



New South Wales

Government Telecommunications Bill 2018

Contents

	Page
Part 1 Preliminary	
1 Name of Act	2
2 Commencement	2
3 Definitions	2
Part 2 New South Wales Government Telecommunications Authority	
4 Constitution of New South Wales Government Telecommunications Authority	3
5 Functions of Authority	3
6 Managing Director	3
7 Corporate plan	4
8 Property and Infrastructure Management Strategy	4
9 Employment of staff	4
Part 3 New South Wales Government Telecommunications Authority Advisory Board	
10 Establishment of Advisory Board	5
11 Function of Advisory Board	5
12 Charter of Advisory Board	5
13 Membership of Advisory Board	5
14 Disclosure of pecuniary interests by members	6

	Page
Part 4 Government telecommunications network	
15 Authority to establish, maintain and operate Government telecommunications network	8
16 Government sector agencies to use Government telecommunications network	8
17 Minister may authorise alternative telecommunications networks	8
18 Authority may enter into agreements with third parties for use of infrastructure	9
19 Authority may remove or relocate any part of Government telecommunications network infrastructure	9
20 Government sector agencies not to alter Government telecommunications network	9
21 Authority may charge for use of Government telecommunications network	9
22 Authority may enter into agreements for use of Government telecommunications network	10
23 Offences relating to damage to Government telecommunications network	10
24 Compensation for damage to property—where person convicted of offence	10
25 Compensation for damage to property—where no person convicted of offence	11
Part 5 Consolidation of infrastructure into Government telecommunications network	
Division 1 Acquisition of infrastructure by Authority	
26 Authority may enter into agreements relating to infrastructure	12
27 Acquisition of land and construction of works by Authority	12
Division 2 Minister may order transfer of telecommunications network infrastructure of government sector agencies	
28 Minister may order transfer of government sector agency's infrastructure to Authority	12
29 Transfer orders	12
30 Authorised alternative telecommunications networks exempt from transfer order	13
31 Right of government sector agencies to use infrastructure	13
32 Compensation for infrastructure subject to transfer order	13
33 Existing interests in transferred infrastructure	13
Division 3 Access to infrastructure where no access agreement	
34 Access to Authority's infrastructure	14
Part 6 Finance	
35 New South Wales Government Telecommunications Authority Fund	15
36 Dividend contribution by Authority to Consolidated Fund	15
37 Investment	15
Part 7 Miscellaneous	
38 Act to bind Crown	16

	Page
39 Service of documents	16
40 Recovery of amounts due to the Authority	16
41 Personal liability	16
42 Telecommunications networks established by Police Force	16
43 Nature of proceedings for offences	17
44 Delegation	17
45 Regulations	17
46 Repeal	17
Schedule 1 Savings, transitional and other provisions	18

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2018



New South Wales

Government Telecommunications Bill 2018

Act No , 2018

An Act to establish and maintain a Government telecommunications network; to constitute the New South Wales Government Telecommunications Authority to manage and operate that network; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Government Telecommunications Act 2018*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

(1) In this Act:

Advisory Board means the Government Telecommunications Authority Advisory Board established by section 10.

alternative telecommunications network means a telecommunications network authorised under section 17.

Authority means the New South Wales Government Telecommunications Authority constituted by section 4.

corporate plan means the corporate plan for the Authority prepared under section 7.

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

government sector agency has the same meaning as in the *Government Sector Employment Act 2013* and includes any public or local authority prescribed by the regulations.

Government telecommunications network means the telecommunications network owned or operated by the Authority to facilitate operational communications of government sector agencies, and includes the lines, equipment and other infrastructure used, or intended for use, in that network.

Managing Director means the person employed in the Public Service as the Managing Director of the Authority.

operational communications means communications to facilitate the exercise of functions by a government sector agency:

- (a) in connection with preventing, preparing for, responding to or recovering from, an emergency, public safety incident or other incident posing a risk of harm to any person or property (including training activities in relation to the exercise of those functions), and
- (b) in relation to the NSW Police Force—in connection with law enforcement and compliance,

but does not include communications of a kind prescribed by the regulations.

property includes land.

Property and Infrastructure Management Strategy means the strategy approved by the Minister under section 8.

telecommunications network means a radiocommunications network or mobile broadband network.

Note. The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

(2) Notes included in this Act do not form part of this Act.

Part 2 New South Wales Government Telecommunications Authority

4 Constitution of New South Wales Government Telecommunications Authority

- (1) There is constituted by this Act a body corporate with the corporate name of the New South Wales Government Telecommunications Authority.
- (2) The Authority may also be called the NSW Telco Authority and the use of that name has the same effect for all purposes as the use of its corporate name.
- (3) The Authority is a NSW Government agency.
- (4) The Authority is, in the exercise of its functions, subject to the control and direction of the Minister.

5 Functions of Authority

The Authority has the following functions:

- (a) to identify, develop and deliver upgrades and enhancements to the Government telecommunications network to improve operational communications for government sector agencies,
- (b) to develop policies, standards and guidelines for operational communications using telecommunications networks,
- (c) to facilitate, manage and administer applications on behalf of government sector agencies to the Australian Communications and Media Authority for, or in relation to, spectrum licences under the *Radiocommunications Act 1992* of the Commonwealth and, at the request of an agency, to manage and hold spectrum licences on behalf of the agency,
- (d) to co-ordinate the provision of telecommunications services, being a functional area within the meaning of the *State Emergency and Rescue Management Act 1989*, as required in accordance with that Act,
Note. A functional area, within the meaning of the *State Emergency and Rescue Management Act 1989*, means a category of services involved in the prevention of, preparation for, responses to or recovery from an emergency.
- (e) to acquire or dispose of infrastructure and other facilities for or in connection with the exercise of its functions,
- (f) to ensure the Government telecommunications network is utilised to the best commercial advantage,
- (g) to do anything supplementary or incidental to the exercise of its functions and, in particular, to the control, management and operation of the Government telecommunications network,
- (h) any other functions conferred or imposed on it by or under this Act or another Act.

Note. The Authority has functions conferred or imposed under other provisions of this Act, including sections 15 (Authority to establish, maintain and operate Government telecommunications network) and 22 (Authority may enter into agreements for use of Government telecommunications network (other than government sector agencies)).

6 Managing Director

- (1) The Managing Director is responsible for managing and controlling the activities of the Authority, subject to its corporate plan and any directions of the Minister under this Act.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the Managing Director is taken to have been done by the Authority.

7 Corporate plan

- (1) The Authority is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year, a draft corporate plan for the financial year.
- (2) The Authority must:
 - (a) consider any comments on the draft corporate plan made by the Minister within 2 months after delivery of the plan to the Minister, and
 - (b) deliver the completed corporate plan to the Minister before the beginning of the financial year concerned.
- (3) The corporate plan must specify:
 - (a) the objectives of the activities of the Authority for the financial year concerned and for future financial years, and
 - (b) the strategies, policies and budgets for achieving those objectives, and
 - (c) targets and criteria for assessing the Authority's performance.
- (4) The Authority is, as far as practicable, to exercise its functions in accordance with its corporate plan.
- (5) This section is subject to the requirements of any directions of the Minister.

8 Property and Infrastructure Management Strategy

- (1) The Authority is, at the request of the Minister, to prepare and submit for the Minister's approval a strategy outlining the way in which the Authority is to manage infrastructure and property matters in connection with the exercise of its functions.
- (2) The Property and Infrastructure Management Strategy must, without limiting any other matter that may be required to be included by the Minister, make provision for or with respect to:
 - (a) the way in which the Authority is to negotiate with government sector agencies and other persons in relation to the acquisition or use of, or access to, infrastructure and property by the Authority, and
 - (b) the making of transfer orders under section 28.
- (3) The Authority must comply with the Property and Infrastructure Management Strategy as approved by the Minister.
- (4) The Authority may, with the approval of the Minister, amend or replace the Property and Infrastructure Management Strategy.

9 Employment of staff

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Authority to exercise its functions.

Note. Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the *Constitution Act 1902* precludes the Authority from employing staff unless expressly authorised by legislation.

Part 3 New South Wales Government Telecommunications Authority Advisory Board

10 Establishment of Advisory Board

The New South Wales Government Telecommunications Authority Advisory Board is established.

11 Function of Advisory Board

The function of the Advisory Board is to advise the Authority and the Minister on any matter relating to the telecommunications requirements of government sector agencies and on any other matter relating to the functions of the Authority.

12 Charter of Advisory Board

- (1) The Advisory Board is, at its first meeting, to create a charter with respect to the procedure of the Advisory Board.
- (2) The charter may, subject to this Act and the regulations, make provision for or with respect to the following:
 - (a) the deputies for appointed members,
 - (b) the procedure of the Advisory Board,
 - (c) quorum for meetings,
 - (d) the presiding member at meetings of the Advisory Board,
 - (e) any other matter relating to the conduct of the business of the Advisory Board.

13 Membership of Advisory Board

- (1) The members of the Advisory Board are:
 - (a) the Managing Director, and
 - (b) the following members appointed by the Governor (*appointed members*):
 - (i) a person nominated by the Minister administering the *Police Act 1990*,
 - (ii) a person nominated by the Minister administering the *State Emergency and Rescue Management Act 1989*,
 - (iii) at least 6 (but not more than 8) persons nominated by the Minister who, in the opinion of the Minister, together have the skills, experience and expertise that are appropriate to enable the Advisory Board to exercise its function.
- (2) **Terms of office for appointed members**

An appointed member of the Advisory Board holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (3) **Remuneration**

An appointed member is entitled to be paid the remuneration (including travelling and subsistence allowances) the Minister determines from time to time in respect of the member.
- (4) **Vacancy in office of appointed member**

The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or

- (c) resigns the office by instrument in writing addressed to the Governor, or
 - (d) is removed from office by the Governor under this section, or
 - (e) is absent from 4 consecutive meetings of the Advisory Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Advisory Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Advisory Board for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (5) The Governor may remove an appointed member from office at any time.
- (6) **Filling of vacancy in office of appointed member**
If the office of any appointed member becomes vacant a person is, subject to this Act, to be appointed to fill the vacancy.
- (7) **Effect of certain other Acts**
The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.
- (8) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of the person's time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as an appointed member.

14 Disclosure of pecuniary interests by members

- (1) If:
- (a) a member of the Advisory Board has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Advisory Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Advisory Board.
- (2) A disclosure by a member at a meeting of the Advisory Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subsection (1).

- (3) Particulars of any disclosure made under this section must be recorded by the Advisory Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Advisory Board.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Advisory Board otherwise determines:
 - (a) be present during any deliberation of the Advisory Board with respect to the matter, or
 - (b) take part in any decision of the Advisory Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Advisory Board under subsection (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Advisory Board for the purpose of making the determination, or
 - (b) take part in the making by the Advisory Board of the determination.
- (6) A contravention of this section does not invalidate any decision of the Advisory Board.

Part 4 Government telecommunications network

15 Authority to establish, maintain and operate Government telecommunications network

- (1) The Authority is responsible for the establishment, control, management, maintenance and operation of the Government telecommunications network.
- (2) The Authority may, in accordance with the Property and Infrastructure Management Strategy, enter into an agreement with any person or body for or with respect to the establishment, control, management, maintenance and operation of the Government telecommunications network.

16 Government sector agencies to use Government telecommunications network

- (1) Government sector agencies are required to use the Government telecommunications network for operational communications requiring the use of a telecommunications network.
- (2) Despite subsection (1), a government sector agency is not required to use the Government telecommunications network for operational communications if:
 - (a) the Minister has authorised the use of an alternative telecommunications network for operational communications and the network is used for that purpose in accordance with any conditions specified in that authorisation, or
 - (b) the agency is authorised under this Act or another Act or law to establish or operate a telecommunications network, however described, and has advised the Authority of the establishment or operation of that network, or
 - (c) the agency has established a telecommunications network for purposes other than operational communications, and the use of the network for operational communications is ancillary to the primary purpose of that network.

17 Minister may authorise alternative telecommunications networks

- (1) The Minister may authorise a government sector agency to establish or use an alternative telecommunications network for operational communications if the Minister is satisfied that:
 - (a) the Government telecommunications network is not available to the agency due to geographical or technological limitations, or
 - (b) the government sector agency has a need to establish local telecommunications networks for short periods for events or recurring circumstances or situations, or
 - (c) the total cost of the alternative telecommunications network will not exceed \$500,000, or
 - (d) the alternative telecommunications network is for an event or circumstance, or class of events or circumstances, prescribed by the regulations.
- (2) In authorising the establishment or use of an alternative telecommunications network, the Minister may impose the conditions the Minister considers appropriate.
- (3) A government sector agency must, before asking the Minister to authorise the establishment or use of an alternative telecommunications network, consult with the Authority to ensure the proposed alternative telecommunications network will not interfere with, or otherwise affect the operation of, the Government telecommunications network.
- (4) A request by a government sector agency that the Minister authorise the establishment or use of an alternative telecommunications network must be in the

form approved by the Minister and must contain the information the Minister requires.

- (5) Before authorising the establishment or use of an alternative telecommunications network, the Minister is to consult with the Authority and any other person the Minister thinks fit in relation to the proposed alternative telecommunications network, the purposes for which it may be used and conditions to which the authorisation should be subject.
- (6) It is a condition of an authorisation granted to a government sector agency under this section that the government sector agency must not cause or permit an upgrade, expansion or other enhancement to an alternative telecommunications network unless:
 - (a) the upgrade, expansion or other enhancement is permitted in accordance with the terms of the authorisation, or
 - (b) a request is made to the Minister to authorise the upgrade, expansion or other enhancement and the request is approved by the Minister.
- (7) If a request is made to upgrade, expand or otherwise enhance an alternative telecommunications network, the Minister is to consider the request, and this section applies in relation to the request, as if it were a request to approve an alternative telecommunications network comprising the existing alternative telecommunications network together with the proposed upgrade, expansion or other enhancement.

18 Authority may enter into agreements with third parties for use of infrastructure

The Authority may, for or in connection with the operation of the Government telecommunications network, enter into an agreement with any person (including a government sector agency) for the use of infrastructure or other facilities owned or operated by that person.

19 Authority may remove or relocate any part of Government telecommunications network infrastructure

The Authority may relocate, remove, disconnect, transfer or reconnect any part of the infrastructure of the Government telecommunications network if the Authority is satisfied:

- (a) the relocation, removal, disconnection, transfer or reconnection is required for the efficient and economical operation of that network, and
- (b) the infrastructure is not required to be maintained under a contract or arrangement with a government sector agency.

20 Government sector agencies not to alter Government telecommunications network

A government sector agency must not alter, move, replace, add to or otherwise interfere with infrastructure comprising part of the Government telecommunications network without the written consent of the Authority.

21 Authority may charge for use of Government telecommunications network

- (1) Government sector agencies that use the Government telecommunications network are required to pay to the Authority the charges determined by the Authority.
- (2) The Authority must prepare and publish, in a manner approved by the Minister, a document outlining the basis on which the Authority will determine charges payable under this section.
- (3) The charges must not exceed the maximum charges fixed by the Minister with the approval of the Treasurer.

22 Authority may enter into agreements for use of Government telecommunications network

- (1) The Authority may enter into an agreement with any person or body (other than a government sector agency) for or with respect to the use by that person or body of any part of the Government telecommunications network.
- (2) The Authority must not enter into an agreement under this section unless the Authority is satisfied the use of the Government telecommunications network under the agreement (having regard to any other agreements that may also have been entered into) will not prevent or interfere with the use of the network by a government sector agency.
- (3) The power of the Authority under this section is subject to the requirements of the *Telecommunications Act 1997* of the Commonwealth relating to the rights of carriers licensed under that Act.

23 Offences relating to damage to Government telecommunications network

- (1) A person is guilty of an offence if:
 - (a) the person intentionally or recklessly damages or interferes with the whole or part of the Government telecommunications network, and
 - (b) the damage or interference is not trivial or negligible.Maximum penalty:
 - (a) in the case of an individual—200 penalty units, and
 - (b) in the case of a corporation—400 penalty units.
- (2) A person is guilty of an offence if the person damages or interferes with the whole or part of the Government telecommunications network.
Maximum penalty:
 - (a) in the case of an individual—20 penalty units, and
 - (b) in the case of a corporation—40 penalty units.
- (3) If, in proceedings for an offence under subsection (1), the court is not satisfied the accused is guilty of an offence under that subsection, but is satisfied the accused is guilty of an offence under subsection (2), the court may find the accused not guilty of the offence charged but guilty of an offence under subsection (2).

24 Compensation for damage to property—where person convicted of offence

- (1) This section applies if a court convicts a person of an offence under section 23.
- (2) The court may order the offender to pay the following to the Authority:
 - (a) if it appears to the court that the Authority has suffered loss or damage—an amount specified in the order as compensation for the loss or damage,
 - (b) if it appears to the court that the Authority incurred costs and expenses in preventing or mitigating loss or damage, or attempting to do so—an amount specified in the order as compensation for the costs and expenses incurred.
- (3) A court may not make an order under subsection (2) for the payment of an amount that exceeds the amount for which an order may be made by the court when exercising jurisdiction under the *Civil Procedure Act 2005*.
- (4) An order made by the court is enforceable as if it were an order made by the court when exercising jurisdiction under that Act.
- (5) An order may be made under this section in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence concerned.

25 Compensation for damage to property—where no person convicted of offence

- (1) Without limiting section 23, a person who, without the consent of the Authority, carries out an activity that causes damage to, or interferes with, the whole or part of the Government telecommunications network in circumstances in which the person should have known that the damage or interference would result from the carrying out of the activity, is liable to compensate the Authority for all loss or damage suffered by the Authority as a result.
- (2) The Authority is entitled to compensation under this section whether or not a person has been convicted of an offence in relation to the activity that caused damage to, or interfered with, the whole or part of the Government telecommunications network.
- (3) The Authority is not entitled to compensation both under this section and another provision of this Act for the same damage or interference.
- (4) A reference in this section to a person extends to any person:
 - (a) who caused the carrying out of the activity, or
 - (b) who ordered or directed that the activity be carried out, or
 - (c) who aided, assisted, counselled or procured the carrying out of the activity.
- (5) The Authority may proceed against a person for recovery of its loss or compensation for its damage under this section whether or not the Authority has proceeded against the person principally responsible for the loss or damage or any other person involved in the carrying out of the activity that caused the loss or damage.

Part 5 Consolidation of infrastructure into Government telecommunications network

Division 1 Acquisition of infrastructure by Authority

26 Authority may enter into agreements relating to infrastructure

- (1) The Authority may, in accordance with the Property and Infrastructure Management Strategy and in connection with the exercise of its functions, enter into an agreement with a person or body for or with respect to the following:
 - (a) the acquisition, installation or use of infrastructure,
 - (b) the acquisition or use of property (including land).
- (2) Without limiting subsection (1), the Authority may enter into agreements to enable the Authority to access infrastructure located on the land of another person.
- (3) The Authority may, at the request of the owner of land on which infrastructure owned by the Authority is located, enter into agreements for or with respect to the relocation of that infrastructure.
- (4) An agreement referred to in subsection (3) may require the land owner to pay the whole or part of the reasonable costs incurred by the Authority in connection with the relocation of the infrastructure.

27 Acquisition of land and construction of works by Authority

- (1) The Authority may, for the purposes of the Government telecommunications network, acquire land (including an interest in land) by agreement or, if there is no agreement, by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) For the purposes of the *Public Works and Procurement Act 1912*, the acquisition is taken to be for an authorised work and the Authority is, in relation to the work, taken to be the Constructing Authority within the meaning of that Act.
- (3) Sections 34, 35, 36 and 37 of the *Public Works and Procurement Act 1912* do not apply to the construction of works under this Act.

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

28 Minister may order transfer of government sector agency's infrastructure to Authority

- (1) The Minister may, by written order (a *transfer order*), transfer ownership of, or an interest in, the infrastructure of a telecommunications network of a government sector agency to the Authority.
- (2) When the transfer order takes effect, the infrastructure becomes the property of the Authority.
- (3) In this Division, a reference to infrastructure of a telecommunications network includes a reference to infrastructure of the government sector agency that has been disconnected by the government sector agency from its telecommunications network.

29 Transfer orders

- (1) A transfer order is to describe the telecommunications network infrastructure that is to be transferred.

- (2) Infrastructure may be described by reference to one or more of the following:
 - (a) the government sector agency having an interest in the infrastructure,
 - (b) the location of the infrastructure or the area of the telecommunications network of which the infrastructure is part,
 - (c) the kind of telecommunications for which the infrastructure is used.
- (3) A transfer order may make provision with respect to the transfer of the following:
 - (a) the infrastructure of more than one government sector agency,
 - (b) part of an item of any infrastructure of a government sector agency,
 - (c) access rights relating to the infrastructure that is transferred.
- (4) The Authority is required to maintain a register of transfer orders and make that register available for inspection by any government sector agency or other person affected by a transfer order.

30 Authorised alternative telecommunications networks exempt from transfer order

The Minister may not make a transfer order in relation to any infrastructure owned by a government sector agency if the infrastructure is used by the agency for a telecommunications network that the agency is authorised under any other Act or law to operate.

31 Right of government sector agencies to use infrastructure

If a transfer order is made in relation to the infrastructure of a government sector agency, the agency retains the right to use that infrastructure as part of an alternative telecommunications network, but only if:

- (a) the transfer order provides for that use, or
- (b) the Authority or the Minister approves that use.

Note. Section 16 requires government sector agencies to use the Government telecommunications network, rather than the agency's own telecommunications network, for operational communications.

32 Compensation for infrastructure subject to transfer order

- (1) Compensation is not payable to a government sector agency for any infrastructure of a telecommunications network of the agency that is transferred to the Authority under this Division.
- (2) For the purposes of the financial accounts of the government sector agency and the audit of the accounts, any rights that the agency retains under section 31 may be treated by the agency as a non-capital asset equal in value to the value from time to time of the infrastructure transferred to the Authority. The valuation of the infrastructure is taken to have been made in accordance with current accounting standards and practices.

33 Existing interests in transferred infrastructure

- (1) If infrastructure of a telecommunications network is transferred to the Authority under this Division, any charge or other interest in the infrastructure existing immediately before the transfer is, subject to the transfer order, extinguished.
- (2) Compensation is payable by the Authority to a person (other than a government sector agency) who had a charge or other interest in the infrastructure and who suffers any loss as a result of the extinguishing of the charge or interest.

- (3) If a government sector agency has an interest in infrastructure (other than infrastructure owned by the agency) that is subject to a transfer order, the interest is transferred to the Authority.

Division 3 Access to infrastructure where no access agreement

34 Access to Authority's infrastructure

- (1) This section applies in relation to land:
 - (a) on which infrastructure owned or operated by the Authority is located (and includes the land adjoining that land), and
 - (b) that is not subject to an agreement for access to the Authority's infrastructure.
- (2) The Authority or an agent of the Authority may enter and occupy land to which this section applies and any building on that land:
 - (a) at any time during daylight hours, and
 - (b) in the event of an emergency, at any time.
- (3) The power conferred by this section may be used only for the purpose of obtaining access to the Authority's infrastructure to carry out works in connection with the infrastructure.
- (4) The Authority must not exercise a power under this section unless:
 - (a) reasonable notice in writing of its intention to exercise the power has been given to the occupier of the land, or
 - (b) the Authority forms the opinion the giving of the notice would cause undue delay having regard to the urgency of the reason for exercising the power.
- (5) Nothing in this section authorises the Authority or an agent of the Authority:
 - (a) to enter or occupy any land or building unless it is reasonably necessary to do so for the purpose of accessing infrastructure owned or operated by the Authority, or
 - (b) to enter any part of a building that is used for residential purposes without the consent of the occupier, or
 - (c) occupy a classified road (within the meaning of the *Roads Act 1993*), without the consent of RMS or the relevant roads authority.

Part 6 Finance

35 New South Wales Government Telecommunications Authority Fund

- (1) There is established in the Special Deposits Account in the Treasury an account to be called the New South Wales Government Telecommunications Authority Fund.
- (2) There is payable into the Fund:
 - (a) all money received by or on account of the Authority (including the charges for use of the Government telecommunications network), and
 - (b) all interest received in respect of the investment of money belonging to the Fund, and
 - (c) all money borrowed by the Authority or appropriated by Parliament for the purposes of the Authority, and
 - (d) all money directed to be paid into the Fund by this Act or another Act.
- (3) There is payable from the Fund:
 - (a) all payments made on account of the Authority or otherwise required to meet the expenditure incurred in relation to the functions of the Authority (including costs incurred in the operation of the Government telecommunications network), and
 - (b) all money directed to be paid from the Fund by this Act or another Act.

36 Dividend contribution by Authority to Consolidated Fund

- (1) The Authority is required to pay to the Treasurer for payment into the Consolidated Fund, by way of dividend contribution in respect of each financial year to which this section applies, the amount determined by the Treasurer.
- (2) The amount determined by the Treasurer may be based on the value of the Government telecommunications network, on the income derived by the Authority from the operation of that network or on any other basis the Treasurer considers appropriate.
- (3) The Treasurer must consult with the Minister and the Authority in connection with a determination to be made by the Treasurer under this section.
- (4) This section applies in respect of the financial years of the Authority determined by the Treasurer.
- (5) Nothing in this section affects section 59B of the *Public Finance and Audit Act 1983*.

37 Investment

The Authority may invest money in the Fund:

- (a) in the manner authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Authority to invest the money, in any other manner approved by the Treasurer.

Part 7 Miscellaneous

38 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

39 Service of documents

- (1) A document may be served on the Authority by any of the following methods:
 - (a) by post to the address specified by the Authority for the service of documents of that kind,
 - (b) by post to an office of the Authority or by leaving it at any such office with a person apparently over the age of 16 years,
 - (c) by email to an email address specified by the Authority for the service of documents of that kind,
 - (d) by any other method authorised by the regulations for the service of documents of that kind.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person or the Authority by any other method.
- (3) In this section, *serve* includes give or send.

40 Recovery of amounts due to the Authority

Any charge, fee or other money due to the Authority may be recovered by the Authority as a debt in a court of competent jurisdiction.

41 Personal liability

- (1) A matter or thing done or omitted to be done by the Managing Director, a member of the Advisory Board or a person acting under the direction of the Authority, the Managing Director, the Advisory Board or a member of the Advisory Board does not, if the matter or thing was done or omitted to be done in good faith for the purpose of exercising a function under this Act, subject the Managing Director, the member of the Advisory Board or person so acting personally to any action, liability, claim or demand.
- (2) However, the liability attaches instead to the Crown.

42 Telecommunications networks established by Police Force

- (1) Despite section 16, the NSW Police Force is not required to use the Government telecommunications network for or in respect of a telecommunications network for operational communications if:
 - (a) the communications relate to a particular law enforcement activity or compliance operation, and
 - (b) the police officer responsible for establishing the network is satisfied the operation or activity should utilise a temporary telecommunications network established solely for that purpose.
- (2) A telecommunications network may be established under this section without:
 - (a) advising the Authority, or
 - (b) the consent of the Authority.

43 Nature of proceedings for offences

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

44 Delegation

- (1) The Minister may delegate the exercise of any function of the Minister under this Act (other than this power of delegation) to:
 - (a) the Authority, or
 - (b) any member of staff of the Authority, or
 - (c) any person, or any class of persons, authorised for the purposes of this section by the regulations.
- (2) Despite subsection (1), the Minister cannot delegate functions of the Minister under sections 8, 21 (3) and 28 (1).
- (3) The Authority may delegate the exercise of any function of the Authority under this Act (other than this power of delegation) to:
 - (a) any member of staff of the Authority, or
 - (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

45 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

46 Repeal

The *Government Telecommunications Act 1991* is repealed.

Schedule 1 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision:
 - (a) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date, and
 - (b) has effect despite anything to the contrary in this Schedule.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- (4) Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations.

Part 2 Provisions consequent on enactment of this Act

2 Definitions

In this Part:

former Act means the *Government Telecommunications Act 1991* as in force immediately before its repeal.

3 The Authority continuation of former Authority

The Authority is a continuation of, and is the same legal entity as, New South Wales Government Telecommunications Authority constituted by the former Act.

4 New South Wales Government Telecommunications Authority Fund continuation of former Fund

The New South Wales Government Telecommunications Authority Fund is a continuation of the New South Wales Government Telecommunications Authority Fund established by the former Act.

Part 3 Amendment of this Act on commencement of Division 6.4 of Government Sector Finance Act 2018

5 Commencement

This Part commences, or is taken to have commenced, on the commencement of Division 6.4 of the *Government Sector Finance Act 2018*.

6 Section 36 Dividend contribution by Authority to Consolidated Fund

Omit section 36 (5). Insert instead:

- (5) Nothing in this section affects section 5.4 (Payment of financial distributions to Treasurer) of the *Government Sector Finance Act 2018*.

7 Section 37 Investment

Omit the section. Insert instead:

37 Investment

The Authority may invest money in the Fund:

- (a) if the Authority is a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in a way that the Authority is permitted to invest money under that Part, or
- (b) if the Authority is not a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in accordance with the *Trustee Act 1925* or in another way approved by the Minister with the concurrence of the Treasurer.