

EXPLANATORY STATEMENT

Telecommunications Act 1997

Telecommunications (Carrier Licence Conditions – Security Information) Amendment Declaration 2023

Telecommunications (Carriage Service Provider – Security Information) Amendment Determination 2023

Authority

The Minister for Communications, the Hon Michelle Rowland MP, has made the *Telecommunications (Carrier Licence Conditions—Security Information) Amendment Declaration 2023* and the *Telecommunications (Carriage Service Provider—Security Information) Amendment Determination 2023 (the instruments)* under the *Telecommunications Act 1997 (the Tel Act)*.

Section 63(1) of the Tel Act provides that the Minister may, by legislative instrument, declare that carrier licenses be made subject to such conditions as are specified in the instrument.

Section 63(3) provides that the Minister may, by legislative instrument, declare that carrier licenses granted to specified persons during specified period be made subject to such conditions as are specified in the instrument.

Section 99(1A) provides that the Minister may, by legislative instrument, make a determination setting out rules that apply to Carriage Service Providers (CSPs) in relation to the supply of specified carriage services – known as a Service Provider Determination.

Purpose and Operation of the Instruments

The instruments extend the existing carrier license condition and service provider rule for a register of critical telecommunications assets and mandatory reporting of cyber security instruments, established in the original instruments of July 2022.

The instruments extend the timeframe of the 2022 instruments by 18 months and amend the sunset clauses to provide they will cease operation after a period of three years after they were made. The specific clauses are explained in Appendices A and B.

Consultation

Section 64 of the Tel Act requires that carrier licence holders be provided with a draft version of the proposed condition and invite submissions within a period of at least 30 days. This process occurred in November and December 2023, during which the Department received no substantial feedback.

Impact Analysis

Overall the Department has assessed that the instruments are operating efficiently and effectively, and that their extension will have more than minor impacts in their operation compared to the status quo that the instruments are not in place. On this basis, the Department will certify this in a letter, in lieu of an Impact Analysis process.

The certification letter will be published by the Office of Impact Analysis (OIA) within the Department of Prime Minister and Cabinet for transparency purposes.

Statement of Compatibility with Human Rights

The statement of compatibility can be found in the Explanatory Statement published with the original instruments in July 2022.

APPENDIX A - Detailed explanation of the Instrument

Telecommunications (Carrier Licence Conditions – Security Information) Amendment Declaration 2023

PART 1 – PRELIMINARY

1 Name of the instrument

Provides the title of the instrument.

2 Commencement

Explains that the instrument will take effect the day after registration on the Federal Register of Legislation.

3 Authority

Provides the legislative authority for the instrument.

4 Schedule

States the original instrument is amended by the clauses in Schedule 1.

5 Schedule 1

Amends the existing section 4 of the instrument to provide that the instrument will cease to have effect and be automatically repealed after 3 years.

APPENDIX B - Detailed explanation of the Instrument

Telecommunications (Carriage Service Provider – Security Information) Amendment Determination 2023

PART 1 – PRELIMINARY

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Explains that the instrument will take effect the day after registration on the Federal Register of Legislation.

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