



Australian Capital Territory

# **Utilities (Telecommunications Installations) Act 2001      No 34**

## **Republication No 2**

Republication date: 3 October 2002

Last amendment made by Act 2002 No 20

Amendments incorporated to 17 September 2002

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Utilities (Telecommunications Installations) Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 3 October 2002. It also includes any amendment, repeal or expiry affecting the republished law to 17 September 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Utilities (Telecommunications Installations) Act 2001

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Amendments incorporated to  
17 September 2002



Australian Capital Territory

# Utilities (Telecommunications Installations) Act 2001

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An Act about the installation of telecommunications facilities on utility network facilities

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Utilities (Telecommunications Installations) Act 2001*.

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*carrier*—see the *Telecommunications Act 1997* (Cwlth), section 7 (Definitions).' means that the word 'carrier' is defined in section 7 of that Act and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

### 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

## Part 2                      Installation of telecommunications facilities

### 5      Land to which Act applies

This Act applies to the following land (*defined land*):

- (a) Territory land;
- (b) land that is the subject of an agreement or arrangement between the Territory and the Commonwealth for the application of this Act to the land.

### 6      Installations to which Act applies

- (1) This Act applies to the installation of a telecommunications facility on a utility network facility on defined land if—
  - (a) the installation is for reticulated services; and
  - (b) the planning authority has, under the defined guideline or standard, approved a network plan in relation to the installation; and
  - (c) the installation is consistent with the defined guideline or standard; and
  - (d) any notice about the installation that must, under the defined guideline or standard, be given to members of the public (however described) or an individual, has been given as required.
- (2) In subsection (1):

*defined guideline or standard* means the guideline or standard adopted by the planning authority for the *Land (Planning and Environment) Regulations 1992*, regulation 40 (2) that relates to the installation.

*installation*, of a telecommunications facility, includes—

- (a) the construction or extension of the facility; and
- (b) the attaching or securing of the facility to any part of a utility network facility; and
- (c) placing any part of the facility on, over or under land; and
- (d) any activity that is ancillary or incidental to an activity mentioned in paragraph (a), (b) or (c).

***reticulated services***—see the *Land (Planning and Environment) Regulations 1992*, dictionary.

## **7 Installation on utility network facilities**

- (1) For purposes connected with the installation of a telecommunications facility, a carrier may, in accordance with part 3 (Carrier's obligations)—
  - (a) enter defined land; and
  - (b) inspect the land; and
  - (c) carry out any work on the land that is necessary or desirable for installing a telecommunications facility on a utility network facility.
- (2) Without limiting subsection (1) (c), a carrier may, for example, do any of the following:
  - (a) use any plant, machinery, equipment or goods of the carrier;
  - (b) fell or lop trees;
  - (c) clear vegetation;
  - (d) make excavations;
  - (e) take soil, vegetation and other material away from the land.
- (3) In this section:  
***carrier*** includes an authorised person for the carrier.



**8 Consent by utility etc to installation**

Nothing in this Act is to be taken to give a carrier a right to install a telecommunications facility on a utility network facility without the consent of—

- (a) the responsible utility; or
- (b) the owner of the utility network facility.

**9 Ownership of telecommunications equipment**

Nothing in this Act is to be taken to give the owner of a utility network facility a proprietary interest in a telecommunications facility installed on the utility network facility, only because of the installation.

**10 Carrier's continuing rights concerning installations**

- (1) A carrier who installs a telecommunications facility under section 7 (Installation on utility network facilities) has, by force of this section, the following rights in relation to the facility:
  - (a) to have the facility remain on, under or over the land while used, or for use, in a telecommunications network;
  - (b) to use the facility, or have it for use, in the telecommunications network.
- (2) Subsection (1) has effect subject to any agreement between the carrier and the responsible utility or the owner of the relevant utility network facility.

## Part 3 Carrier's obligations

### 11 Notice to land-holder

- (1) Before entering land under section 7 (Installation on utility network facilities), a carrier must give at least 7 days written notice to the land-holder of—
  - (a) the carrier's intention to enter the land; and
  - (b) the purpose of the entry.
- (2) This section does not apply to anything done in urgent circumstances in which it is necessary to enter land to protect—
  - (a) the integrity of the telecommunications facility; or
  - (b) the health or safety of anyone; or
  - (c) property; or
  - (d) the environment.

### 12 Service of notices

A notice under section 11 may be served on a land-holder as follows:

- (a) by leaving it in the letterbox on the land;
- (b) by securing it in a conspicuous place on the land.

*Note* For other ways of serving documents, see *Legislation Act 2001*, pt 19.5.

### 13 Carrier to minimise disruption, inconvenience and damage

When acting under section 7 (Installation on utility network facilities), a carrier must take all reasonable steps to ensure that it causes as little disruption, inconvenience and damage as is practicable.

**14 Carrier to act reasonably etc**

When acting under section 7 (Installation on utility network facilities), a carrier must—

- (a) act in a reasonable way; and
- (b) as far as practicable, ensure that any property on the land, including any domestic animal, is kept secure; and
- (c) act in accordance with any work method approved by the responsible utility.

**15 Carrier to restore land and structures**

- (1) A carrier who acts under section 7 (Installation on utility network facilities) must take all reasonable steps to ensure, so far as practicable, that—
  - (a) the land is restored as soon as practicable to a condition similar to its condition before the carrier acted; and
  - (b) any structure damaged by the carrier is restored as soon as practicable to a condition similar to its condition before being so damaged.
- (2) Subsection (1) does not require the restoration of land or a structure to a condition that would involve—
  - (a) an interference with a telecommunications facility or a utility network facility; or
  - (b) a contravention of a law of the Territory.
- (3) The obligation in subsection (1) is subject to any agreement to the contrary between the land-holder and the responsible utility or carrier.

**16 Installation costs**

The carrier must bear the cost of things done by the carrier under section 7 (Installation on utility network facilities).

**17 Compensation**

- (1) A person may claim reasonable compensation from a carrier if the person suffers loss or expense because of anything done by a carrier under section 7 (Installation on utility network facilities).
- (2) Compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) Without limiting subsection (3), a court may take into account whether the carrier has satisfied its obligations under section 15 (Carrier to restore land and structures) in considering whether it is just to make an order under this section.

## Part 4 Authorised people

### 18 Authorised people

- (1) A carrier may appoint a person to be an authorised person for the carrier for this Act.

*Note* For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

- (2) An authorised person must act in accordance with any conditions of appointment and any direction given to the person by the carrier.

### 19 Identity cards

- (1) The carrier must give each authorised person an identity card that states the person's name and appointment as an authorised person and shows—
  - (a) a recent photograph of the person; and
  - (b) the date of issue of the card; and
  - (c) the date of expiry for the card; and
  - (d) anything else prescribed under the regulations.
- (2) Within 7 days after ceasing to be an authorised person, a person must return the identity card to the carrier.

Maximum penalty (subsection (2)): 1 penalty unit.

### 20 Production of identity cards

- (1) An authorised person may exercise a power under this Act in relation to a person only if the authorised person first shows the person his or her identity card.
- (2) An authorised person may not remain on land entered under section 7 (Installation on utility network facilities) if, on request by

the land-holder or a person apparently in charge of the land, the authorised person does not produce his or her identity card.

## Part 5 Miscellaneous

### 21 Compensation—safety net

(1) If—

- (a) apart from section 17 (Compensation) and this section, the operation of any provision of this Act would result in the acquisition of property from a person otherwise than on just terms; and
- (b) the acquisition would be unlawful because of the Self-Government Act, section 23 (1);

the person acquiring the property (the *acquirer*) is liable to pay reasonable compensation to the other person in relation to the acquisition.

- (2) If the acquirer and the other person do not agree on the amount of compensation, the other person may, in a court of competent jurisdiction, recover from the acquirer such reasonable compensation as the court determines.

### 22 Operation of other Territory laws

To remove any doubt, this Act does not affect the operation of any other Territory law.

### 23 Regulation-making power

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Dictionary

(see s 3)

*Note 1* The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- exercise
- law (of the Territory)
- property
- Territory land.

***authorised person***, for a carrier, means an authorised person appointed for the carrier under section 18 (Authorised people).

***carrier***—see the *Telecommunications Act 1997* (Cwlth), section 7 (Definitions).

***defined land***—see section 5 (Land to which Act applies).

***installation*** means an installation of a telecommunications facility mentioned in section 6 (Installations to which Act applies).

***land*** includes water.

***land-holder*** means—

- (a) in relation to leased Territory land—
  - (i) the lessee; or
  - (ii) if the land is occupied by someone other than the lessee—the occupier; or
- (b) in relation to unleased Territory land—the chief executive of the administrative unit in the public service whose responsibilities include managing the use of the land; or



- (c) in relation to land the subject of an agreement or arrangement mentioned in section 5 (b) (Land to which Act applies)—any person prescribed under the regulations.

**line**—see the *Telecommunications Act 1997* (Cwlth), section 7 (Definitions).

**responsible utility**—see the *Utilities Act 2000*, dictionary.

**telecommunications facility** means a line, related equipment or fitting used, or for use, in a telecommunications network.

**telecommunications network**—see the *Telecommunications Act 1997* (Cwlth), section 7 (Definitions).

**utility network facility** means a network facility under the *Utilities Act 2000*, dictionary.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

**Utilities (Telecommunications Installations) Act 2001 No 34**

notified 29 June 2001 (Gaz 2001 No S36)  
s 1, s 2 commenced 29 June 2001 (IA s 10B)  
remainder (ss 3-23) commences 1 July 2001 (s 2)

as amended by

**Statute Law Amendment Act 2002 No 30 pt 3.88**

notified LR 16 September 2002  
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))  
pt 3.88 commenced 17 September 2002

### 4 Amendment history

**Commencement**

s 2 om R1 (LA s 89 (4))

**Installations to which Act applies**

s 6 am 2002 No 30 amdt 3.969-3.971

**Carrier's continuing rights concerning installations**

s 10 am 2002 No 30 amdt 3.972

**Service of notices**

s 12 sub 2002 No 30 amdt 3.973

**Authorised people**

s 18 am 2002 No 30 amdt 3.974, amdt 3.975

**Dictionary**

dict am 2002 No 30 amdt 3.976

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	12 September 2001

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