

Explanatory Statement

Issued by the Authority of the Minister for Communications,
Urban Infrastructure, Cities and the Arts

Telecommunications Act 1997

Telecommunications (Statutory Infrastructure Providers—Circumstances for Exceptions to Connection and Supply Obligations) Amendment Determination 2021

Authority

This instrument is made under subsections 360P(3) and 360Q(4) of the *Telecommunications Act 1997* (the Act).

Purpose

The purpose of the *Telecommunications (Statutory Infrastructure Providers—Circumstances for Exceptions to Connection and Supply Obligations) Amendment Determination 2021* (the Amendment Instrument) is to amend the *Telecommunications (Statutory Infrastructure Providers—Circumstances for Exceptions to Connection and Supply Obligations) Determination 2021* (the Original Instrument) so that the Original Instrument will be repealed at the start of 28 May 2024, three years after commencement.

Background

The Original Instrument commenced on 28 May 2021. It is due to sunset on 1 October 2031, in accordance with subsection 50(1) of the *Legislation Act 2003*.

The Original Instrument was subsequently reviewed by the Senate Standing Committee for the Scrutiny of Delegated Legislation (the Committee). The Committee recommended that the Original Instrument be amended to cease three years after commencement.

The Amendment Instrument implements the Committee's recommendation.

Consultation

A consultation draft of the Amendment Instrument was made available on the website of the Department of Infrastructure, Transport, Regional Development and Communications (the Department) for a period of two weeks, with submissions invited from interested parties.

The Department also provided copies directly to key stakeholders including all current statutory infrastructure providers, the Australian Competition and Consumer Commission, the Australian Communications and Media Authority and other stakeholders that provided feedback on the making of the Original Instrument.

Three submissions on the Amendment Instrument were received from NBN Co, Telstra and the Telecommunications Industry Ombudsman. All were supportive of the Amendment Instrument being made in the form proposed. No other concerns were raised.

Regulatory Impact Statement

The Office of Best Practice Regulation (OBPR) has advised no Regulatory Impact Statement (RIS) is required for the Amendment Instrument and assessed the Amendment Instrument as having a no more than minor regulatory impact (OBPR ID: 44810).

Details of the accompanying instrument

The Amendment Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the accompanying instrument are set out in **Attachment A**.

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 at **Attachment B**.

Details of the *Telecommunications (Statutory Infrastructure Providers—Circumstances for Exceptions to Connection and Supply Obligations) Amendment Determination 2021*

Section 1 – Name

This section provides that the name of the Amendment Instrument is the *Telecommunications (Statutory Infrastructure Providers—Circumstances for Exceptions to Connection and Supply Obligations) Amendment Determination 2021*.

Section 2 – Commencement

This section provides for the Amendment Instrument to commence on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Instrument is made under subsections 360P(3) and 360Q(4) of the *Telecommunications Act 1997* (the Act).

Section 4 – Schedules

Section 4 provides that 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.

Schedule 1 – Amendment

Clause 1 at the end of Part 1

Clause 1 of Schedule 1 of the Amendment Instrument inserts a new section 4A into the Original Instrument. The effect of the new section 4A is that the Original Instrument will be repealed at the start of 28 May 2024.

Statement of Compatibility with Human Rights

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

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The Department published a consultation draft of the Amendment Instrument on its website and invited key stakeholders to make submissions. Three submissions were received from NBN Co, Telstra and the Telecommunications Industry Ombudsman. All were supportive of the Amendment Instrument being made in the form proposed. No other concerns were raised.

No human rights issues were raised during consultation on the proposed Amendment Instrument.

Human rights implications

The Amendment Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Instrument is compatible with human rights as it does not raise any human rights issues.