

2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

National Broadband Network Companies Bill 2010

No. , 2010

(Broadband, Communications and the Digital Economy)

**A Bill for an Act relating to certain companies
associated with the national broadband network,
and for other purposes**

Contents

| | |
|---|-----------|
| Part 1—Preliminary | 1 |
| 1 Short title | 1 |
| 2 Commencement | 2 |
| 3 Objects | 3 |
| 4 Simplified outline | 4 |
| 5 Definitions | 6 |
| 6 Crown to be bound | 11 |
| 7 Extension to external Territories | 12 |
| Part 2—Operations of NBN corporations | 13 |
| Division 1—Simplified outline | 13 |
| 8 Simplified outline | 13 |
| Division 2—Rules about operations of NBN corporations | 15 |
| Subdivision A—Supply of eligible services to be on wholesale basis | 15 |
| 9 Supply of eligible services to be on wholesale basis | 15 |
| 10 Exemption—transport authorities | 15 |
| 11 Exemption—electricity supply bodies | 16 |
| 12 Exemption—gas supply bodies | 16 |
| 13 Exemption—water supply bodies | 16 |
| 14 Exemption—sewerage services bodies | 17 |
| 15 Exemption—storm water drainage services bodies | 17 |
| 16 Exemption—State or Territory road authorities | 17 |
| Subdivision B—Supply of other goods and services | 18 |
| 17 Content services not to be supplied | 18 |
| 18 Non-communications services not to be supplied | 18 |
| 19 Non-communications goods not to be supplied | 18 |
| Subdivision C—Investment activities | 18 |
| 20 Restriction of investment activities | 18 |
| Subdivision D—Transitional | 19 |
| 21 Transitional—pre-commencement contractual obligations | 19 |
| 22 Transitional—pre-acquisition contractual obligations | 20 |
| Division 3—Functional separation of NBN corporations | 21 |
| 23 Contents of draft or final functional separation undertaking | 21 |
| 24 Functional separation principles | 21 |
| 25 Functional separation requirements determination | 22 |
| 26 Draft functional separation undertaking to be given to the Communications Minister and the Finance Minister | 23 |

| | | |
|---|--|-----------|
| 27 | Approval of draft functional separation undertaking by the Communications Minister and the Finance Minister | 24 |
| 28 | Time limit for making an approval decision | 26 |
| 29 | Effect of approval | 26 |
| 30 | Variation of final functional separation undertaking | 27 |
| 31 | Publication of final functional separation undertaking | 29 |
| 32 | Compliance with final functional separation undertaking | 29 |
| Division 4—Divestiture of assets by NBN corporations | | 30 |
| 33 | Directions about disposal of assets | 30 |
| 34 | Directions about transfer of assets to another NBN corporation..... | 31 |
| 35 | Advice from ACCC about disposal or transfer directions | 32 |
| 36 | Exemption from stamp duty—transfer in compliance with transfer direction..... | 33 |
| Division 5—Carrier licence conditions etc. | | 34 |
| 37 | Carrier licence condition | 34 |
| 38 | Service provider rule | 34 |
| 39 | Power to declare carrier licence conditions not limited | 34 |
| 40 | Power to determine service provider rules not limited | 34 |
| Division 6—Special carrier licence conditions | | 35 |
| 41 | Conditions about supply of carriage services by NBN corporations | 35 |
| 42 | Consultation with ACCC..... | 36 |
| Part 3—Ownership and control of NBN Co | | 37 |
| Division 1—Simplified outline | | 37 |
| 43 | Simplified outline | 37 |
| Division 2—Commonwealth ownership and control of NBN Co | | 39 |
| Subdivision A—Commonwealth ownership provisions | | 39 |
| 44 | Commonwealth ownership provisions..... | 39 |
| 45 | Commonwealth to retain ownership of NBN Co..... | 39 |
| 46 | Compliance by NBN Co..... | 39 |
| Subdivision B—Termination of Commonwealth ownership provisions | | 40 |
| 47 | Object of this Subdivision | 40 |
| 48 | Declaration by Communications Minister—whether national broadband network should be treated as built and fully operational | 40 |
| 49 | Productivity Commission inquiry | 42 |

| | | |
|---|---|----|
| 50 | Declaration by Finance Minister—whether conditions suitable for an NBN Co sale scheme | 45 |
| 51 | Termination of Commonwealth ownership provisions | 47 |
| Subdivision C—Sale by the Commonwealth of its shares in NBN Co | | 47 |
| 52 | Simplified outline | 47 |
| 53 | When NBN Co sale scheme may be entered into and carried out..... | 47 |
| 54 | NBN Co sale scheme | 48 |
| 55 | Sale-scheme hybrid securities..... | 50 |
| 56 | Exemption from stamp duty—transfer by the Commonwealth of its shares in NBN Co etc. | 51 |
| 57 | Authorisation of borrowing—issue of sale-scheme hybrid securities..... | 53 |
| 58 | Appropriation—costs incurred in connection with an NBN Co sale scheme | 54 |
| 59 | Assistance given by NBN Co or the Board in connection with an NBN Co sale scheme | 54 |
| 60 | Giving of assistance—ancillary provisions..... | 56 |
| 61 | Reimbursement of expenses incurred in giving assistance | 57 |
| 62 | Commonwealth to be bound by Chapters 6CA, 6D and 7 of the <i>Corporations Act 2001</i> | 57 |
| 63 | Reduction of NBN Co’s share capital..... | 58 |
| 64 | Alterations of NBN Co’s constitution—notice to debenture holders | 59 |
| 65 | Alteration of NBN Co’s constitution—Ministerial instrument | 59 |
| 66 | Use by the Commonwealth of information obtained from NBN Co or the Board | 61 |
| 67 | Agreements relating to the protection of information obtained from NBN Co or the Board..... | 62 |
| 68 | NBN Co’s obligations to disclose information | 62 |
| Division 3—Private ownership and control of NBN Co | | 63 |
| 69 | Unacceptable private ownership or control situation | 63 |
| 70 | Prohibition of unacceptable private ownership or control situation | 63 |
| 71 | Remedial orders..... | 63 |
| 72 | Record-keeping and giving of information..... | 64 |
| 73 | Validity of acts done in contravention of this Division | 66 |
| 74 | Acquisition of property..... | 66 |
| Division 4—General provisions | | 67 |
| 75 | Interest in a share..... | 67 |
| 76 | Extra-territorial application | 68 |
