



Safety, Rehabilitation and Compensation Act 1988

Part VIII

Notice of Licence – Telstra Limited (No 45 of 2021)

Background

- A. Telstra Limited, ABN 64 086 174 781 (formerly Network Design and Construction Limited, the **Licensee**), was declared to be eligible to be granted a licence under Part VIII of the *Safety, Rehabilitation and Compensation Act 1988* (Cth) (**SRC Act**) by legislative instrument on 21 June 2021.
- B. The Safety, Rehabilitation and Compensation Commission (**Commission**), acting under sections 103 and 104 of the SRC Act, granted a licence to the Licensee on 13 September 2021 with a planned commencement date of 9 December 2021.
- C. The Commission acting under sections 103 and 104 of the SRC Act, varies and amends the licence commencement date in **Condition 4** and **Condition 5** to 14 March 2022. For clarity, this licence does not commence prior to 14 March 2022.
- D. The scope and conditions of the licence are set out below.

Licence

Part 1 – Interpretation

1. Unless the contrary intention appears, expressions used in this instrument have the same meaning as in the SRC Act.¹

Definitions

2. In this licence:
 - (a) *APRA* means the Australian Prudential Regulation Authority;
 - (b) *Balance Date* means the last day of the Financial Year immediately before the first Financial Year to which the Guarantee being obtained under condition 41 will relate;
 - (c) *Deed of Guarantee and Indemnity* means a deed of guarantee and indemnity approved by the Commission;
 - (d) *Document* means document as that word is defined by section 2B of the *Acts Interpretation Act 1901* (Cth);

¹ For the purposes of this licence, the definition of *claim* prescribed by section 99 of the SRC Act applies.

- (e) *Excess Amount* has the meaning as defined in condition 53;
- (f) *Financial Year* means the financial year that applies to the licensee under the *Corporations Act 2001* (Cth);
- (g) *Guarantee* means a bank guarantee, letter of credit, unconditional payment undertaking or such other instrument issued by an entity acceptable to the Commission in accordance with this licence;
- (h) *Liability Report* has the meaning as defined in condition 30;
- (i) *Licensee* includes, where the context permits, the Claims Manager;
- (j) *Outstanding Claim Liability* has the meaning as defined in the Institute of Actuaries of Australia Professional Standard 302 “Valuations of General Insurance Claims”, or any standard substituted thereof;
- (k) *Recommended Excess Amount* has the meaning as defined in condition 32(c);
- (l) *Reinsurance Policy* has the meaning as defined in condition 52; and
- (m) *Risk Free Rate* means the rates to be used in discounting the expected future claims payments of insurance liabilities denominated in Australian currency as determined in accordance with APRA Prudential Standard GPS 340: Insurance Liability Valuation, or any standard or associated standard, substituted thereof.

Part 2 – Grant of Licence

Eligible applicant

3. The Licensee was declared to be eligible to be granted a licence under Part VIII of the SRC Act by legislative instrument dated 21 June 2021, registered as F2021L00949 on the Federal Register of Legislation on 2 July 2021.

Licence decisions

4. The Commission, acting under sections 103 and 104 of the SRC Act, granted a licence to the Licensee on 13 September 2021 for the period commencing 14 March 2022 and ending on 31 December 2029.

Period of licence

5. Subject to the SRC Act, this licence is for the period commencing at the beginning of 14 March 2022 (Australian Eastern Daylight Time) and ending at the end of 31 December 2029 (Australian Eastern Daylight Time) (**Licence Period**).

Part 3 – Scope of Licence

Scope of licence – acceptance of liability

6. Subject to clause 8, the Licensee is authorised to accept liability to pay compensation and other amounts under the SRC Act in respect of all injuries, loss or damage suffered by, or in

respect of the death of, any of the employees of the Licensee where such injuries, loss, damage or death:

- (a) occur within the Licence Period; or
- (b) occurred during a period for which a previous SRC Act licence was in force; or
- (c) occurred during a period prior to this licence coming into force.

Acceptance of liability for injuries, loss, damage or death due to asbestos exposure

7. This condition makes provision for, but is limited to, the authorisation of the Licensee to accept liability to pay compensation and other amounts arising from claims under the SRC Act in respect of all injuries, loss or damage suffered by, or in respect of the death of, any of the employees of the Licensee caused by exposure to asbestos during the course of their employment by the Commonwealth or the Licensee (**Asbestos-Related Claims**). The Commission has determined as follows in respect of Asbestos-Related Claims:

- (a) where the exposure occurs **before 1 July 1975** - the Licensee is not authorised to accept liability for that period of the exposure;
- (b) where the exposure occurs **during the period between 1 July 1975 and 30 November 1988 inclusive** - the Licensee is authorised to accept 30 per cent of liability for that period of the exposure; and
- (c) where the exposure occurs on or **after 1 December 1988** - the Licensee is authorised to accept 100 per cent of liability for that period of exposure.

*Note 1: Where the exposure occurs **before 1 July 1975**, Comcare assumes 100 percent of the liability for that period of the exposure; and*

*Note 2: Where the exposure occurs **during the period between 1 July 1975 and 30 November 1988 inclusive** - Comcare will assume 70 per cent liability for that period of the exposure; and*

*Note 3: Where the exposure occurs on or **after 1 December 1988** Comcare is not liable for that period of the exposure.*

8. For the purposes only of identifying “employees of the Licensee” where that term appears in clause 8:

‘Licensee’ refers to the Licensee and all its predecessor departments, authorities and companies, including Telstra Corporation Limited, the Postmaster General’s Department, the Australian Telecommunications Commission, the Australian Telecommunications Corporation and the Australian and Overseas Telecommunications Corporation.

Scope of licence – management of claims

9. This clause makes provision for, but is limited to, the management of Asbestos-Related Claims the subject of clause 8. The Commission has determined as follows in respect to the management of Asbestos-Related Claims:

- (a) where the claim arises from exposure to asbestos **prior to and ending before 1 July 1975** - the Licensee is not authorised to manage the claim;
- (b) in any other case - the Licensee is authorised to manage the claim.

*Note: Where the exposure occurs exclusively **before 1 July 1975**, Comcare will manage the claim.*

10. The Licensee is authorised to manage claims under the SRC Act made by the employees of the Licensee who are covered by the scope of this licence so far as it relates to the Licensee's acceptance of liability in accordance with clause 7 and 8 of this licence.

Part 4 – Conditions of licence

Conditions of licence

11. The licence is granted subject to the following conditions.

General conditions

Communication

12. The Licensee, when bringing employees under its self-insurance licence pursuant to any consolidation or amalgamation process, must provide information to those employees regarding the *Work Health and Safety Act 2011* (Cth) (**WHS Act**) and the SRC Act prior to those employees becoming employees of the Licensee.
13. The Licensee must provide information regarding the operation of the WHS Act and the SRC Act to all new employees as part of the licensee's employee induction process.

Directions of Commission

14. The Licensee must comply with any written directions, whether general or in respect of a particular matter or class of matters, given by the Commission generally, or to the Licensee directly, with respect to the performance by the Licensee of its functions or the exercise of its powers under the SRC Act.

Requirements

15. The Licensee must comply with the requirements of:
- (a) the SRC Act, its Regulations and any applicable guidelines issued by the Commission under section 73A of the SRC Act;
 - (b) any applicable laws of the Commonwealth, States or Territories with respect to the safety, health and rehabilitation of employees, with a particular focus on the statutory requirements for genuine consultation with employees and their representatives; and
 - (c) the relevant Privacy legislation.

16. The Licensee must have regard to guidelines issued by the Information Commissioner under the *Privacy Act 1988* (Cth) and must comply with any such guidelines dealing with covert surveillance of employees.

Fees

17. The Licensee must pay the licence fee notified in writing to the Licensee under section 104A of the SRC Act within one month of receiving the notification.
18. On written request from the Commission, the licensee must pay other fees relating to the Licensee's operations under the SRC Act, in the amount and within the timeframe, specified by the Commission.

Manner of managing claims

19. In managing claims, the Licensee:
 - (a) must be guided by equity, good conscience and the substantial merits of the case without regard to technicalities;
 - (b) is not required to conduct a hearing; and
 - (c) is not bound by the rules of evidence.

Management systems

20. The Licensee must co-operate with, and give reasonable assistance to, the Commission or its representatives in respect of any targeted reviews and evaluations of the Licensee to be conducted by the Commission or its representatives.
21. The Licensee must report to the Commission as required in accordance with the Performance Standards and Measures to demonstrate that it has maintained its Claims Management, Rehabilitation and WHS management systems, as advised to Comcare.

Reviews and proceedings

22. The Licensee must inform Comcare as soon as practicable of any court or tribunal proceedings in relation to a matter arising in respect of a claim managed by the Licensee under the SRC Act.
23. The Licensee must give to Comcare, within the timeframe specified in the request, any information or documents that Comcare requests in respect of any court or tribunal proceedings in relation to a matter arising in respect of a claim managed by the Licensee under the SRC Act.
24. The Licensee must not cause, or permit to be made on its behalf to a court or tribunal any submission that Comcare or the Commission requests the Licensee not to make.