



Australian Postal Corporation Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 18 March 2021

David Hurley
Governor-General

By His Excellency's Command

Paul Fletcher
Minister for Communications, Urban Infrastructure, Cities and the Arts

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Part 1—Preliminary

1 Name

This instrument is the *Australian Postal Corporation Regulations 2021*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	23 March 2021

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Australian Postal Corporation Act 1989*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) ACCC;
- (b) article;
- (c) Australia Post;
- (d) Board;
- (e) carry;
- (f) carry by post;
- (g) letter;
- (h) thing.

In this instrument:

Act means the *Australian Postal Corporation Act 1989*.

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authorised examiner has the meaning given by section 90E of the Act.

bulk interconnection service has the meaning given by section 32A of the Act.

complainant means a person who notifies the ACCC of a dispute under section 22.

compliance agency has the meaning given by section 90E of the Act.

Comptroller-General of Customs has the meaning given by section 90E of the Act.

conference means a conference held under Division 4 of Part 3.

customs officer has the meaning given by section 90E of the Act.

inquiry means an inquiry by the ACCC into a relevant dispute.

in the course of post has the meaning given by section 90E of the Act.

Northern Territory Department means the Department administered by the Minister of the Northern Territory who administers the *Biological Control Act 1986* (NT), as in force from time to time.

party means a person or body that, under section 21, is a party to an inquiry.

quarantine inspection officer has the meaning given by section 90E of the Act.

quarantine material has the meaning given by section 90E of the Act.

recommendation means a recommendation made in a report.

relevant dispute means a dispute notified under section 22.

report means a report in relation to an inquiry made under section 39.

standard terms and conditions, of a bulk interconnection service, means the terms and conditions determined by the Board under paragraph 32(1)(b) of the Act that are applicable to supply of the service.

Tasmanian Department means the Department administered by the Minister of Tasmania who administers the *Biosecurity Act 2019* (Tas.), as in force from time to time.

Western Australian Department means the Department administered by the Minister of Western Australia who administers the *Biosecurity and Agriculture Management Act 2007* (WA), as in force from time to time.

Part 2—Dealing with articles and their contents

Division 1—Articles that may contain drugs etc.

6 Purpose of this Division

This Division is made for the purposes of subsection 90T(8) of the Act.

7 Record of articles—particulars of articles and their examination

The Comptroller-General of Customs, in establishing and maintaining a record in respect of an article mentioned in subsection 90T(8) of the Act, must ensure that the particulars set out in the record include the following:

- (a) the name of the addressee on the article;
- (b) if the name of the sender appears on the article—the name of the sender;
- (c) the class of the article;
- (d) the country of origin of the article;
- (e) the name and classification of the customs officer who removes the article from the normal course of carriage under subsection 90T(2) of the Act (the *first customs officer*);
- (f) the name and classification of the customs officer to whom the first customs officer gives the article under subsection 90T(2) of the Act (the *second customs officer*);
- (g) if the second customs officer opens the article in the presence of a third customs officer under paragraph 90T(3)(c) of the Act—the name and classification of the third customs officer;
- (h) if any technology is, or any tools are, used to examine the article or its contents—details of the technology or tools used;
- (i) if the article is, or its contents are, referred to an agency—details of the referral, including:
 - (i) the name and classification of the customs officer who refers the article; and
 - (ii) the name of the agency to which the article is referred; and
 - (iii) the name and classification of the officer in that agency to whom the article is referred;
- (j) if pilferage of, or damage to, the article or its contents is discovered on examination—details of the pilferage or damage.

Note: The record must also set out whether the article and its contents were, following the examination, dealt with according to law or returned to the normal course of carriage: see paragraph 90T(8)(c) of the Act.

8 Record of articles—places where kept

The places at which the record is required to be established and maintained are the places approved as places for the examination of international mail for the purposes of paragraph (f) of the definition of *Customs place* in subsection 183UA(1) of the *Customs Act 1901*.

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9 Record of articles—how kept

The record is to be kept:

- (a) electronically; or
- (b) manually.

10 Record of articles—use of information

Information contained in the record can be used for:

- (a) the administration or enforcement of:
 - (i) a law relating to customs; or
 - (ii) a law of the Commonwealth relating to the importation into, or exportation from, Australia of goods or anything else; or
- (b) providing information to Australia Post under section 91 of the Act; or
- (c) the collection of statistical data.

Division 2—Articles that may consist of, or contain, quarantine material

11 Purpose of this Division

This Division is made for the purposes of subsection 90U(9) of the Act.

12 Persons who are to establish and maintain record

The following persons must establish and maintain a record in respect of an article mentioned in subsection 90U(9) of the Act:

- (a) if the article is in the course of post to Western Australia—the head (however described) of the Western Australian Department;
- (b) if the article is in the course of post to Tasmania—the head (however described) of the Tasmanian Department;
- (c) if the article is in the course of post to the Northern Territory—the head (however described) of the Northern Territory Department.

13 Record of articles—particulars of articles and their examination

A person mentioned in section 12 of this instrument, in establishing and maintaining a record in respect of an article mentioned in subsection 90U(9) of the Act, must ensure that the particulars set out in the record include the following:

- (a) the name and address of the addressee on the article;
- (b) if the name and address of the sender appear on the article—the name and address of the sender;
- (c) the product type (for example, Ordinary, Express, eParcel, Registered, Insured);
- (d) any unique identification number on the article;
- (e) a description of the quarantine material that the article consists of or contains;
- (f) the name and classification of the authorised examiner who removes the article from the normal course of carriage and opens the article in the presence of a quarantine inspection officer under subsection 90U(4) of the Act;
- (g) the name and classification of the quarantine inspection officer in whose presence the authorised examiner opens the article under subsection 90U(4) of the Act and who examines the article under subsection 90U(5) of the Act;
- (h) if any technology is, or any tools are, used to examine the article or its contents—details of the technology or tools used;
- (i) if the article is, or its contents are, referred to an agency other than an entity for which the quarantine inspection officer exercises quarantine powers or performs quarantine functions—details of the referral, including:
 - (i) the name and classification of the quarantine inspection officer who refers the article; and
 - (ii) the name of the agency to which the article is referred; and

Part 2 Dealing with articles and their contents

Division 2 Articles that may consist of, or contain, quarantine material

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- (iii) the name and classification of the officer in that agency to whom the article is referred;
- (j) if pilferage of, or damage to, the article or its contents is discovered on examination—details of the pilferage or damage.

Note: The record must also set out whether the article and its contents were, following the examination, dealt with according to law or returned to the normal course of carriage: see paragraph 90U(9)(c) of the Act.

14 Record of articles—places where kept

The place or places at which the record is required to be established and maintained by a person mentioned in an item of the following table are the place or places mentioned in the item.

Place or places where a record is to be established and maintained		
Item	Prescribed person	Place or places
1	Head (however described) of the Western Australian Department	3 Baron-Hay Court, South Perth
2	Head (however described) of the Tasmanian Department	(a) Biosecurity Operations, Biosecurity Tasmania, 13 St Johns Avenue, New Town; and (b) Biosecurity Operations, Biosecurity Tasmania, 165 Westbury Road, Prospect
3	Head (however described) of the Northern Territory Department	Level 8, Charles Darwin Centre, 19 The Mall, Darwin

15 Record of articles—how kept

The record is to be kept:

- (a) electronically; or
- (b) manually.

16 Record of articles—use of information

- (1) Information contained in the record can be used for:
 - (a) the administration or enforcement of a Commonwealth, State or Territory law relating to quarantine (however described); or
 - (b) providing information to Australia Post under section 91 of the Act; or
 - (c) the collection of statistical data.
- (2) If:
 - (a) Australia Post asks for the information to be provided to allow Australia Post to track the location of articles removed from, or in, the normal course of carriage; and
 - (b) the quarantine inspection agency agrees to the request;information contained in the record can be made available to Australia Post for that purpose.

Division 3—Miscellaneous

17 Prescribed State/Territory

For the purposes of the definition of *prescribed State/Territory* in section 90E of the Act, the following are prescribed:

- (a) Western Australia;
- (b) Tasmania;
- (c) Northern Territory.

18 Prohibition on use or disclosure by current and former employees

For the purposes of paragraphs 90J(6)(d) and 90LC(5)(d) of the Act, the *Corruption, Crime and Misconduct Act 2003* (WA), as in force at the commencement of this section, is prescribed.

Part 3—Inquiries into relevant disputes about bulk interconnection services

Division 1—Preliminary

19 Simplified outline of this Part

The ACCC may inquire into a dispute between Australia Post and a person who is obtaining or who wishes to obtain a rate reduction in respect of the supply of a bulk interconnection service about the terms and conditions on which the rate reduction is or would be provided to the person.

Certain other interested persons may become parties to an inquiry.

The ACCC must conduct inquiries within set timeframes and in a fair and efficient manner.

The ACCC must report to the Minister in relation to an inquiry. The report must include recommendations on the terms and conditions that are in dispute.

The Minister may, after consultation with the Board, direct Australia Post to act in accordance with the ACCC's recommendations.

20 Purpose of this Part

This Part is made for the purposes of section 32B of the Act.

21 Parties to inquiry

The parties to an inquiry into a relevant dispute are:

- (a) Australia Post; and
- (b) the complainant who notifies the dispute to the ACCC; and
- (c) another person who:
 - (i) is obtaining or wishes to obtain a rate reduction in respect of the supply of a bulk interconnection service; and
 - (ii) applies in writing to the ACCC to be made a party to the inquiry; and
 - (iii) is accepted by the ACCC as having a sufficient interest in the inquiry.

Division 2—Initiation of inquiries

22 Notice of dispute

- (1) A person who is obtaining or who wishes to obtain a rate reduction in respect of the supply of a bulk interconnection service may give the ACCC written notice of a dispute with Australia Post about the terms and conditions on which the rate reduction is or would be provided to the person (including the amount of the rate reduction and the period for which the rate reduction applies or would apply).
- (2) The notice must:
 - (a) state:
 - (i) the amount of any rate reduction in respect of the supply of the service that Australia Post is providing or has offered to the person; and
 - (ii) if the amount of the rate reduction is in dispute—the amount that the person proposes should apply; and
 - (iii) the period of any rate reduction in respect of the supply of the service that Australia Post is providing or has offered to the person; and
 - (iv) if the period is in dispute—the period for which the person proposes that the rate reduction should apply; and
 - (v) any other terms and conditions on which Australia Post is providing or has offered a rate reduction in respect of the supply of the service to the person; and
 - (vi) if any of the other terms and conditions are in dispute—the terms and conditions that the person proposes should apply; and
 - (b) state the name and address of the person; and
 - (c) be signed and dated by or for the person; and
 - (d) if the signatory is not the person—state:
 - (i) the name and address of the signatory; and
 - (ii) the capacity in which the signatory signs the notice.
- (3) The notice:
 - (a) may be accompanied by a copy of any document that the person believes may be relevant to the dispute; and
 - (b) if paragraph (a) applies—may include a request made in accordance with section 33 in relation to information contained in a document mentioned in that paragraph.
- (4) A notice under this section may relate to more than one dispute between the person and Australia Post.

23 ACCC response to notice of dispute

As soon as practicable after receiving notice of a dispute under subsection 22(1), the ACCC must:

- (a) give written notice to the complainant and Australia Post of:
 - (i) the date on which the notice was received; and

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- (ii) the date on which the ACCC must, in accordance with subsection 27(1), commence an inquiry into the dispute; and
 - (iii) the date by which the ACCC must, in accordance with subsection 27(2), complete the inquiry; and
 - (iv) the substance of subsections 26(1) (circumstances in which an inquiry is not to be undertaken) and 35(1) (circumstances in which an inquiry is to be discontinued); and
- (b) give to Australia Post a copy of:
- (i) the notice under subsection 22(1) of the dispute; and
 - (ii) subject to section 33, any document referred to in subsection 22(3) that accompanies the notice; and
- (c) give written notice of the dispute to any other person who, in the opinion of the ACCC, may wish to become a party to the inquiry.

24 Response of Australia Post to notice by ACCC

- (1) Within 7 days of receiving a notice under section 23, Australia Post must give written notice to the ACCC stating:
- (a) whether Australia Post is supplying or has made an offer to supply a bulk interconnection service to the complainant on terms and conditions that are more advantageous to the complainant than the standard terms and conditions of the service; and
 - (b) if such a supply is being provided or such an offer has been made—details of the supply or the offer, as the case requires, including:
 - (i) the method by which any rate reduction in respect of the supply of the service is calculated; and
 - (ii) the method by which any period for which the rate reduction applies is calculated; and
 - (c) if no such supply is being provided and no such offer has been made—the reasons why the standard terms and conditions of the bulk interconnection service are appropriate.
- (2) For the purposes of subparagraph (1)(b)(i), the method must show the component that is Australia Post's estimate of the average transport costs per letter avoided in relation to letters lodged with Australia Post for delivery in accordance with the terms and conditions of the bulk interconnection service which is or would be supplied to the complainant.

Note: Australia Post may make a request under section 33 (which relates to confidential commercial information) in respect of information supplied under this section.

25 Withdrawal of notice of dispute

A complainant may withdraw notice of a dispute given under subsection 22(1) by giving notice of the withdrawal in writing to the ACCC and giving a copy of the withdrawal notice to Australia Post.

26 Circumstances in which inquiry not to be undertaken

- (1) The ACCC must not undertake an inquiry into a relevant dispute if:
- (a) the complainant has withdrawn notice of the dispute; or

- (b) the ACCC reasonably believes that:
 - (i) the dispute is trivial, misconceived or lacking in substance; or
 - (ii) the dispute arises from negotiations between the complainant and Australia Post that were not conducted by the complainant in good faith; or
 - (c) the complainant does not, within 7 days of being requested by the ACCC to do so, give the ACCC sufficient information (whether contained in documents or otherwise) to enable the ACCC to satisfy itself that paragraph (b) does not apply.
- (2) If, because of paragraph (1)(b) or (c), the ACCC decides not to undertake an inquiry, the ACCC must give written notice of the reasons for the decision to the following:
- (a) the Minister;
 - (b) Australia Post;
 - (c) the complainant;
 - (d) a person who:
 - (i) has applied under subparagraph 21(c)(ii) to be made a party to the inquiry; or
 - (ii) has been notified by the ACCC under paragraph 23(c).

27 Commencement and duration of inquiry

- (1) Subject to section 26, before the end of the period of 21 days after the ACCC receives notice of a dispute under subsection 22(1), the ACCC must:
 - (a) commence an inquiry into the dispute; and
 - (b) give written notice to the Minister of the commencement of the inquiry.
- (2) Subject to subsections (3) and (5) and section 35, an inquiry must be completed not more than 60 days after the inquiry begins.
- (3) The ACCC may extend the period within which the inquiry is to be completed by a further period of not more than 30 days.
- (4) The ACCC must give written notice of the extension, and the reasons for the extension, to:
 - (a) the Minister; and
 - (b) the parties.
- (5) If a party is required or requested to provide information or produce a document (including further and better information or a further document) to the ACCC for the purposes of an inquiry:
 - (a) the period within which the inquiry is to be completed in accordance with subsection (2); or
 - (b) that period as extended in accordance with subsection (3);is increased by the number of days in the period that commences on the day on which the ACCC gives notice to the party of the requirement or the request and ends on:
 - (c) in the case of a requirement—the day on which the party provides the information or produces the document to the ACCC; or

Part 3 Inquiries into relevant disputes about bulk interconnection services

Division 2 Initiation of inquiries

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- (d) in the case of a request—the earlier of:
 - (i) the day on which the party provides the information or produces the document to the ACCC; and
 - (ii) the day specified in the request as the day by which the party may provide the information or produce the document.

Division 3—Conduct of inquiries

28 Powers of ACCC

- (1) The ACCC may:
 - (a) extend the time at or before which information may or must be given, or a document may or must be produced, to the ACCC under this Part; and
 - (b) permit a person to amend or withdraw information or evidence given to, or a document produced to, the ACCC for the purposes of an inquiry; and
 - (c) adjourn an inquiry to any time or place; and
 - (d) decide:
 - (i) to limit the duration of the time in which a person may give evidence or make a submission at a conference; and
 - (ii) who may be present at a conference; and
 - (iii) whether a conference may be conducted wholly or partly in person or by telephone, closed circuit television or another means of communication.
- (2) The ACCC must exercise its powers in a manner:
 - (a) that enables the ACCC to complete an inquiry within the time prescribed by section 27; and
 - (b) that is fair and efficient.
- (3) In conducting an inquiry, the ACCC is not bound by legal forms or technicalities or the rules of evidence.

29 Joint inquiries

- (1) The ACCC may, with the consent of the parties, conduct a joint inquiry into 2 or more relevant disputes if it considers that it is appropriate to do so because:
 - (a) the relevant disputes involve sufficiently similar issues; or
 - (b) the complainant in each relevant dispute is the same person.
- (2) For the purposes of paragraph (1)(b), complainants that are bodies corporate that, under section 50 of the *Corporations Act 2001*, are related to each other are taken to be the same person.
- (3) If the ACCC conducts a joint inquiry, the ACCC must make separate recommendations in relation to each relevant dispute dealt with at the inquiry.

30 Use of information obtained under Part VIIA of *Competition and Consumer Act 2010*

If the ACCC thinks that any information that was obtained by it under Part VIIA of the *Competition and Consumer Act 2010* may be relevant to an inquiry, the ACCC may use the information in the inquiry.

Note: For limitations on disclosure of the information, see section 95ZN of the *Competition and Consumer Act 2010*.

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31 Power to obtain information and documents

Information and documents—Australia Post

- (1) If the ACCC reasonably believes that:
- (a) information or a document is relevant to a relevant dispute or an inquiry into a relevant dispute; and
 - (b) Australia Post is capable of providing the information or producing the document;
- the ACCC may give written notice to Australia Post to provide the information or produce the document at a place and within a period, or on a date and at a time, specified in the notice.
- (2) If Australia Post is given a notice, Australia Post must:
- (a) provide to the ACCC information that is specified in the notice; and
 - (b) produce to the ACCC a document, or a copy of a document, that is specified in the notice;
- at the place and within the period, or on the date and at the time, specified in the notice.
- (3) If Australia Post fails to comply with the notice, the ACCC may draw an inference from the failure that is adverse to Australia Post.
- (4) Australia Post commits an offence if:
- (a) Australia Post is given a notice under subsection (1); and
 - (b) Australia Post is capable of providing the information or producing the document specified in the notice at the place and within the period, or on the date and at the time, specified in the notice; and
 - (c) Australia Post fails to comply with the notice.

Note 1: For corporate criminal responsibility, see Part 2.5 of the *Criminal Code*.

Note 2: For penalties, see section 4D of the *Crimes Act 1914*.

Note 3: For penalty units, see section 4AA of the *Crimes Act 1914*.

Penalty: 10 penalty units.

Information and documents—other party

- (5) If the ACCC reasonably believes that:
- (a) information or a document is relevant to a relevant dispute or an inquiry into a relevant dispute; and
 - (b) a party to the inquiry other than Australia Post is capable of providing the information or producing the document;
- the ACCC may give the other party a written notice requesting the other party to provide the information or produce the document at a place and within a period, or on a date and at a time, specified in the notice.

Note 1: A person supplying confidential commercial information under this section may make a request under section 33.

Note 2: This section is in addition to more specific provisions in this Part under which a person may be requested or required to provide particular information or produce particular documents (for example, subsection 22(3) and section 24).

Note 3: See subsection 27(5) for the effect of delay in supplying information or a document on the time limit for an inquiry.

Note 4: Giving false or misleading information, or producing a document that is false or misleading, in response to a notice under subsection (1) or (5) may be an offence under section 137.1 or 137.2 of the *Criminal Code*.

32 Documents produced to ACCC

If a document is produced to the ACCC under this Part for the purposes of an inquiry, the ACCC may:

- (a) make a copy of, and take an extract from, the document; and
- (b) keep the document for as long as is necessary for the purposes of the inquiry.

33 Confidential commercial information

- (1) A party to an inquiry may:
 - (a) inform the ACCC that, in the opinion of the party, a specified part of a document given to the ACCC contains confidential commercial information; and
 - (b) request the ACCC not to give a copy of that part of the document to another party to the inquiry.
- (2) On receiving a request, the ACCC must:
 - (a) inform the other party that the request has been made and of the general nature of the matters to which the relevant part of the document relates; and
 - (b) ask the other party whether it objects to the ACCC complying with the request.
- (3) If the other party objects to the ACCC complying with the request, that party may inform the ACCC of the objection and of the reasons for the objection.
- (4) After considering:
 - (a) a request; and
 - (b) any objection; and
 - (c) any further submissions that any party has made in relation to the request;the ACCC may decide not to give the other party a copy of so much of the document as contains confidential commercial information that the ACCC reasonably believes should not be given to the other party.

Note: A decision by the ACCC may be a document discoverable under the *Freedom of Information Act 1982*. Under that Act, a person has a right to obtain access to a document of an agency, other than an exempt document. Decisions refusing to grant access to a document are reviewable under that Act.

34 Compromise of relevant disputes

- (1) If, after an inquiry into a relevant dispute commences:
 - (a) Australia Post offers the complainant:
 - (i) a rate reduction in respect of the supply of a bulk interconnection service that is the subject of the relevant dispute; or

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- (ii) a variation of the period for which a rate reduction in respect of the supply of the service applies or would apply; or
 - (iii) any other variation in the terms and conditions on which a rate reduction in respect of the supply of the service is or would be provided; and
 - (b) the complainant accepts the offer;
the complainant must give written notice of acceptance of the offer to the ACCC.
- (2) A reference in subsection (1) to an offer by Australia Post is taken to include a reference to a determination of standard terms and conditions of a bulk interconnection service.

35 Discontinuation of inquiry

- (1) The ACCC must discontinue an inquiry into a relevant dispute before making a recommendation to the Minister in accordance with Division 5 of this Part, if:
- (a) the ACCC receives a notice from the complainant under section 25; or
 - (b) the ACCC:
 - (i) receives a notice from the complainant under subsection 34(1); and
 - (ii) is satisfied that the offer mentioned in that subsection is fair and reasonable; or
 - (c) the ACCC, after commencing the inquiry, comes to reasonably believe that:
 - (i) the dispute is trivial, misconceived or lacking in substance; or
 - (ii) the dispute arises from negotiations between the complainant and Australia Post that were not conducted by the complainant in good faith; or
 - (d) the complainant does not, within 7 days of being requested by the ACCC to do so, give the ACCC sufficient information (whether contained in documents or otherwise) to enable the ACCC to satisfy itself that paragraph (c) does not apply.
- (2) If the ACCC discontinues an inquiry, it must inform the Minister and the parties in writing of the reasons for the discontinuance.

Division 4—Conferences

36 Purpose of conferences

- (1) For the purposes of an inquiry, the ACCC may hold a conference:
 - (a) to expedite the progress of the inquiry; or
 - (b) to clarify a matter arising from:
 - (i) a document relating to the inquiry that is in the possession of the ACCC; or
 - (ii) information provided to the ACCC for the purposes of the inquiry; or
 - (c) to otherwise inform itself on matters that are relevant to the inquiry.
- (2) A conference in relation to an inquiry must not be held after the ACCC reports to the Minister under section 39 in relation to the inquiry.

37 Conduct of conferences

- (1) If the ACCC decides to hold a conference, the ACCC:
 - (a) must determine the date, time and place for holding the conference; and
 - (b) may give written notice to a party, a member of the staff of the ACCC or another person of the conference; and
 - (c) must state the date, time and place in the notice.
- (2) A corporation must be represented at a conference by a director, officer or employee of the corporation.
- (3) If a person who is given notice of a conference does not attend, the ACCC may hold the conference in the absence of that person.

38 Conferences to be in private

- (1) Subject to subsection (2), a conference must be held in private.
- (2) If the parties agree, a conference or part of a conference may be held in public.

Division 5—ACCC reports and recommendations

39 Report on inquiry

- (1) Unless the ACCC has sooner discontinued an inquiry, it must report to the Minister in relation to the inquiry within the time prescribed for completing the inquiry in accordance with section 27.
- (2) A report in relation to an inquiry into a relevant dispute must:
 - (a) recommend:
 - (i) if subparagraph 22(2)(a)(ii) applies in relation to the dispute—the amount of the rate reduction that should be provided in respect of the supply of the bulk interconnection service that is the subject of the dispute; and
 - (ii) if subparagraph 22(2)(a)(iv) applies in relation to the dispute—the period for which the rate reduction in respect of the supply of the service should apply; and
 - (iii) if subparagraph 22(2)(a)(vi) applies in relation to the relevant dispute—the other terms and conditions on which the rate reduction in respect of the supply of the service should apply; and
 - (b) give the reasons for the recommendation.
- (3) In making a recommendation, the ACCC must have regard to:
 - (a) all the circumstances from which the relevant dispute arose that are known to the ACCC; and
 - (b) information provided to the ACCC in the inquiry; and
 - (c) the obligations of Australia Post under sections 26, 27 and 28 of the Act; and
 - (d) Australia Post's estimate of the average transport costs avoided by Australia Post in respect of letters lodged for delivery under the service; and
 - (e) any other relevant matter.
- (4) If a member of the ACCC does not agree to a recommendation made in a report, the report must set out the recommendation the member would have made instead.

Division 6—Consideration of reports and recommendations by the Minister

40 Minister may give direction to Australia Post

- (1) Despite section 49 of the Act, the Minister may, if the Minister thinks fit, direct Australia Post, by notice in writing, to act in accordance with a recommendation made in a report.
- (2) The Minister must consult with the Board before giving a direction.
- (3) A direction must not be inconsistent with subsection 32A(2) of the Act.

41 Factors to be taken into account by Minister

In deciding whether to give a direction under section 40, the Minister must take into account:

- (a) the reasons given by the ACCC for making the recommendation to which the direction relates; and
- (b) the obligations of Australia Post under the Act; and
- (c) the response (if any) of the Board to the consultation mentioned in subsection 40(2); and
- (d) any other relevant matter.

42 Notice to Australia Post of direction

- (1) Notice of a direction must be given to Australia Post within 28 days of receipt by the Minister of the report in which the recommendation to which the direction relates is made.
- (2) Australia Post must act in accordance with a direction.

43 Notice to parties and ACCC of decision of Minister

- (1) The Minister must give written notice to the parties to an inquiry and to the ACCC stating the Minister's decision whether to give a direction under section 40 in relation to each recommendation made in a report in relation to an inquiry.
- (2) The Minister must give notice under subsection (1):
 - (a) if the Minister gives a direction to Australia Post to act in accordance with a recommendation made in the report—when the Minister gives the direction; or
 - (b) if the Minister does not give a direction referred to in paragraph (a)—as soon as practicable after the Minister receives the report.
- (3) A notice must:
 - (a) if the Minister gives a direction to Australia Post to act in accordance with a recommendation—be accompanied by a copy of the direction and a

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statement of the reasons for the Minister's decision to accept the recommendation; and

- (b) if the Minister does not give a direction referred to in paragraph (a)—set out the reasons for the Minister's decision not to accept the recommendation.

Part 4—Application, saving and transitional provisions

Division 1—Provisions for this instrument as originally made

44 Definitions

In this Division:

commencement time means the time this section commences.

old regulations means the *Australian Postal Corporation Regulations 1996*.

45 Things done under the old regulations

- (1) If:
 - (a) a thing was done for a particular purpose under the old regulations before the commencement time; and
 - (b) the thing could be done for that purpose under this instrument;the thing has effect for the purposes of this instrument as if it had been done for that purpose under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice, application or other instrument being given or made.

46 Conduct, event or circumstance occurring before commencement time

- (1) To avoid doubt, a function or duty may be performed, or a power exercised, under this instrument in relation to conduct engaged in, an event that occurred, or a circumstance that arose, before the commencement time.
- (2) This section does not limit this Division or section 7 of the *Acts Interpretation Act 1901* (as that Act applies in relation to this instrument because of paragraph 13(1)(a) of the *Legislation Act 2003*).

47 Records relating to articles that may contain drugs etc.

Particulars to be included in records

- (1) Section 7 applies in relation to any article that is opened under section 90T of the Act after the commencement time.
- (2) Despite the repeal of the old regulations by this instrument, regulations 3A, 3B and 3C of the old regulations continue to apply in relation to any article that is opened under section 90T of the Act before the commencement time, as if the repeal had not happened.

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Place, manner and use of records

- (3) Sections 8, 9 and 10 apply after the commencement time in relation to any record established for the purposes of subsection 90T(8) of the Act, whether the record is established before or after the commencement time.

48 Records relating to articles that may contain quarantine material

Responsible person or body

- (1) Section 12 applies after the commencement time in relation to any article mentioned in subsection 90U(9) of the Act, whether opened under section 90U of the Act before or after the commencement time.

Particulars to be included in records

- (2) Section 13 applies in relation to any article mentioned in subsection 90U(9) of the Act that is opened under section 90U of the Act after the commencement time.
- (3) Despite the repeal of the old regulations by this instrument, regulations 3G, 3H and 3I of the old regulations continue to apply in relation to any article mentioned in subsection 90U(9) of the Act that is opened under section 90U of the Act before the commencement time, as if the repeal had not happened.

Place, manner and use of records

- (4) Sections 14, 15 and 16 apply after the commencement time in relation to any record established for the purposes of subsection 90U(9) of the Act, whether the record is established before or after the commencement time.

49 Forfeiture and disposal of articles

Despite the repeal of the old regulations by this instrument, regulation 5 of the old regulations continues to apply, as if the repeal had not happened, in relation to:

- (a) any article carried by post that is opened under Division 3 of Part 7B of the Act before the commencement time; and
- (b) a thing contained in an article of that kind.

50 Prohibition on use or disclosure by current and former employees

Section 18 applies in relation to any disclosure of information or a document by a person after the commencement time, whether the person acquired or received the information or document before or after the commencement time.

Schedule 1—Repeals

Australian Postal Corporation Regulations 1996

1 The whole of the instrument

Repeal the instrument.