

EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications Authority

Telecommunications Act 1997

Telecommunications Numbering Plan Variation 2004 (No.1)

Statutory basis

Under subsection 455(1) of the *Telecommunications Act 1997* (the Act), the Australian Communications Authority (ACA) must, by written instrument, make a plan for the numbering of carriage services in Australia and the use of numbers in connection with the supply of such services. This is known as the *Telecommunications Numbering Plan 1997* (the Numbering Plan). The ACA may vary the Numbering Plan by written instrument (matters it must have regard to in doing so are listed in subsection 455(11) of the Act). This explanatory statement outlines the basis for the *Telecommunications Numbering Plan Variation 2004 (No. 1)* (the variation).

Purpose of the variation

The purpose of this variation is to set out specific rules for freephone and local rate numbers (FLRNs) allocated as a result of an auction held under the *Telecommunications (Freephone and Local Rate Numbers) Allocation Determination 2004* (the auction determination) or the *Telecommunications (Freephone and Local Rate Numbers – Charities) Allocation Determination 2004* (the charities determination) in relation to the following:

- entitlements conferred on the rights of use holder (ROU-holder) to a FLRN;
- administration and management of FLRNs, including procedures for allocation, trading, surrender into auction-declared quarantine and release of auction-declared quarantine numbers;
- circumstances in which the ACA may withdraw a number from a carriage service provider;
- circumstances in which the ACA may cancel the rights of use to a number and make the number available for reallocation under the auction determination or charities determination; and
- special arrangements for allocation of FLRNs in an emergency situation.

Background

Introduction

On 13 May 2003, the Minister for Communications, Information Technology and the Arts announced the government's intention to fund the development by the ACA of a web-based system for allocating FLRNs and preferential access arrangements for charities.

Freephone numbers are 10-digit numbers beginning with 1800. Calls made to freephone numbers are free to end-users, as all associated call charges are borne by the receiver of the call. Local rate numbers are 10-digit numbers beginning with 1300, or six-digit numbers beginning with 13. The charges for calls made to local rate numbers are shared between the person who makes the call (to a maximum of the amount chargeable for a local call) and the person who receives the call (who pays the remaining charge). (Although note that call charge costs may be higher from mobile phones or pay phones).

FLRNs may be highly valued as marketing tools, especially in cases where a number is memorable by virtue of a repeating pattern of digits or corresponds to a meaningful phoneword, which is derived from the alphabetical keypad translation of the number. In addition, FLRNs may encourage calls through the reduced or free call cost.

Under section 455 of the Act, the ACA is required to create a Numbering Plan which, among other things, may set rules relating to the allocation of numbers. Under the Numbering Plan, numbers are allocated to carriage service providers (CSPs) who then issue numbers to customers. At present, FLRNs are allocated to CSPs on behalf of the ACA by an industry organisation called Industry Number Management Services Ltd (INMS) on a 'first-come, first-served' administrative basis. To obtain a specific FLRN, customers are required to approach a CSP, who, having established that the number is available for allocation, arranges to be allocated the number and then issues it to the customer. To date, the ACA has made a total of around 750,000 FLRNs available for allocation, of which approximately 150,000 have already been allocated to CSPs through the above process.

New allocation arrangements

In May 2002, the ACA reported to the Minister for Communications, Information Technology and the Arts that the 'first-come, first-served' arrangements may not represent the most efficient means of allocating these potentially valuable numbers. The ACA's report suggested that an auction-based approach may provide a more equitable and efficient means of allocating FLRNs. The report further suggested that a public auction conducted by the ACA, in which the person who successfully bids for the number is assured of the right to be issued the number (and thereby obtains the rights of use in relation to the number), would allow any person with an interest in a specific number to seek it. It would also provide a reasonable financial return to the community for a limited public resource. The report also suggested that a web-based auction system would represent the most efficient means of conducting such an auction.

In his response to the ACA in August 2002, the Minister acknowledged the ACA proposal to proceed to develop a web-based public auction system for the allocation of FLRNs. The Minister also requested that the ACA give consideration to the inclusion within the auction system of separate preferential access arrangements for deserving welfare organisations. The purpose of the separate arrangements for welfare organisations would be to address the potential inequities associated with a market-based allocation system in which deserving welfare organisations, as non-

commercial entities, would be forced to compete for numbers on a financial basis with commercial entities.

The ACA has now developed new arrangements for allocating FLRNs which comprise:

- a public auction process to allocate FLRNs, as set out in the auction determination; and
- a single, sealed-bid auction process to allocate FLRNs to ‘eligible charities’ as set out in the charities determination.

To give effect to the new arrangements, the ACA has also made the following instruments to accompany the variation:

- *the Telecommunications Numbering Plan Declaration 2004 No. 1*; and
- *the Telecommunications (Freephone and Local Rate Numbers) Directions 2004 (No. 1)*.

Telecommunications Numbering Plan Declaration 2004 No. 1

The *Telecommunications Numbering Plan Declaration 2004 No. 1* (the declaration) is required for two reasons:

- to make available previously unreleased 10-digit 1300 and 1800 numbers and six-digit 13 numbers (1.2 million numbers) for *allocation by auction*; and
- to make currently declared FLRNs (approximately 750,000 numbers) available for *allocation by auction* as they are currently only available for *allocation by administrative means* under the transitional allocation arrangements.

The declaration provides that all six-digit local rate numbers with the prefix 13, all 10-digit freephone numbers with the prefix 1800 and all 10-digit local rate numbers with the prefix 1300 (subject to limited exceptions) are available for allocation by auction. By implication, all eight-digit local rate numbers used by the security industry in connection with alarm receiving equipment are excluded from the declaration and will not be available for allocation by auction.

In addition, all freephone numbers commencing ‘1801’ through to ‘1809’ and local rate numbers commencing ‘1301’ to ‘1309’ specified in the Numbering Plan are excluded from the declaration. These number ranges could subsequently be declared available for allocation by auction should the high value numbers be ‘cherry-picked’ from the proposed supply of approximately two million FLRNs.

The declaration specifically also excludes 10-digit 1800 numbers used for international country direct services and 10-digit 1300 and 1800 ‘fictitious’ numbers used for advertising in television programs and films.

Telecommunications (Freephone and Local Rate Numbers) Directions 2004 (No. 1)

The purpose of the *Telecommunications (Freephone and Local Rate Numbers) Directions 2004 (No. 1)* (the directions) is to ensure that FLRNs declared as being available for *allocation by auction* are able to be allocated in this way and that some FLRNs remain available for *administrative allocation*. This is in line with the ACA’s

proposal to retain the existing administrative allocation arrangements in parallel with the new allocation system.

The directions provide that a CSP may only apply for allocation by auction of a FLRN if the FLRN is:

- declared available for allocation by auction;
- not allocated to a CSP;
- not a quarantined number;
- not in auction-declared quarantine under the new Division 7A of the Numbering Plan;
- not a number that has been notified under section 5 of the directions as being in the reduced number pool for administrative allocation; and
- not an eight-digit 13 number (used by the security industry); seven-digit 1800 number; 10-digit 1800 number used for international country direct services; or a specified number already allocated for fictitious use.

The administrative allocation process is enabled by directing CSPs only to apply for:

- FLRNs notified to CSPs as being in the reduced pool of numbers; or
- eight-digit 13 numbers (used by the security industry); or
- seven-digit 1800 numbers; or
- 10-digit numbers used for international country direct services.

By definition, a FLRN in the reduced pool of numbers is only available for administrative allocation.

The new directions continue the requirement for CSPs to only apply to INMS for the administrative allocation of FLRNs from a reduced pool of numbers (subject to limited exceptions). This reduced number pool will continue to be topped-up to replenish the stock of available numbers in each number range. The reduced pool will be topped up from the approximately 600,000 unallocated FLRNs declared as available for allocation under the *Telecommunications Numbering Plan Number Declaration 2000* and to be made available for allocation by auction under the declaration.

The directions also include a number of transitional exemption provisions, some of which have expired. These provisions continue to enable CSPs to apply to INMS for administrative allocation of a number that is not in the reduced pool in situations where a CSP can demonstrate a pre-May 2003 liability to a customer in relation to issue of the number. It is noted that the directions place the onus on the CSP to determine that it meets the relevant exemption criteria.

Administrative allocation process

While the new public auction system will be used to allocate specifically requested FLRNs, customers who do not have a preference for a particular number will still be able to obtain FLRNs from the limited pool of non-patterned numbers through an administrative process, similar to the transitional allocation arrangements introduced following the Minister's announcement in May 2003. Under these arrangements, the pool of 600,000 FLRNs previously available to CSPs (excluding higher value

patterned numbers which were made inaccessible) was used to source a maximum working supply of approximately 10,200 numbers. As demand dictates (i.e. when the supply of numbers drops below a specified threshold, say 75%) the reduced pool is periodically topped-up from the pool of 600,000 available numbers.

INMS charges CSPs for allocation of FLRNs using this system are based on cost recovery. It is envisaged that, under the new allocation arrangements, customers will still be able to obtain numbers from the reduced pool at low cost, although they will have a very limited choice, compared to the proposed auction system.

When a service associated with an administratively allocated FLRN is cancelled, the FLRN returns to the pool of numbers declared available for allocation by auction. It can only be allocated administratively again if it is randomly selected to top up the reduced pool of numbers available for administrative allocation only.

Rights to use or trade numbers obtained at auction

It is proposed that the new public auction system will provide people who obtain rights of use to a number at auction or via the preferential access arrangements for charities with enhanced rights of use in relation to the number, relative to the rights of use that were provided to a person who was issued a number prior to the new arrangements or under the proposed administrative allocation system.

The enhanced rights of use are set out in the variation and will entitle the ROU-holder to:

- disconnect an active service on the number at any time;
- retain the rights of use while having no active service in place on the number for a period of three years. If it has not been activated during that period, the number will be returned to the available pool for reallocation;
- ask the CSP that has been allocated the number to surrender the number (at which time the number would enter a three year quarantine period and be unable to be reallocated to a CSP, except at the request of the rights of use holder);
- trade the rights of use to another person or organisation or, where the ROU-holder is an 'eligible charity', trade the rights of use to another 'eligible charity' where the number is 'strategic' for that charity; and
- relinquish all rights of use in relation to the number.

The ROU-holder will be able to trade the rights of use in relation to a number, even if the number has been surrendered and is in quarantine. For example, the rights of use in relation to the number could be sold, licensed or leased. However, it will not be possible for a person's rights of use to be provided as security for a loan. If a loan is required to finance the purchase of a number at auction, alternative arrangements (e.g. personal guarantees or the provision of other assets as security) may be required.

Consultation

The ACA has undertaken extensive consultation in relation to the proposed variation. This has included consultation with key government stakeholders, the Australian Competition and Consumer Commission (ACCC) and the general public, as required

under the Act. Targeted consultation with organisations likely to be affected by the proposal such as CSPs, INMS, various business associations, charities and community sector organisations has also been undertaken.

Public consultation

Subsection 460(3) of the Act requires that the public be consulted about any variations to the Numbering Plan if the ACA is of the opinion that:

- the variation will affect a number issued to a customer; or
- it is in the public interest.

In such cases, the ACA is required to consult for a period of at least 90 days. In accordance with this requirement, the ACA released a draft of the *Telecommunications Numbering Plan Variation 2003(No. xx)* on 30 September 2003, together with an explanatory guide and the determinations calling for comments by 9 January 2004. The draft variation was made available in hard copy and electronic format.

The ACA held two public meetings in Melbourne and Sydney on 15 and 20 October 2003 respectively to explain the proposed new system of allocation and the proposed variation to the Numbering Plan and to provide an opportunity for feedback. Approximately 50 people attended each meeting, representing small and medium business organisations, CSPs, state government departments and charity organisations.

The ACA received a total of 13 submissions as a result of its public consultation process. A summary of the key issues raised by submitters and the ACA's response is outlined below.

Industry consultation

Considerable effort was also taken to ensure industry involvement in the development of the allocation arrangements and the proposed variation, focussing particularly on CSPs that are current INMS subscribers. An Industry Reference Group (IRG) was established comprising representatives from AAPT, Telstra, Optus, INMS, the Australian Telecommunications Users Group (ATUG), Vodafone, Primus, ACCC, Flowcom Ltd, RSLCom, the Department of Communications, Information Technology and the Arts (DCITA), and Comindico Pty Ltd. The IRG met on six occasions since mid-July 2003, with two of these meetings being all day workshops. In addition to meetings, members were provided with position papers on important policy issues prior to each meeting and as required, in order to facilitate constructive discussion and debate of issues.

Negotiation of workable transition arrangements and consultation through the IRG appears to have assisted the industry. Relevant CSPs participated positively in the development of this variation.

The Office of the Federal Privacy Commissioner

Discussions with a representative of the Office of the Federal Privacy Commissioner prior to the public consultation period indicated that the proposed system is consistent with privacy requirements.

Small business and other business associations

The ACA provided information about the proposed variation and invited a number of business associations to meet with staff to discuss the proposal. Organisations invited included the State Chambers of Commerce, Business Council of Australia, Australian Small Business Association, Small Enterprise Telecommunications Centre Limited (SETEL), Council of Small Business Organisations of Australia (CoSBoA), Small Business Association of Australia, Small Business Advisory Network and Australian Franchise Association Limited. ATUG, as a member of the IRG, provided input to the development of the variation but did not make a formal submission. SETEL and other community and small business representatives were consulted via the ACA's Numbering Advisory Committee, which meets on a three monthly basis.

The ACA met also with the CoSBOA, which indicated support for the proposal to impose a time limit on holding a FLRN without active service, after which the number could be returned to the available pool for re-allocation. There was also strong support for such a time limit in other submissions. As a result, subsection 3.75P of the variation now provides that the ACA must cancel the rights of use for a number if there has been no active service on the number for a continuous period of three years.

NOTES ON SECTIONS

Part 1 – Introduction

Section 1.1 – Name of variation

Section 1.1 provides that the name of the variation is the *Telecommunications Numbering Plan Variation 2004 (No.1)*.

Section 2 – Commencement

Section 2 provides that the variation commences on 3 May 2004.

Section 3 – Variation of *Telecommunications Numbering Plan 1997*

Section 3 states that Schedule 1 varies the *Telecommunications Numbering Plan 1997*.

Schedule 1 Variations

Item 1 provides that a new Division 7A must be inserted after section 3.75 in the Plan.

Division 7A Allocation by auction

Section 3.75A – Allocation by auction

Section 3.75A explains that the ACA is empowered under Division 7A to allocate a freephone number or a local rate number (FLRN) to the successful applicant determined by the results of an auction process under the auction determination or the charities determination. This process of allocation is called *allocation by auction*.

Section 3.75B – Definitions for Division 7A

Section 3.75B defines words and expressions used in Division 7A and provides that a working day is any day except a Saturday or Sunday or a day that is a public holiday in Victoria. This means that a working day may be a day that is a public holiday in any other state of Australia but Victoria. (Nonetheless, as a matter of practice, the ACA may consider public holidays in states and territories other than Victoria when scheduling auctions).

Section 3.75C – Application of the other provisions of this Plan

This section provides that Division 7A makes provision about FLRNs allocated as a result of an auction held under the auction determination or the charities determination. Where Division 7A does not make provision about FLRNs, and other parts of the Numbering Plan do make provision about FLRNs, then the other parts of the Numbering Plan will apply to numbers allocated under Division 7A.

Section 3.75D - Declaration

Section 3.75D provides that for the purposes of Division 7A a declaration under section 3.39 that a FLRN is available for allocation must state that the number is to be allocated by auction and may include a number that has already been declared by the ACA. The note to this section explains that a number that has been declared as being available for allocation by auction may be allocated administratively for emergency situations as set out in section 3.75T.

Section 3.75E – Entitlements after auction

This section provides that the ACA must allocate a number to the carriage service provider that was the joint applicant for the number in an auction process after the successful bidder for the number has paid the eligible amount to the ACA under the auction determination or charities determination. The eligible amount is taken to be paid to the ACA if the full amount of the payment, net of any bank fees or charges, and net of any Government duties or other imposts, is received by the ACA.

Only a carriage service provider that is registered under Chapter 3, Division 4 of the Plan can be a joint applicant with a customer for a number under the auction determination or charities determination. However, there is no constraint on the carriage service provider entering into an arrangement with another party to undertake some aspects of this role as joint applicant on its behalf.

Section 3.75E provides that the successful bidder for a number becomes the rights of use holder (ROU-holder) for the number on payment of the eligible amount to the ACA. The ROU-holder has the following rights in relation to the number:

- the right to trade, assign or otherwise deal with the rights of use to the number (see section 3.75J); and
- the right to ask the carriage service provider that is allocated the number to surrender the number into auction-declared quarantine (see section 3.75K); and
- the right to give up all rights in relation to the number; and
- except as set out in section 3.75N, the right to have no active service in place for the number; and
- the right to ask a registered carriage service provider to retrieve a surrendered number that has become an auction-declared quarantined number (see section 3.75S); and
- the right to disconnection of an active service on the number at any time.

Section 3.75E clarifies that a ROU-holder's right to disconnection of an active service on the number does not affect the validity of any contract for service that may exist between the person to whom services are being provided on the number and the carriage service provider providing the services.

A carriage service provider is only required to act on the request from a person purporting to be the ROU-holder to surrender a number or retrieve a surrendered number if it is satisfied that the person is the current ROU-holder to the number concerned.

Section 3.75F – Allocation

This section sets out the requirements for allocation by auction and provides that the ACA must allocate numbers by electronic means. The arrangements for allocating numbers by electronic means (the electronic allocation procedure) must be approved by the ACA in writing.

If it is not practicable to use electronic means, the ACA may allocate a number by other means.

A number must be allocated as soon as practicable after the eligible amount for the number has been paid to the ACA as set out under section 1.9 of the auction determination or section 1.10 of the charities determination.

Each number must be allocated individually.

Section 3.75G – Issue

Section 3.75G sets out the process for issue of a number that has been allocated by auction. It provides that, as soon as practicable after a number has been allocated to a carriage service provider and the carriage service provider and the ROU-holder has agreed about the delivery of services for the number, the carriage service provider must issue the number to the ROU-holder.

Section 3.75H – Register

This section provides that the ACA will establish and maintain a Register of numbers and ROU-holders. The Register will contain the number, the name of the ROU-holder for the number and, if the ROU-holder agrees, the address, telephone, fax and email details for the ROU-holder for the number.

The ROU-holder for a number is required to tell the ACA of any change to his or her address, telephone, facsimile and email details that are listed on the Register. The ACA is required to make the Register available to the public and the Register may be in electronic form. The ACA may correct an error or omission made in entering information in the Register.

Section 3.75J – Trading the rights of use and licensing a number

This section provides clarification of a ROU-holder's entitlement to trade the rights of use to his or her number. The trade for the rights of use to a number means assign or otherwise deal with the rights of use attached to the number. Under this section, the ROU-holder can trade all his or her rights of use but cannot trade only some of these rights. The rights of use are set out in section 3.75E.

This section also provides that the ROU-holder for a number may license another person to have an active service on the number. The note explains that under Chapter 11 of the Plan, a CSP must not hinder the porting of a number.

If the ROU-holder for a number is a charity that obtained the rights of use under the charities determination, the charity may only trade the rights of use to an ‘eligible charity’ to whom the number is ‘strategic’, within the meaning of the charities determination.

Section 3.75J provides that in order to be valid, the trade for rights of use must be in the form approved by the ACA. This form will require completion in writing and include the number to which the rights of use relate, the names and signatures of the parties involved and the date of the trade.

If the trade is for rights of use traded by a charity, the ACA approved form will require a written statement by the body to which the rights of use are to be traded that it is an ‘eligible charity’ within the meaning of the charities determination (being a charity that is endorsed as exempt from income tax by the Commissioner of Taxation under section 50-105 of the *Income Tax Assessment Act 1997*) and that the number is strategic to it.

The form and statement are required to be lodged with the ACA and the trade does not take effect until the ACA enters the details in the Register set up under section 3.75H.

The CSP for a number is not to hinder the trading of the rights of use or licensing of the number.

The rights of use to a number are not to be used by a ROU-holder as security for a loan.

Section 3.75K – Surrender of number – general

Section 3.75K sets out the following general requirements in relation to surrender of a number allocated by auction:

- a number may only be surrendered by a registered carriage service provider to which the number is allocated;
- a number may only be surrendered if there is no active service in place on the number. If there is an active service in place on the number, the ROU-holder will need to cancel the service before making a request for surrender of the number;
- surrender may be initiated by the ROU-holder or the carriage service provider to which the number is allocated;
- if a carriage service provider receives a request from the ROU-holder to surrender the number, the carriage service provider must do so within five working days;
- a number must be surrendered individually;
- after a number is surrendered, it is no longer allocated to a carriage service provider and it becomes an auction-declared quarantined number;
- after a number is surrendered, it may be released from auction-declared quarantine as set out in section 3.75S; and
- if the number is not released, it remains in auction-declared quarantine for three years.

Section 3.75L – Surrender where rights of use waived

Section 3.75J sets out the effects of a number being surrendered by a carriage service provider where the ROU-holder for the number has notified the ACA that it no longer wants the rights of use for the number.

This section provides that because the number is surrendered it is no longer allocated and becomes an auction-declared quarantined number.

This section also provides that if a person is seeking release of the number from auction-declared quarantine, the process for release set out under section 3.75R applies.

Section 3.75M – Withdrawal of number

Section 3.75M provides that the circumstances in which the ACA may withdraw a number from a carriage service provider are set out in sections 3.95, 3.96 and 3.97 of the Plan. Sections 3.95, 3.96 and 3.97 deal with withdrawal for use inconsistent with the Plan (section 3.95), for non-payment of the annual numbering charge (section 3.96), and to comply with a court order (section 3.97).

Subject to any terms or conditions specified in a court order, before withdrawing a number, the ACA will give a carriage service provider at least 21 days advance notice (the notice period) that the ACA plans to withdraw the number. The notice must be in writing and tell the carriage service provider the following:

- that the ACA proposes to withdraw the number;
- the reason for the withdrawal;
- that the carriage service provider must tell the ROU-holder of the option to port the number, in accordance with Chapter 11 of the Plan; and
- the consequences of not porting the number.

The carriage service provider must tell the ROU-holder about the option to port the number within five days of receiving a notice of withdrawal from the ACA from the new carriage service provider.

If the ROU-holder ports the number to a new carriage service provider, within the notice period, the ACA will not withdraw the number.

If the ROU-holder does not port the number within the notice period, the ACA will withdraw the number from the carriage service provider and, as a consequence, the number will no longer be allocated and becomes an auction-declared quarantined number.

This section also provides that if the ROU-holder wishes to obtain release of the number from auction-declared quarantine the process set out under section 3.75S applies.

Section 3.75N – Cancellation of rights of use – false statement

Section 3.75N provides that the ACA will cancel the rights of use for a number where the ROU-holder was the joint applicant for the number and has made a false statement, within the meaning of subsection 136(1) of the *Criminal Code Act 1995*, in the application for the number. When the ACA cancels the rights of use for the number, the ACA will withdraw the number from the carriage service provider to which the number is allocated.

The effect of cancellation under this section is that the number becomes an auction-declared quarantined number.

This section provides that if a person is seeking release of the number from auction-declared quarantine, the process for release set out under section 3.75R applies.

Section 3.75P – Cancellation of rights of use – no active service

Section 3.75P provides that the ACA will cancel the rights of use for a number where there is no active service on a number for a continuous period of three years.

If the number was not already in auction-declared quarantine immediately before the cancellation the number becomes an auction-declared quarantine number.

If a person is seeking release of the number from auction-declared quarantine, the process for release set out under section 3.75R applies.

Section 3.75Q – Cancellation of rights of use – charity’s excess number

Section 3.75Q provides that the ACA will cancel rights of use for a number if the number is an excess number held by an eligible charity for longer than 12 months. The effect of this section is that an eligible charity must not hold more than one of each type of number (i.e. 13, 1300 and 1800 numbers) for longer than 12 months.

A charity will be considered to hold an excess number if it holds:

- Two or more six-digit 13 numbers;
- Two or more 10-digit 1300 numbers; or
- Two or more 10-digit 1800 numbers.

This section only applies to numbers allocated under the charities determination, whether or not an eligible charity obtained the number directly under the charities determination or via a trade.

Before cancelling the rights of use for an excess number the ACA must first:

- Notify the eligible charity that its rights of use for an excess number will be cancelled in 30 days; and
- Ask the eligible charity to tell the ACA within 28 days of the notice which number it does not want.

If the eligible charity advises the ACA of the number it does not want, the ACA will cancel the rights of use for this number and, if the number is allocated to a carriage service provider, withdraw the number.

If the eligible charity does not advise the ACA which number it does not want, the ACA will cancel the rights of use to the number that was first issued to the charity and, if the number is allocated to a carriage service provider, withdraw the number.

The effect of cancellation under this section is that the number is no longer allocated and becomes an auction-declared quarantined number.

This section provides that if a person is seeking release of the number from auction-declared quarantine, the process for release set out under section 3.75R applies.

A ROU-holder that is an eligible charity may also have its rights of use cancelled under sections 3.75N and 3.75P.

Section 3.75R – Release from auction-declared quarantine

Section 3.75R provides that a number remains in auction-declared quarantine for three years unless it is released in the way set out in this section.

If the ROU associated with the number have been cancelled under section 3.75P (because there has been no active service on the number for a continuous period of three years), the ACA will make the number available for allocation by auction as soon as practicable after the three year period with no active service has expired.

In any other case, after the end of the three year auction-declared quarantine period, the ACA will again make the number available for allocation by auction.

This section provides that, if a person wishes to obtain release of a number from auction-declared quarantine under this section, it must ask the ACA, in writing, to release the number and make it available for allocation.

If the ACA receives a request for release under this section it must release the number and make it available for allocation by auction.

However, a number that is surrendered under section 3.75K or withdrawn under section 3.75M cannot be released under this section. The process for releasing these numbers is provided for under section 3.75S.

Section 3.75S – Release of number to ROU-holder

This section sets out how a number is released from auction-declared quarantine where there is a ROU-holder associated with the number. The ROU-holder for a number surrendered under section 3.75K or withdrawn from a carriage service provider under section 3.75M may ask any registered carriage service provider in writing to retrieve the number from auction-declared quarantine. The carriage service provider may ask the ACA to release the number and allocate it to the carriage service provider.

The ACA must then release the number and allocate it to the carriage service provider.

The carriage service provider must issue the number to the ROU-holder as soon as practicable after the number has been allocated and the carriage service provider and ROU-holder have agreed about the delivery of service on the number.

If a number was withdrawn from a carriage service provider under section 3.75M, that carriage service provider is not entitled to be allocated the number for a period of 90 days from the time the number was withdrawn.

Section 3.75T – Emergency allocation

Section 3.75T provides that, where a particular number is required for an emergency situation, the Chair of the ACA may allocate it by making a determination under this section, rather than by auction. This determination will provide that a number that has already been declared under section 3.39 as available for allocation by auction may instead be allocated under this section.

The Chair may only make such a determination if:

- the number is needed as a result of an emergency situation; and
- a carriage service provider has applied for allocation of the number in writing; and
- the number is only to be allocated for a limited period (the allocation period).

A determination made under this section must state the following:

- the allocation period; and
- any conditions of the allocation.

At the end of the allocation period specified in the determination, the number is no longer allocated and becomes an auction-declared quarantined number. It may be released from auction-declared quarantine as set out in section 3.75R.

The Chair may make a further determination that the number is to be allocated under this section.

Schedule 11, items 1, 1A and 1B

Item 2 provides that items 1, 1A and 1B must be substituted with the following items:

- 1 A decision under section 3.75N to cancel the rights of use and withdraw a freephone or local rate number.
- 1A A decision under section 3.75P to cancel the rights of use and withdraw a freephone or local rate number.
- 1B A decision under section 3.75Q to cancel the rights of use and withdraw a freephone or local rate number.
- 1C A decision under subsection 3.93 (3) to withdraw a freephone or local rate number.

- 1D A decision under subsection 3.95 (2) to withdraw a freephone or local rate number.
- 1E A decision under subsection 3.96 (2) to withdraw a freephone or local rate number.
- 1F A decision under subsection 5A.9 (1) to refuse to allocate an international signalling point code.
- 1G A decision under subsection 5A.15 (3) to refuse to extend a period.
- 1H A decision under paragraph 5A.18 (3) (b) to refuse permission to use an international signalling point code to perform a new function.
- 1J A decision under paragraph 5A.27 (2) (a) to withdraw an international signalling point code.