

ARTHUR ROBINSON & HEDDERLEY
LTD

1993

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

TRANSPORT AND COMMUNICATIONS LEGISLATION AMENDMENT BILL
1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and
Communications, Senator the Hon Bob Collins)

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**TRANSPORT AND COMMUNICATIONS LEGISLATION AMENDMENT BILL
1993**

OUTLINE

This Bill amends the following 4 Acts administered within the Transport and Communications portfolio:

Australian Postal Corporation Act 1989
Motor Vehicle Standards Act 1989
Radiocommunications Act 1992
Telecommunications Act 1991.

The amendments do not introduce substantial new policy schemes, but contain provisions aimed at enhancing existing schemes, improving mechanisms for implementing them, or removing drafting problems as described below.

Australian Postal Corporation Act 1989

The Bill amends the *Australian Postal Corporation Act 1989* to allow Australia Post to operate a national change of address scheme.

Motor Vehicle Standards Act 1989

The Bill amends the *Motor Vehicle Standards Act 1989* to rectify some minor drafting errors, to provide a penalty for breaching conditions of approval to import a nonstandard vehicle and to express monetary penalties in terms of penalty units.

Radiocommunications Act 1992

The Bill amends the *Radiocommunications Act 1992* to correct some minor technical errors and inconsistencies.

Telecommunications Act 1991

The Bill amends the *Telecommunications Act 1991* to make it clear that AUSTEL can include conditions relating to law enforcement in a class licence.

FINANCIAL IMPACT STATEMENT

There will be no significant effect on Commonwealth expenditure or revenue resulting from the proposed amendments.

NOTES ON CLAUSES

Clause 1 - Short title

This clause provides for the proposed Act to be cited as the *Transport and Communications Legislation Amendment Act 1993*.

Clause 2 - Commencement

This clause provides that, except for the amendments to the *Radiocommunications Act 1992*, the amendments commence on the day on which the proposed Act receives Royal Assent. The amendments to that Act are of a minor technical nature which correct errors and anomalies in the original Act. Accordingly, they will operate from the commencement of that Act - 1 July 1993.

Clause 3 - Amendment of Acts

This clause provides that the Acts specified in the Schedule are amended as set out in the Schedule. Those amendments are as follows.

Australian Postal Corporation Act 1989

This amendment provides for an exception to section 92 of the *Australian Postal Corporation Act 1989* which is necessary to allow Australia Post to operate a national change of address scheme.

Section 92 of the Act imposes a duty on Australia Post employees not to disclose, among other things, affairs or personal particulars, including the address of a person.

Section 70 of the *Crimes Act 1904* makes it an offence for a Commonwealth officer to disclose such information. A Commonwealth officer is defined in the *Crimes Act* to include employees of Australia Post, persons who perform services for Australia Post and their employees.

The amendments will enable a customer's name and address to be disclosed where the customer consents in writing to the disclosure of their new address to persons, organisations and classes of organisations on a form obtained from Australia Post.

Australia Post is required, under the *Privacy Act 1988*, to handle any information obtained as a consequence of the national change of address scheme in accordance with information privacy principles.

The amendment is made as a consequence of concerns raised by the Senate Standing Committee on Regulations and Ordinances that exceptions to the secrecy provision in section 92 of the Act should be set out in the Act rather than in regulations. Other amendments to section 92 are under consideration, in consultation with the Attorney-General's Department and the Privacy Commissioner.

Motor Vehicle Standards Act 1989

The *Motor Vehicle Standards Act 1989* is amended to:

- (i) replace the word "vehicle" with "motor vehicle" in a number of provisions so there is consistency with the definition of "motor vehicle" in subsection 5(1);
- (ii) correct a drafting error in section 18 by including a reference to section 20;
- (iii) add new subsection 20(4) to provide for a penalty if a vehicle is imported subject to conditions determined by the Minister and one of those conditions is knowingly or recklessly contravened; and
- (iv) express all monetary penalties in terms of penalty units.

Radiocommunications Act 1992

The amendments to the *Radiocommunications Act 1992* correct minor technical errors and drafting inconsistencies in the Act, which comes into force on 1 July 1993.

Telecommunications Act 1991

The amendment to section 209 of the *Telecommunications Act 1991* makes it clear that AUSTEL, the Australian Telecommunications Authority, can include in a class licence, 2 conditions relating to law enforcement.

The first condition (new paragraph 209(2)(f)) requires suppliers of eligible services to consult, in accordance with AUSTEL directions, with law enforcement agencies of the Commonwealth, States and Territories, about proposals to use or develop new technology in relation to telecommunications services.

The second condition (new paragraph 209(2)(g)) requires suppliers of eligible services to give to law enforcement officers and authorities of the Commonwealth, States and Territories, in accordance with AUSTEL directions, such help that is reasonably necessary to enforce the criminal

law and laws imposing pecuniary penalties, protect the public revenue and to safeguard national security.

These provisions reflect similar conditions imposed on carrier licences under paragraphs 63(4)(l) and (m) of the Act. They also reinforce the operation of section 47 of the Act which sets out obligations on AUSTEL, the carriers and suppliers of eligible services in relation to law enforcement.

