



Australian Capital Territory

Utilities (Telecommunications Installations) Act 2001

No 34 of 2001

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Australian Capital Territory

Utilities (Telecommunications Installations) Act 2001

No 34 of 2001

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

[Notified in ACT Gazette S36: 29 June 2001]

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

Part 1 Preliminary

1 Name of Act

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

2 Commencement

This Act commences on 1 July 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 *Telecommunications Act 1997* (Cwlth), section 7 (Definitions).’ means that the expression ‘carrier’ is defined in section 7 of the Commonwealth Act and, because of this section, 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 *Interpretation Act 1967*, s 11F and s 11G).

4 Notes

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

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

Environment) Regulations 1992 (reg 21 (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).

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) 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

- (1) A notice under section 11 may be given as follows:
 - (a) by giving it to the land-holder;
 - (b) by sending it by prepaid post to the land-holder;
 - (c) by leaving it in a letterbox on the land;
 - (d) by securing it in a conspicuous place on the land.
- (2) Subsection (1) does not limit the ways in which the notice may lawfully be given to the land-holder.

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

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, in writing, appoint a person to be an *authorised person* for the carrier for this Act.
- (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.

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).

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

Endnote

Penalty units

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

[Presentation speech made in Assembly on 3 May 2001]