

2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Utilities (Telecommunications Installations) Bill 2001

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Utilities (Telecommunications Installations) Bill 2001

A Bill for

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

The Legislative Assembly for the Australian Capital Territory enacts as
follows:

2001 006B

1

2 **Part 1 Preliminary**

3 **1 Name of Act**

4 This Act is the *Utilities (Telecommunications Installations) Act*
5 *2001*.

6 **2 Commencement**

7 This Act commences on 1 July 2001.

8 **3 Dictionary**

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

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

14 For example, the signpost definition '*carrier*—see *Telecommunications*
15 *Act 1997* (Cwlth), section 7 (Definitions).' means that the expression
16 '*carrier*' is defined in section 7 of the Commonwealth Act and, because
17 of this section, the definition applies to this Act.

18 *Note 2* A definition in the dictionary (including a signpost definition) applies to
19 the entire Act unless the definition, or another provision of the Act,
20 provides otherwise or the contrary intention otherwise appears (see
21 *Interpretation Act 1967*, s 11F and s 11G).

22 **4 Notes**

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

24 *Note* See *Interpretation Act 1967*, s 12 (1), (4) and (5) for the legal status of
25 notes.

1

2 **Part 2 Installation of** 3 **telecommunications facilities**

4 **5 Land to which Act applies**

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

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

10 **6 Installations to which Act applies**

11 (1) This Act applies to the installation of a telecommunications facility
12 on a utility network facility on defined land if—

- 13 (a) the installation is for a reticulated service within the meaning
14 of the *Land (Planning and Environment) Regulations 1992*
15 (reg 2 (1) (Interpretation), definition of *reticulated services*);
16 and
- 17 (b) the planning authority has, under the defined guideline or
18 standard, approved a network plan in relation to the
19 installation; and
- 20 (c) the installation is consistent with the defined guideline or
21 standard; and
- 22 (d) any notice about the installation that must, under the defined
23 guideline or standard, be given to members of the public
24 (however described) or an individual, has been given as
25 required.

26 (2) In subsection (1):

27 *defined guideline or standard* means the guideline or standard
28 adopted by the planning authority for the *Land (Planning and*

1 *Environment) Regulations 1992* (reg 21 (2)) that relates to the
2 installation.

3 **installation**, of a telecommunications facility, includes—

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

10 **7 Installation on utility network facilities**

11 (1) For purposes connected with the installation of a
12 telecommunications facility, a carrier may, in accordance with part 3
13 (Carrier's obligations)—

- 14 (a) enter defined land; and
15 (b) inspect the land; and
16 (c) carry out any work on the land that is necessary or desirable for
17 installing a telecommunications facility on a utility network
18 facility.

19 (2) Without limiting subsection (1) (c), a carrier may, for example, do
20 any of the following:

- 21 (a) use any plant, machinery, equipment or goods of the carrier;
22 (b) fell or lop trees;
23 (c) clear vegetation;
24 (d) make excavations;
25 (e) take soil, vegetation and other material away from the land.

26 (3) In this section:

27 **carrier** includes an authorised person for the carrier.

1 **8 Consent by utility etc to installation**

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

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

7 **9 Ownership of telecommunications equipment**

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

12 **10 Carrier's continuing rights concerning installations**

13 (1) A carrier who installs a telecommunications facility under section 7
14 (Installation on utility network facilities) has, by force of this
15 section, the following rights in relation to the facility:

16 (a) to have the facility remain on, under or over the land while
17 used, or for use, in a telecommunications network;

18 (b) use the facility, or have it for use, in the telecommunications
19 network.

20 (2) Subsection (1) has effect subject to any agreement between the
21 carrier and the responsible utility or the owner of the relevant utility
22 network facility.

1

2 **Part 3 Carrier's obligations**

3 **11 Notice to land-holder**

4 (1) Before entering land under section 7 (Installation on utility network
5 facilities), a carrier must give at least 7 days written notice to the
6 land-holder of—

7 (a) the carrier's intention to enter the land; and

8 (b) the purpose of the entry.

9 (2) This section does not apply to anything done in urgent
10 circumstances in which it is necessary to enter land to protect—

11 (a) the integrity of the telecommunications facility; or

12 (b) the health or safety of anyone; or

13 (c) property; or

14 (d) the environment.

15 **12 Service of notices**

16 (1) A notice under section 11 may be given as follows:

17 (a) by giving it to the land-holder;

18 (b) by sending it by prepaid post to the land-holder;

19 (c) by leaving it in a letterbox on the land;

20 (d) by securing it in a conspicuous place on the land.

21 (2) Subsection (1) does not limit the ways in which the notice may
22 lawfully be given to the land-holder.

23 *Note* The *Interpretation Act 1967*, s 17A, provides generally for the ways in
24 which notice may be given to people.

1 **13 Carrier to minimise disruption, inconvenience and**
2 **damage**

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

7 **14 Carrier to act reasonably etc**

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

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

15 **15 Carrier to restore land and structures**

16 (1) A carrier who acts under section 7 (Installation on utility network
17 facilities) must take all reasonable steps to ensure, so far as
18 practicable, that—

- 19 (a) the land is restored as soon as practicable to a condition similar
20 to its condition before the carrier acted; and
21 (b) any structure damaged by the carrier is restored as soon as
22 practicable to a condition similar to its condition before being
23 so damaged.

24 (2) Subsection (1) does not require the restoration of land or a structure
25 to a condition that would involve—

- 26 (a) an interference with a telecommunications facility or a utility
27 network facility; or
28 (b) a contravention of a law of the Territory.

- 1 (3) The obligation in subsection (1) is subject to any agreement to the
2 contrary between the land-holder and the responsible utility or
3 carrier.

4 **16 Installation costs**

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

7 **17 Compensation**

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

1

2 **Part 4 Authorised people**

3 **18 Authorised people**

- 4 (1) A carrier may, in writing, appoint a person to be an *authorised*
5 *person* for the carrier for this Act.
- 6 (2) An authorised person must act in accordance with any conditions of
7 appointment and any direction given to the person by the carrier.

8 **19 Identity cards**

- 9 (1) The carrier must give each authorised person an identity card that
10 states the person's name and appointment as an authorised person
11 and shows—
- 12 (a) a recent photograph of the person; and
13 (b) the date of issue of the card; and
14 (c) the date of expiry for the card; and
15 (d) anything else prescribed under the regulations.
- 16 (2) Within 7 days after ceasing to be an authorised person, a person
17 must return the identity card to the carrier.
- 18 Maximum penalty (subsection (2)): 1 penalty unit.

19 **20 Production of identity cards**

- 20 (1) An authorised person may exercise a power under this Act in
21 relation to a person only if the authorised person first shows the
22 person his or her identity card.
- 23 (2) An authorised person may not remain on land entered under section
24 7 (Installation on utility network facilities) if, on request by the
25 land-holder or a person apparently in charge of the land, the
26 authorised person does not produce his or her identity card.

Dictionary

(see s 3)

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

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

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

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

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

- 1 *utility network facility* means a network facility under the *Utilities*
2 *Act 2000*, dictionary.
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Endnote

Penalty units

The *Interpretation Act 1967*, s 33AA deals with the meaning of offence penalties that are expressed in penalty units.

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