edition” (subsection 11(2) refers).

In addition, subsection 11(3) provides that retail outlets must be located such that at least 90% of residences in metropolitan areas are located within 2.5 kilometres of a retail outlet, and at least 85% of residences in rural or remote areas are located within 7.5 kilometres of a retail outlet.

Subsection 11(4) clarifies that for the purposes of section 11, retail outlets are not required to be capable of retailing all kinds of Australia Post products and services at all times.

### **Schedule 1 – Repeals**

Schedule 1 repeals the *Australian Postal (Performance Standards) Regulations 1998*.