



New South Wales

# Government Telecommunications Bill 2018

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to establish the New South Wales Government Telecommunications Authority (the *Authority*) to provide a network for operational communications services for government sector agencies,
- (b) to require government sector agencies to use that network for operational communications,
- (c) to provide for the networks of government sector agencies to be consolidated into the network provided by the Authority,
- (d) to create the offence of damaging or interfering with the network provided by the Authority.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act.

## **Part 2 New South Wales Government Telecommunications Authority**

**Clause 4** constitutes the New South Wales Government Telecommunications Authority as a NSW Government agency.

**Clause 5** sets out the functions of the Authority, including the co-ordination of the provision of telecommunication services.

**Clause 6** sets out the responsibilities of the Managing Director to manage and control the activities of the Authority.

**Clause 7** requires the Authority to prepare and deliver a corporate plan to the Minister and exercise its functions in accordance with the relevant corporate plan.

**Clause 8** provides for the preparation of a Property and Infrastructure Management Strategy, which outlines the way the Authority will manage infrastructure and property matters.

**Clause 9** provides for the employment of persons to enable the Authority to exercise its functions.

## **Part 3 New South Wales Government Telecommunications Authority Advisory Board**

**Clause 10** establishes the New South Wales Government Telecommunications Authority Advisory Board (the *Advisory Board*).

**Clause 11** sets out the function of the Advisory Board to advise the Authority and the Minister on any matter relating to the telecommunications requirements of government sector agencies.

**Clause 12** enables the Advisory Board to create a charter about the procedure of the Advisory Board.

**Clause 13** sets out the membership of the Advisory Board.

**Clause 14** requires members of the Advisory Board to disclose the nature of pecuniary interests the member has in matters being considered at a meeting of the Advisory Board where such interests conflict with the proper performance of the member's duties.

## **Part 4 Government telecommunications network**

**Clause 15** provides that the Authority is responsible for the establishment, control, management, maintenance and operation of the Government telecommunications network, and that it may enter into an agreement with any person or body for such purposes.

**Clause 16** requires government sector agencies to use the Government telecommunications network for operational communications that require the use of a telecommunications network, except in prescribed circumstances, including where the Minister has authorised the use of a telecommunications network other than the Government telecommunications network (an *alternative telecommunications network*).

**Clause 17** enables the Minister to authorise a government sector agency to establish or use an alternative telecommunications network for operational communications that require a telecommunications network in certain circumstances, including where the government sector agency has a need to establish the network for short periods for events.

**Clause 18** allows the Authority to enter into agreements with any person, including a government sector agency, for the use of infrastructure or other facility for the Government telecommunications network.

**Clause 19** allows the Authority to relocate, remove, disconnect, transfer or reconnect any part of the Government telecommunications network where required for the efficient and economical operation of that network.

**Clause 20** prohibits a government sector agency from altering, moving, replacing, adding to or otherwise interfering with infrastructure comprising part of the Government telecommunications network.

**Clause 21** requires government sector agencies that use the Government telecommunications network to pay the Authority charges in relation to the use of the network.

**Clause 22** allows the Authority to enter into agreements with any person, other than a government sector agency, for the use of any part of the Government telecommunications network if such use will not prevent or interfere with the use of the network by a government sector agency.

**Clause 23** sets out offences relating to damage to, or interference with the use of, the Government telecommunications network.

**Clause 24** allows the court to make an order for compensation for the loss or damage to property suffered by the Authority against a person convicted of an offence under clause 23.

**Clause 25** provides for compensation to be payable for damage or interference to the network provided by the Authority if the person who caused the damage is not convicted of an offence in relation to the damage or interference.

## **Part 5 Consolidation of infrastructure into Government telecommunications network**

### **Division 1 Acquisition of infrastructure by Authority**

**Clause 26** allows the Authority to enter into agreements with any person to acquire, install or use infrastructure or to acquire or use property in connection with the exercise of its functions.

**Clause 27** allows the Authority to acquire land by agreement or, where an agreement cannot be reached, by compulsory acquisition for the purposes of the Government telecommunications network.

### **Division 2 Minister may order transfer of telecommunications network infrastructure of government sector agencies**

**Clause 28** allows the Minister to make an order (a *transfer order*) that transfers the ownership of, or an interest in, a government sector agency's telecommunications network infrastructure to the Authority.

**Clause 29** provides that a transfer order may describe the transferred infrastructure or may relate to the transfer of infrastructure from more than one government sector agency and also requires the Authority to maintain a register of transfer orders.

**Clause 30** prohibits the Minister from transferring ownership of infrastructure from a government sector agency if the infrastructure is used by that agency in connection with an alternative telecommunications network.

**Clause 31** retains the right of government sector agencies to use the transferred infrastructure for the purpose of an alternative telecommunications network.

**Clause 32** provides that compensation is not payable to a government sector agency for the transfer of infrastructure by a transfer order.

**Clause 33** provides that existing charges or third-party interests in transferred infrastructure are extinguished and provides for the payment of compensation as a consequence.

### **Division 3 Access to infrastructure where no access agreement**

**Clause 34** allows the Authority to enter and remain on land for the purpose of accessing infrastructure owned or operated by the Authority where there is no access agreement between the Authority and the owner or occupier of the affected land.

## **Part 6 Finance**

**Clause 35** establishes the New South Wales Government Telecommunications Authority Fund.

**Clause 36** requires the Authority to make dividend contributions to the Consolidated Fund.

**Clause 37** allows the Authority to invest money in prescribed circumstances.

## **Part 7 Miscellaneous**

**Clause 38** authorises the proposed Act to bind the Crown.

**Clause 39** sets out the methods of service of documents on the Authority.

**Clause 40** allows the Authority to recover amounts due to the Authority.

**Clause 41** prohibits personal liability from attaching to certain persons exercising functions under the proposed Act in good faith.

**Clause 42** provides that the NSW Police Force is exempt from certain requirements relating to the use of the Government telecommunications network and the establishment of telecommunications networks.

**Clause 43** provides for proceedings for an offence against the proposed Act to be dealt with summarily before the Local Court.

**Clause 44** allows the Minister and the Authority to delegate functions under the proposed Act.

**Clause 45** enables the Governor to make regulations for the purposes of the proposed Act.

**Clause 46** repeals the *Government Telecommunications Act 1991*.

## **Schedule 1 Savings, transitional and other provisions**

**Schedule 1** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.