

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Communications

*Telecommunications (Consumer Protection and Service Standards) Act 1999*

*Telecommunications Universal Service Obligation (Standard Telephone Service – Requirements and Circumstances) Amendment Determination 2026*

### **Purpose and Operation**

The *Telecommunications Universal Service Obligation (Standard Telephone Service – Requirements and Circumstances) Determination 2026* (the Amendment Determination) is made by the Minister for Communications (the Minister) pursuant to subsections 9(2D) and 9(3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Act).

The Amendment Determination extends the operation and makes some minor adjustments to the *Telecommunications Universal Service Obligation (Standard Telephone Service – Requirements and Circumstances) Determination 2023* (the 2023 Determination). First, it expands the definition of ‘request’ to include a request for a standard telephone service (STS) made by a customer, and to make explicit a request also includes the situation where Telstra withdraws or otherwise ceases providing a Universal Service Obligation (USO) STS service via a particular technology, thereby necessitating the customer make a subsequent request for an alternative technology to provide an STS. Second, the Amendment Determination makes a minor change to require Telstra to provide advice to a customer on the technical and other requirements necessary for the provision of electricity to provide sufficient power to a technology to deliver a USO STS, and a reasonable timeframe in which the customer can obtain a suitable power supply. Thirdly, the Amendment Determination makes a number of minor, consequential updates to replace outdated references to the *Telecommunications (Customer Service Guarantee) Standard 2011* to the current *Telecommunications (Customer Service Guarantee) Standard 2023*.

Otherwise, all other existing provisions under the 2023 Determination will continue have ongoing effect, namely, to set out circumstances in which the primary universal service provider is not required to provide a standard telephone service under the USO and requirements for a valid request. In so doing, this also provides ongoing certainty, clarity, guidance and protection for consumers, the Australian Media and Communications Authority and the Telecommunications Industry Ombudsman, with regard to the provision of important aspects of the STS delivered in accordance with the USO.

The Amendment Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Further details of the Amendment Determination are outlined in Attachment A.

## **Background**

The 2023 Determination has a self-repeal date of 1 July 2026. The explanatory statement<sup>1</sup> to the 2023 Determination states:

*In the absence of arrangements being determined under subsection 9(2D) of the Act, the primary universal service provider would have considerable discretion to determine the valid form of a request for a standard telephone service. Similarly, in the absence of a determination under subsection 9(3) of the Act, the primary universal service provider would have a general obligation to seek to meet each and every request for a universal service standard telephone service whether or not it was reasonable to do so.*

This, and other important aspects of the 2023 Determination and earlier *Telecommunications Universal Service Obligation (Standard Telephone Service – Requirements and Circumstances) Determination (No.1) 2011* (the 2011 Determination), are necessary conditions in provision of the USO, and given continued effect through the provisions of the Amendment Determination.

## **Authority**

Subsections 9(2D) and 9(3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* provide authority for the Amendment Determination.

## **Consultation**

To be completed.

## **Legislative instrument and primary legislation**

Delegated legislation rather than primary legislation has been used because the primary legislation provides for this under subsections 9(2D) and 9(3) of the Act. This recognises the likely level of detailed drafting that would otherwise be required in the Act, and the need for flexibility in responding to any possible changes in criteria against which a request for a standard telephone service under the USO may be made, or the minimum requirements for a request for a USO service.

## **Statement of compatibility with human rights**

A Statement of Compatibility with Human Rights is set out at **Attachment B**.

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<sup>1</sup> Full text: [www.legislation.gov.au/F2023L00221/latest/text/explanatory-statement](http://www.legislation.gov.au/F2023L00221/latest/text/explanatory-statement)

**Details of the Telecommunications Amendment Universal Service Obligation (Standard Telephone Service – Requirements and Circumstances) Determination 2026**

**1 Name of instrument**

Section 1 provides that the name of this Instrument is the *Telecommunications Amendment Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination 2026*.

**2 Commencement**

Section 2 provides for the Instrument to commence the day after it is registered on the Federal Register of Legislative Instruments.

**3 Authority**

Section 3 provides that this instrument is made under subsections 9(2D) and 9(3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

**4 Schedules**

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**Schedule 1 – Amendments**

Schedule 1 to the Amendment Determination amends several provisions in the 2023 Determination as follows:

**Item 1 Paragraph 4(1)** amends two definitions. First, the definition of *CSG Standard* is amended to replace existing references to the *Telecommunications (Customer Service Guarantee) Standard 2011* which is no longer in force. This is replaced with a broader definition that reflects the *Telecommunications (Customer Service Guarantee) Standard 2023*, or any future replacement standard made under section 115 of the Act.

Second, the existing definition of *request* is broadened to make clear a request includes a request made by a customer if they have an existing STS using a particular technology withdrawn or otherwise ceased by Telstra, thus imposing on the customer a need to make a separate, subsequent request for an STS using an alternative technology.

**Item 2 Subparagraph 7(1)(a)(iv)(B)** is amended with consequential changes to reflect that the *Telecommunications (Customer Service Guarantee) Standard 2011* is no longer in force, and to update references to relevant provisions in the *Telecommunications (Customer Service Guarantee) Standard 2023*.

**Item 3 Subparagraph 7(4)(a)** continues to provide that it remains the responsibility of consumers to provide suitable electricity source to power the technology to supply a USO service, but makes explicit that Telstra is required to provide a customer with information as to the technical and other specifications and/or requirement necessary for an electricity supply to power a technology to be used to supply an STS, and that a

customer must be given an indicative, reasonable timeframe in which to source, obtain and install any necessary power source and related equipment..

**Items 4, 5, 6, 7 and 8 Subparagraph 7(4)(h)(ii), Subparagraph 7(4)(h)(iii), Paragraph 7(5), Subparagraph 7(5)(a) and Subparagraph 7(5)(b)** are amended with consequential changes to reflect that the *Telecommunications (Customer Service Guarantee) Standard 2011* is no longer in force, and to update references to relevant provisions in the *Telecommunications (Customer Service Guarantee) Standard 2023*.

**Item 9 Repeal** amends existing repeal provisions. This means the *Standard Telephone Service Universal Service Obligation (Requirements and Circumstances) Determination 2023* will repeal on the same date that the *Telecommunications (Customer Service Guarantee) Standard 2023*, rather than the previous repeal date of 1 July 2026. This reflects that the *Standard Telephone Service Universal Service Obligation (Requirements and Circumstances) Determination 2023* relies on a number of concepts in the CSG Standard, and so the repeal dates should be aligned.

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**Attachment B****Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

*Telecommunications Amendment Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination 2026*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

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Otherwise, all other existing provisions under the 2023 Determination will continue have ongoing effect, namely, to set out circumstances in which the primary universal service provider is not required to provide a standard telephone service under the USO and requirements for a valid request. In so doing, this also provides ongoing certainty, clarity, guidance and protection for consumers, the Australian Media and Communications Authority and the Telecommunications Industry Ombudsman, with regard to the provision of important aspects of the STS delivered in accordance with the USO.

***Human rights implications***

The Universal Service Obligation (USO) is a long-standing legislated consumer safeguard that provides that STS and payphones are reasonably accessible to all people in Australia on

an equitable basis, wherever they reside or carry on business. The USO is set out in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* ('the Act').

Subsection 9(1)(a) of the Act provides that part of the USO is the obligation to ensure that a standard telephone service is reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business.

Subsection 9(2) of the Act requires the primary universal service provider to supply a standard telephone service to people on request.

Subsection 9(2D) of the Act enables the Minister, by legislative instrument to determine requirements for requests for a standard telephone service such as the form of the request or information to be provided in a request.

Subsection 9(3) of the Act enables the Minister to determine circumstances under which an obligation to supply a standard telephone service under the USO does not arise.

Subsections 9(2D) and 9(3) are given effect by the 2023 Determination, the primary objective of which is to provide clarity and consistency for stakeholders by setting out circumstances where the primary universal service provider (Telstra) is not required to provide a standard telephone service under the USO and requirements for a valid request.

The 2023 Determination was subject to self-repeal on 1 July 2026. Given the ongoing importance and need of the provisions of the 2023 Determination, the Amendment Determination makes minor adjustments and extends the operation of the 2023 Determination and the broader certainty and protection it provides to relevant stakeholders.

No human rights issues were raised during the consultation process. The Amendment Determination does not engage any of the applicable rights or freedoms, and is compatible with the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

### ***Conclusion***

The Amendment Determination is compatible with human rights as it does not raise any human rights issues.



**The Hon Anika Wells MP**  
**Minister for Communications**