



Trade Practices Act 1974

Act No. 51 of 1974 as amended

Part IIIA—Access to services

Consolidated as in force on 10 August 1999

(includes amendments up to Act No. 61 of 1999)

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Part IIIA—Access to services

Division 1—Preliminary

44B Definitions

In this Part, unless the contrary intention appears:

access code means a code referred to in section 44ZZAA.

access undertaking means an undertaking under section 44ZZA.

Commonwealth Minister means the Minister.

constitutional trade or commerce means any of the following:

- (a) trade or commerce among the States;
- (b) trade or commerce between Australia and places outside Australia;
- (c) trade or commerce between a State and a Territory, or between 2 Territories.

declaration means a declaration made by the designated Minister under Division 2.

declaration recommendation means a recommendation made by the Council under section 44F.

declared service means a service for which a declaration is in operation.

designated Minister has the meaning given by section 44D.

determination means a determination made by the Commission under Division 3.

director has the same meaning as in the Corporations Law.

entity means a person, partnership or joint venture.

modifications includes additions, omissions and substitutions.

officer has the same meaning as in the Corporations Law.

Section 44B

party means:

- (a) in relation to an arbitration of an access dispute—a party to the arbitration, as mentioned in section 44U;
- (b) in relation to a determination—a party to the arbitration in which the Commission made the determination.

provider, in relation to a service, means the entity that is the owner or operator of the facility that is used (or is to be used) to provide the service.

responsible Minister means:

- (a) the Premier, in the case of a State;
- (b) the Chief Minister, in the case of a Territory.

revocation recommendation means a recommendation made by the Council under section 44J.

service means a service provided by means of a facility and includes:

- (a) the use of an infrastructure facility such as a road or railway line;
- (b) handling or transporting things such as goods or people;
- (c) a communications service or similar service;

but does not include:

- (d) the supply of goods; or
- (e) the use of intellectual property; or
- (f) the use of a production process;

except to the extent that it is an integral but subsidiary part of the service.

State or Territory body means:

- (a) a State or Territory;
- (b) an authority of a State or Territory.

third party, in relation to a service, means a person who wants access to the service or wants a change to some aspect of the person's existing access to the service.

44C How this Part applies to partnerships and joint ventures

- (1) This section applies if the provider of a service is a partnership or joint venture that consists of 2 or more corporations. Those corporations are referred to in this section as the *participants*.
- (2) If this Part requires or permits something to be done by the provider, the thing may be done by one or more of the participants on behalf of the provider.
- (3) If a provision of this Part refers to the provider bearing any costs, the provision applies as if the provision referred to any of the participants bearing any costs.
- (4) If a provision of this Part refers to the provider doing something, the provision applies as if the provision referred to one or more of the participants doing that thing on behalf of the provider.
- (5) If:
 - (a) a provision of this Part requires the provider to do something, or prohibits the provider from doing something; and
 - (b) a contravention of the provision is an offence;the provision applies as if a reference to the provider were a reference to any person responsible for the day-to-day management and control of the provider.
- (6) If:
 - (a) a provision of this Part requires a provider to do something, or prohibits a provider doing something; and
 - (b) a contravention of the provision is not an offence;the provision applies as if the reference to provider were a reference to each participant and to any other person responsible for the day-to-day management and control of the provider.

44D Meaning of *designated Minister*

- (1) The Commonwealth Minister is the designated Minister unless subsection (2) or (3) applies.
- (2) In relation to declaring a service in a case where:

Section 44DA

- (a) the provider is a State or Territory body; and
 - (b) the State or Territory concerned is a party to the Competition Principles Agreement;
- the responsible Minister of the State or Territory is the designated Minister.
- (3) In relation to revoking a declaration that was made by the responsible Minister of a State or Territory, the responsible Minister of that State or Territory is the designated Minister.

44DA The principles in the Competition Principles Agreement have status as guidelines

- (1) For the avoidance of doubt:
 - (a) the requirement, under subsection 44G(3), that the Council apply the relevant principles set out in the Competition Principles Agreement in deciding whether an access regime is an effective access regime; and
 - (b) the requirement, under subsection 44H(5), that the designated Minister apply the relevant principles set out in the Agreement in deciding whether an access regime is an effective access regime; and
 - (c) the requirement, under subsection 44M(4), that the Council apply the relevant principles set out in the Agreement in deciding whether to recommend to the Commonwealth Minister that he or she should decide that an access regime is, or is not, an effective access regime; and
 - (d) the requirement, under subsection 44N(2), that the Commonwealth Minister, in making a decision on a recommendation received from the Council, apply the relevant principles set out in the Agreement;are obligations that the Council and the relevant Ministers must treat each individual relevant principle as having the status of a guideline rather than a binding rule.
- (2) An effective access regime may contain additional matters that are not inconsistent with Competition Principles Agreement principles.

44E This Part binds the Crown

- (1) This Part binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.
- (2) Nothing in this Part makes the Crown liable to be prosecuted for an offence.
- (3) The protection in subsection (2) does not apply to an authority of the Commonwealth or an authority of a State or Territory.

Division 2—Declared services

Subdivision A—Recommendation by the Council

44F Person may request recommendation

- (1) The designated Minister, or any other person, may make a written application to the Council asking the Council to recommend under section 44G that a particular service be declared.
- (2) After receiving the application, the Council:
 - (a) must tell the provider of the service that the Council has received the application, unless the provider is the applicant; and
 - (b) must recommend to the designated Minister:
 - (i) that the service be declared; or
 - (ii) that the service not be declared.
- (3) If the applicant is a person other than the designated Minister, the Council may recommend that the service not be declared if the Council thinks that the application was not made in good faith. This subsection does not limit the grounds on which the Council may decide to recommend that the service not be declared.
- (4) In deciding what recommendation to make, the Council must consider whether it would be economical for anyone to develop another facility that could provide part of the service. This subsection does not limit the grounds on which the Council may decide to recommend that the service be declared or not be declared.
- (5) The applicant may withdraw the application at any time before the Council makes a recommendation relating to it.

44G Limits on the Council recommending declaration of a service

- (1) The Council cannot recommend declaration of a service that is the subject of an access undertaking in operation under section 44ZZA.

- (2) The Council cannot recommend that a service be declared unless it is satisfied of all of the following matters:
- (a) that access (or increased access) to the service would promote competition in at least one market (whether or not in Australia), other than the market for the service;
 - (b) that it would be uneconomical for anyone to develop another facility to provide the service;
 - (c) that the facility is of national significance, having regard to:
 - (i) the size of the facility; or
 - (ii) the importance of the facility to constitutional trade or commerce; or
 - (iii) the importance of the facility to the national economy;
 - (d) that access to the service can be provided without undue risk to human health or safety;
 - (e) that access to the service is not already the subject of an effective access regime;
 - (f) that access (or increased access) to the service would not be contrary to the public interest.
- (3) In deciding whether an access regime established by a State or Territory that is a party to the Competition Principles Agreement is an effective access regime, the Council:
- (a) must apply the relevant principles set out in that agreement; and
 - (b) must, subject to section 44DA, not consider any other matters.
- (4) If there is in force a decision of the Commonwealth Minister under section 44N that a regime established by a State or Territory for access to the service is an effective access regime, the Council must follow that decision, unless the Council believes that, since the Commonwealth Minister's decision was published, there have been substantial modifications of the access regime or of the relevant principles set out in the Competition Principles Agreement.

Note: The period for which a decision is in force is determined under subsection 44N(3) and paragraph 44P(a).

Subdivision B—Declaration by the designated Minister

44H Designated Minister may declare a service

- (1) On receiving a declaration recommendation, the designated Minister must either declare the service or decide not to declare it.
- (2) In deciding whether to declare the service or not, the designated Minister must consider whether it would be economical for anyone to develop another facility that could provide part of the service. This subsection does not limit the grounds on which the designated Minister may make a decision whether to declare the service or not.
- (3) The designated Minister cannot declare a service that is the subject of an access undertaking in operation under section 44ZZA.
- (4) The designated Minister cannot declare a service unless he or she is satisfied of all of the following matters:
 - (a) that access (or increased access) to the service would promote competition in at least one market (whether or not in Australia), other than the market for the service;
 - (b) that it would be uneconomical for anyone to develop another facility to provide the service;
 - (c) that the facility is of national significance, having regard to:
 - (i) the size of the facility; or
 - (ii) the importance of the facility to constitutional trade or commerce; or
 - (iii) the importance of the facility to the national economy;
 - (d) that access to the service can be provided without undue risk to human health or safety;
 - (e) that access to the service is not already the subject of an effective access regime;
 - (f) that access (or increased access) to the service would not be contrary to the public interest.
- (5) In deciding whether an access regime established by a State or Territory that is a party to the Competition Principles Agreement is an effective access regime, the Minister:

Section 44I

- (a) must apply the relevant principles set out in that agreement;
and
 - (b) must, subject to section 44DA, not consider any other matters.
- (6) If there is in force a decision of the Commonwealth Minister under section 44N that a regime established by a State or Territory for access to the service is an effective access regime, the designated Minister must follow that decision, unless the designated Minister believes that, since the Commonwealth Minister's decision was published, there have been substantial modifications of the access regime or of the relevant principles set out in the Competition Principles Agreement.
- Note: The period for which a decision is in force is determined under subsection 44N(3) and paragraph 44P(a).
- (7) The designated Minister must publish the declaration or his or her decision not to declare the service. At the same time, the designated Minister must give reasons for the decision and a copy of the declaration recommendation to the provider and to the person who applied for the declaration recommendation.
- (8) If the designated Minister declares the service, the declaration must specify the expiry date of the declaration.
- (9) If the designated Minister does not publish under subsection (7) within 60 days after receiving the declaration recommendation, the designated Minister is taken, at the end of that 60-day period, to have decided not to declare the service and to have published that decision not to declare the service.

44I Duration and effect of declaration

- (1) Subject to this section, a declaration begins to operate at a time specified in the declaration. The time cannot be earlier than 21 days after the declaration is published.
- (2) If an application for review of a declaration is made within 21 days after the declaration is published, the declaration does not begin to operate until the Tribunal makes its decision on the review.

Section 44J

- (3) A declaration continues in operation until its expiry date, unless it is earlier revoked.
- (4) The expiry or revocation of a declaration does not affect:
 - (a) the arbitration of an access dispute that was notified before the expiry or revocation; or
 - (b) the operation or enforcement of any determination made in the arbitration of an access dispute that was notified before the expiry or revocation.

44J Revocation of declaration

- (1) The Council may recommend to the designated Minister that a declaration be revoked.
- (2) The Council cannot recommend revocation of a declaration unless it is satisfied that, at the time of the recommendation, subsection 44H(4) would prevent the designated Minister from declaring the service concerned.
- (3) On receiving a revocation recommendation, the designated Minister must either revoke the declaration or decide not to revoke the declaration.
- (4) The designated Minister must publish the decision to revoke or not to revoke.
- (5) If the designated Minister decides not to revoke, the designated Minister must give reasons for the decision to the provider of the declared service when the designated Minister publishes the decision.
- (6) The designated Minister cannot revoke a declaration without receiving a revocation recommendation.

44K Review of declaration

- (1) If the designated Minister declares a service, the provider may apply in writing to the Tribunal for review of the declaration.
- (2) If the designated Minister decides not to declare a service, an application in writing for review of the designated Minister's

decision may be made by the person who applied for the declaration recommendation.

- (3) An application for review must be made within 21 days after publication of the designated Minister's decision.
- (4) The review by the Tribunal is a re-consideration of the matter.
- (5) For the purposes of the review, the Tribunal has the same powers as the designated Minister.
- (6) The member of the Tribunal presiding at the review may require the Council to give information and other assistance and to make reports, as specified by the member for the purposes of the review.
- (7) If the designated Minister declared the service, the Tribunal may affirm, vary or set aside the declaration.
- (8) If the designated Minister decided not to declare the service, the Tribunal may either:
 - (a) affirm the designated Minister's decision; or
 - (b) set aside the designated Minister's decision and declare the service in question.
- (9) A declaration, or varied declaration, made by the Tribunal is to be taken to be a declaration by the designated Minister for all purposes of this Part (except this section).

44L Review of decision not to revoke a declaration

- (1) If the designated Minister decides not to revoke a declaration, the provider may apply in writing to the Tribunal for review of the decision.
- (2) An application for review must be made within 21 days after publication of the designated Minister's decision.
- (3) The review by the Tribunal is a re-consideration of the matter.
- (4) For the purposes of the review, the Tribunal has the same powers as the designated Minister.

Section 44M

- (5) The member of the Tribunal presiding at the review may require the Council to give information and other assistance and to make reports, as specified by the member for the purposes of the review.
- (6) The Tribunal may either:
 - (a) affirm the designated Minister's decision; or
 - (b) set aside the designated Minister's decision and revoke the declaration.

Subdivision C—Miscellaneous

44M Recommendation for a Ministerial decision on effectiveness of access regime

- (1) This section applies if a State or Territory that is a party to the Competition Principles Agreement has established at any time a regime for access to a service or a proposed service.
- (2) The responsible Minister for the State or Territory may make a written application to the Council asking the Council to recommend that the Commonwealth Minister decide that the regime for access to the service or proposed service is an effective access regime.
- (3) The Council must recommend to the Commonwealth Minister:
 - (a) that he or she decide that the access regime is an effective access regime for the service, or proposed service; or
 - (b) that he or she decide that the access regime is not an effective access regime for the service, or proposed service.
- (4) In deciding what recommendation it should make, the Council:
 - (a) must assess whether the access regime is an effective access regime by applying the relevant principles set out in the Competition Principles Agreement; and
 - (b) must, subject to section 44DA, not consider any other matters.
- (5) When the Council recommends that the Commonwealth Minister make a particular decision, the Council must also recommend the period for which the decision should be in force.

44N Ministerial decision on effectiveness of access regime

- (1) On receiving a recommendation, the Commonwealth Minister must:
 - (a) decide that the access regime is an effective access regime for the service or proposed service; or
 - (b) decide that the access regime is not an effective access regime for the service or proposed service.
- (2) In making a decision, the Commonwealth Minister:
 - (a) must apply the relevant principles set out in the Competition Principles Agreement; and
 - (b) must, subject to section 44DA, not consider any other matters.
- (3) The decision must specify the period for which it is in force.
- (4) The Commonwealth Minister must publish his or her decision. At the same time, the Commonwealth Minister must give his or her reasons for the decision, and a copy of the Council's recommendation, to the responsible Minister for the State or Territory who applied for the recommendation.

44O Review of Ministerial decision on effectiveness of access regime

- (1) The responsible Minister of the State or Territory who applied for a recommendation that the Commonwealth Minister decide that the access regime is an effective access regime may apply to the Tribunal for review of the Commonwealth Minister's decision.
- (2) An application for review must be made within 21 days after publication of the Commonwealth Minister's decision.
- (3) The review by the Tribunal is a reconsideration of the matter.
- (4) For the purposes of the review, the Tribunal has the same powers as the Commonwealth Minister.
- (5) The member of the Tribunal presiding at the review may require the Council to give information and other assistance, and to make reports, as specified by the member for the purposes of the review.

Section 44P

- (6) The Tribunal may affirm, vary or reverse the Commonwealth Minister's decision.
- (7) A decision made by the Tribunal is to be taken to be a decision of the Commonwealth Minister for all purposes of this Part (except this section).

44P State or Territory ceasing to be a party to Competition Principles Agreement

If a State or Territory that has established a regime for access to a service or proposed service ceases to be a party to the Competition Principles Agreement:

- (a) a decision by the Commonwealth Minister that the regime is an effective access regime ceases to be in force; and
- (b) the Council, the Commonwealth Minister and the Tribunal need not take any further action relating to an application for a decision by the Commonwealth Minister that the regime is an effective access regime.

44Q Register of decisions and declarations

The Commission must maintain a public register that includes:

- (a) each decision of the Commonwealth Minister that a regime established by a State or Territory for access to a service is an effective access regime for the service or proposed service; and
- (b) each declaration (including a declaration that is no longer in force).

Division 3—Access to declared services

Subdivision A—Scope of Division

44R Constitutional limits on operation of this Division

This Division does not apply in relation to a third party's access to a service unless:

- (a) the provider is a corporation (or a partnership or joint venture consisting wholly of corporations); or
- (b) the third party is a corporation; or
- (c) the access is (or would be) in the course of, or for the purposes of, constitutional trade or commerce.

Subdivision B—Notification of access disputes

44S Notification of access disputes

- (1) If a third party is unable to agree with the provider on one or more aspects of access to a declared service, either the provider or the third party may notify the Commission in writing that an access dispute exists.

Note: An example of one of the things on which a provider and third party might disagree is whether a previous determination ought to be varied.

- (2) On receiving the notification, the Commission must give notice in writing of the access dispute to:
 - (a) the provider, if the third party notified the access dispute;
 - (b) the third party, if the provider notified the access dispute;
 - (c) any other person whom the Commission thinks might want to become a party to the arbitration.

44T Withdrawal of notifications

- (1) A notification may be withdrawn as follows (and not otherwise):
 - (a) if the provider notified the dispute:
 - (i) the provider may withdraw the notification at any time before the Commission makes its determination;

Section 44U

- (ii) the third party may withdraw the provider's notification at any time after the Commission issues a draft determination, but before it makes its determination;
 - (b) if the third party notified the dispute, the third party may withdraw the notification at any time before the Commission makes its determination.
- (2) Despite subparagraph (1)(a)(ii), if the provider notified a dispute over variation of a determination, the third party may not withdraw the provider's notification.
- (3) If the notification is withdrawn, it is taken for the purposes of this Part never to have been given.

Subdivision C—Arbitration of access disputes

44U Parties to the arbitration

The parties to the arbitration of an access dispute are:

- (a) the provider;
- (b) the third party;
- (c) any other person who applies in writing to be made a party and is accepted by the Commission as having a sufficient interest.

44V Determination by Commission

- (1) Unless it terminates the arbitration under section 44Y, the Commission must make a written determination on access by the third party to the service.
- (2) The determination may deal with any matter relating to access by the third party to the service, including matters that were not the basis for notification of the dispute. By way of example, the determination may:
- (a) require the provider to provide access to the service by the third party;
 - (b) require the third party to accept, and pay for, access to the service;

- (c) specify the terms and conditions of the third party's access to the service;
 - (d) require the provider to extend the facility;
 - (e) specify the extent to which the determination overrides an earlier determination relating to access to the service by the third party.
- (3) The determination does not have to require the provider to provide access to the service by the third party.
 - (4) Before making a determination, the Commission must give a draft determination to the parties.
 - (5) When the Commission makes a determination, it must give the parties to the arbitration its reasons for making the determination.

44W Restrictions on access determinations

- (1) The Commission must not make a determination that would have any of the following effects:
 - (a) preventing an existing user obtaining a sufficient amount of the service to be able to meet the user's reasonably anticipated requirements, measured at the time when the dispute was notified;
 - (b) preventing a person from obtaining, by the exercise of a pre-notification right, a sufficient amount of the service to be able to meet the person's actual requirements;
 - (c) depriving any person of a protected contractual right;
 - (d) resulting in the third party becoming the owner (or one of the owners) of any part of the facility, or of extensions of the facility, without the consent of the provider;
 - (e) requiring the provider to bear some or all of the costs of extending the facility or maintaining extensions of the facility.
- (2) Paragraphs (1)(a) and (b) do not apply in relation to the requirements and rights of the third party and the provider when the Commission is making a determination in arbitration of an access dispute relating to an earlier determination of an access dispute between the third party and the provider.

Section 44X

- (3) A determination is of no effect if it is made in contravention of subsection (1).
- (4) If the Commission makes a determination that has the effect of depriving a person (the *second person*) of a pre-notification right to require the provider to supply the service to the second person, the determination must also require the third party:
- (a) to pay to the second person such amount (if any) as the Commission considers is fair compensation for the deprivation; and
 - (b) to reimburse the provider and the Commonwealth for any compensation that the provider or the Commonwealth agrees, or is required by a court order, to pay to the second party as compensation for the deprivation.

Note: Without infringing paragraph (1)(b), a determination may deprive a second person of the right to be supplied with an amount of service equal to the difference between the total amount of service the person was entitled to under a pre-notification right and the amount that the person actually needs to meet his or her actual requirements.

- (5) In this section:

existing user means a person (including the provider) who was using the service at the time when the dispute was notified.

pre-notification right means a right under a contract, or under a determination, that was in force at the time when the dispute was notified.

protected contractual right means a right under a contract that was in force at the beginning of 30 March 1995.

44X Matters that the Commission must take into account

- (1) The Commission must take the following matters into account in making a determination:
- (a) the legitimate business interests of the provider, and the provider's investment in the facility;
 - (b) the public interest, including the public interest in having competition in markets (whether or not in Australia);
 - (c) the interests of all persons who have rights to use the service;

Section 44Y

- (d) the direct costs of providing access to the service;
 - (e) the value to the provider of extensions whose cost is borne by someone else;
 - (f) the operational and technical requirements necessary for the safe and reliable operation of the facility;
 - (g) the economically efficient operation of the facility.
- (2) The Commission may take into account any other matters that it thinks are relevant.

44Y Commission may terminate arbitration in certain cases

- (1) The Commission may at any time terminate an arbitration (without making a determination) if it thinks that:
- (a) the notification of the dispute was vexatious; or
 - (b) the subject matter of the dispute is trivial, misconceived or lacking in substance; or
 - (c) the party who notified the dispute has not engaged in negotiations in good faith; or
 - (d) access to the service should continue to be governed by an existing contract between the provider and the third party.
- (2) In addition, if the dispute is about varying an existing determination, the Commission may terminate the arbitration if it thinks there is no sufficient reason why the previous determination should not continue to have effect in its present form.

Subdivision D—Procedure in arbitrations

44Z Constitution of Commission for conduct of arbitration

For the purposes of a particular arbitration, the Commission is to be constituted by 2 or more members of the Commission nominated in writing by the Chairperson.

44ZA Member of the Commission presiding at an arbitration

- (1) Subject to subsection (2), the Chairperson is to preside at an arbitration.

Section 44ZB

- (2) If the Chairperson is not a member of the Commission as constituted under section 44Z in relation to a particular arbitration, the Chairperson must nominate a member of the Commission to preside at the arbitration.

44ZB Reconstitution of Commission

- (1) This section applies if a member of the Commission who is one of the members who constitute the Commission for the purposes of a particular arbitration:
 - (a) stops being a member of the Commission; or
 - (b) for any reason, is not available for the purpose of the arbitration.
- (2) The Chairperson must either:
 - (a) direct that the Commission is to be constituted for the purposes of finishing the arbitration by the remaining member or members; or
 - (b) direct that the Commission is to be constituted for that purpose by the remaining member or members together with one or more other members of the Commission.
- (3) If a direction under subsection (2) is given, the Commission as constituted in accordance with the direction must continue and finish the arbitration and may, for that purpose, have regard to any record of the proceedings of the arbitration made by the Commission as previously constituted.

44ZC Determination of questions

If the Commission is constituted for an arbitration by 2 or more members of the Commission, any question before the Commission is to be decided:

- (a) unless paragraph (b) applies—according to the opinion of the majority of those members; or
- (b) if the members are evenly divided on the question—according to the opinion of the member who is presiding.

44ZD Hearing to be in private

- (1) Subject to subsection (2), an arbitration hearing for an access dispute is to be in private.
- (2) If the parties agree, an arbitration hearing or part of an arbitration hearing may be conducted in public.
- (3) The member of the Commission who is presiding at an arbitration hearing that is conducted in private may give written directions as to the persons who may be present.
- (4) In giving directions under subsection (3), the member presiding must have regard to the wishes of the parties and the need for commercial confidentiality.

44ZE Right to representation

In an arbitration hearing before the Commission under this Part, a party may appear in person or be represented by someone else.

44ZF Procedure of Commission

- (1) In an arbitration hearing about an access dispute, the Commission:
 - (a) is not bound by technicalities, legal forms or rules of evidence; and
 - (b) must act as speedily as a proper consideration of the dispute allows, having regard to the need to carefully and quickly inquire into and investigate the dispute and all matters affecting the merits, and fair settlement, of the dispute; and
 - (c) may inform itself of any matter relevant to the dispute in any way it thinks appropriate.
- (2) The Commission may determine the periods that are reasonably necessary for the fair and adequate presentation of the respective cases of the parties to an access dispute, and may require that the cases be presented within those periods.
- (3) The Commission may require evidence or argument to be presented in writing, and may decide the matters on which it will hear oral evidence or argument.

Section 44ZG

- (4) The Commission may determine that an arbitration hearing is to be conducted by:
- (a) telephone; or
 - (b) closed circuit television; or
 - (c) any other means of communication.

44ZG Particular powers of Commission

- (1) The Commission may do any of the following things for the purpose of arbitrating an access dispute:
- (a) give a direction in the course of, or for the purposes of, an arbitration hearing;
 - (b) hear and determine the arbitration in the absence of a person who has been summoned or served with a notice to appear;
 - (c) sit at any place;
 - (d) adjourn to any time and place;
 - (e) refer any matter to an expert and accept the expert's report as evidence;
 - (f) generally give all such directions, and do all such things, as are necessary or expedient for the speedy hearing and determination of the access dispute.

- (2) A person must not do any act or thing in relation to the arbitration of an access dispute that would be a contempt of court if the Commission were a court of record.

Penalty: Imprisonment for 6 months.

- (3) Subsection (1) has effect subject to any other provision of this Part and subject to the regulations.
- (4) The Commission may give an oral or written order to a person not to divulge or communicate to anyone else specified information that was given to the person in the course of an arbitration unless the person has the Commission's permission.
- (5) A person who contravenes an order under subsection (4) is guilty of an offence, punishable on conviction by imprisonment for a term not exceeding 6 months.

44ZH Power to take evidence on oath or affirmation

- (1) The Commission may take evidence on oath or affirmation and for that purpose a member of the Commission may administer an oath or affirmation.
- (2) The member of the Commission who is presiding may summon a person to appear before the Commission to give evidence and to produce such documents (if any) as are referred to in the summons.
- (3) The powers in this section may be exercised only for the purposes of arbitrating an access dispute.

44ZI Failing to attend as a witness

A person who is served, as prescribed, with a summons to appear as a witness before the Commission must not, without reasonable excuse:

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report himself or herself from day to day unless excused, or released from further attendance, by a member of the Commission.

Penalty: Imprisonment for 6 months.

44ZJ Failing to answer questions etc.

- (1) A person appearing as a witness before the Commission must not, without reasonable excuse:
 - (a) refuse or fail to be sworn or to make an affirmation; or
 - (b) refuse or fail to answer a question that the person is required to answer by the Commission; or
 - (c) refuse or fail to produce a document that he or she was required to produce by a summons under this Part served on him or her as prescribed.

Penalty: Imprisonment for 6 months.

- (2) It is a reasonable excuse for the purposes of subsection (1) for an individual to refuse or fail to answer a question or produce a

Section 44ZK

document on the ground that the answer or the production of the document might tend to incriminate the individual or to expose the individual to a penalty. This subsection does not limit what is a reasonable excuse for the purposes of subsection (1).

44ZK Intimidation etc.

A person must not:

- (a) threaten, intimidate or coerce another person; or
- (b) cause or procure damage, loss or disadvantage to another person;

because that other person:

- (c) proposes to produce, or has produced, documents to the Commission; or
- (d) proposes to appear or has appeared as a witness before the Commission.

Penalty: Imprisonment for 12 months.

44ZL Party may request Commission to treat material as confidential

- (1) A party to an arbitration hearing may:
 - (a) inform the Commission that, in the party's opinion, a specified part of a document contains confidential commercial information; and
 - (b) request the Commission not to give a copy of that part to another party.
- (2) On receiving a request, the Commission must:
 - (a) inform the other party or parties that the request has been made and of the general nature of the matters to which the relevant part of the document relates; and
 - (b) ask the other party or parties whether there is any objection to the Commission complying with the request.
- (3) If there is an objection to the Commission complying with a request, the party objecting may inform the Commission of its objection and of the reasons for it.

(4) After considering:

- (a) a request; and
- (b) any objection; and
- (c) any further submissions that any party has made in relation to the request;

the Commission may decide not to give to the other party or parties a copy of so much of the document as contains confidential commercial information that the Commission thinks should not be so given.

44ZM Sections 18 and 19 do not apply to the Commission in an arbitration

Sections 18 and 19 do not apply to the Commission, as constituted for an arbitration.

44ZN Parties to pay costs of an arbitration

The regulations may provide for the Commission to:

- (a) charge the parties to an arbitration for its costs in conducting the arbitration; and
- (b) apportion the charge between the parties.

Subdivision E—Effect of determinations

44ZO Operation of determinations

- (1) If none of the parties to the arbitration applies to the Tribunal under section 44ZP for a review of the Commission's determination, the determination has effect 21 days after the determination is made.
- (2) If a party to the arbitration applies to the Tribunal under section 44ZP for a review of the Commission's determination, the determination is of no effect until the Tribunal makes its determination on the review.

Section 44ZP

Subdivision F—Review of determinations

44ZP Review by Tribunal

- (1) A party to a determination may apply in writing to the Tribunal for a review of the determination.
- (2) The application must be made within 21 days after the Commission made the determination.
- (3) A review by the Tribunal is a re-arbitration of the access dispute.
- (4) For the purposes of the review, the Tribunal has the same powers as the Commission.
- (5) The member of the Tribunal presiding at the review may require the Commission to give information and other assistance and to make reports, as specified by the member for the purposes of the review.
- (6) The Tribunal may either affirm or vary the Commission's determination.
- (7) The determination, as affirmed or varied by the Tribunal, is to be taken to be a determination of the Commission for all purposes of this Part (except this section).
- (8) The decision of the Tribunal takes effect from when it is made.

44ZQ Provisions that do not apply in relation to a Tribunal review

Sections 37, 39 to 43 (inclusive) and 103 to 110 (inclusive) do not apply in relation to a review by the Tribunal of a determination made by the Commission.

44ZR Appeals to Federal Court from determinations of the Tribunal

- (1) A party to an arbitration may appeal to the Federal Court, on a question of law, from the decision of the Tribunal under section 44ZP.

- (2) An appeal by a person under subsection (1) must be instituted:
 - (a) not later than the 28th day after the day on which the decision of the Tribunal is made or within such further period as the Federal Court (whether before or after the end of that day) allows; and
 - (b) in accordance with the Rules of Court made under the *Federal Court of Australia Act 1976*.
- (3) The Federal Court must hear and determine the appeal and may make any order that it thinks appropriate.
- (4) The orders that may be made by the Federal Court on appeal include (but are not limited to):
 - (a) an order affirming or setting aside the decision of the Tribunal; and
 - (b) an order remitting the matter to be decided again by the Tribunal in accordance with the directions of the Federal Court.

44ZS Operation and implementation of a determination that is subject to appeal

- (1) Subject to this section, the fact that an appeal is instituted in the Federal Court from a decision of the Tribunal does not affect the operation of the decision or prevent action being taken to implement the decision.
- (2) If an appeal is instituted in the Federal Court from a decision of the Tribunal, the Federal Court or a judge of the Federal Court may make any orders staying or otherwise affecting the operation or implementation of the decision of the Tribunal that the Federal Court or judge thinks appropriate to secure the effectiveness of the hearing and determination of the appeal.
- (3) If an order is in force under subsection (2) (including an order previously varied under this subsection), the Federal Court or a judge of the Federal Court may make an order varying or revoking the first-mentioned order.
- (4) An order in force under subsection (2) (including an order previously varied under subsection (3)):

Section 44ZT

- (a) is subject to any conditions that are specified in the order;
and
- (b) has effect until:
 - (i) the end of any period for the operation of the order that is specified in the order; or
 - (ii) the giving of a decision on the appeal;whichever is earlier.

44ZT Transmission of documents

If an appeal is instituted in the Federal Court:

- (a) the Tribunal must send to the Federal Court all documents that were before the Tribunal in connection with the matter to which the appeal relates; and
- (b) at the conclusion of the proceedings before the Federal Court in relation to the appeal, the Federal Court must return the documents to the Tribunal.

Subdivision G—Variation of determinations

44ZU Variation of determinations

- (1) The Commission may vary a determination on the application of any party to the determination. However, it cannot vary the determination if any other party objects.

Note: If the parties cannot agree on a variation, a new access dispute can be notified under section 44S.

- (2) Sections 44W and 44X apply to a variation under this section as if:
 - (a) an access dispute arising out of the determination had been notified when the application was made to the Commission for the variation of the determination; and
 - (b) the variation were the making of a determination in the terms of the varied determination.

Division 4—Registered contracts for access to declared services

44ZV Constitutional limits on operation of this Division

This Division does not apply to a contract unless:

- (a) the contract provides for access to a declared service; and
- (b) the contract was made after the service was declared; and
- (c) the parties to the contract are the provider of the service and a third party; and
- (d) at least one of the following conditions is met:
 - (i) the provider is a corporation (or a partnership or joint venture consisting wholly of corporations);
 - (ii) the third party is a corporation;
 - (iii) the access is (or would be) in the course of, or for the purposes of, constitutional trade or commerce.

44ZW Registration of contract

- (1) On application by all the parties to a contract, the Commission must:
 - (a) register the contract by entering the following details on a public register:
 - (i) the names of the parties to the contract;
 - (ii) the service to which the contract relates;
 - (iii) the date on which the contract was made; or
 - (b) decide not to register the contract.
- (2) In deciding whether to register a contract, the Commission must take into account:
 - (a) the public interest, including the public interest in having competition in markets (whether or not in Australia); and
 - (b) the interests of all persons who have rights to use the service to which the contract relates.
- (3) The Commission must publish a decision not to register a contract.

Section 44ZX

- (4) If the Commission publishes a decision not to register a contract, it must give the parties to the contract reasons for the decision when it publishes the decision.

44ZX Review of decision not to register contract

- (1) If the Commission decides not to register a contract, a party to the contract may apply in writing to the Tribunal for review of the decision.
- (2) An application for review must be made within 21 days after publication of the Commission's decision.
- (3) The review by the Tribunal is a re-consideration of the matter.
- (4) For the purposes of the review, the Tribunal has the same powers as the Commission.
- (5) The member of the Tribunal presiding at the review may require the Commission to give information and other assistance and to make reports, as specified by the member for the purposes of the review.
- (6) The Tribunal may either:
 - (a) affirm the Commission's decision; or
 - (b) register the contract.

44ZY Effect of registration of contract

The parties to a contract that has been registered:

- (a) may enforce the contract under Division 7 as if the contract were a determination of the Commission under section 44V and they were parties to the determination; and
- (b) cannot enforce the contract by any other means.

Division 5—Hindering access to declared services

44ZZ Prohibition on hindering access to declared services

- (1) The provider or a user of a service to which a third party has access under a determination, or a body corporate related to the provider or a user of the service, must not engage in conduct for the purpose of preventing or hindering the third party's access to the service under the determination.
- (2) A person may be taken to have engaged in conduct for the purpose referred to in subsection (1) even though, after all the evidence has been considered, the existence of that purpose is ascertainable only by inference from the conduct of the person or from other relevant circumstances. This subsection does not limit the manner in which the purpose of a person may be established for the purposes of subsection (1).
- (3) In this section, a *user* of a service includes a person who has a right to use the service.

Division 6—Access undertakings for non-declared services

44ZZA Access undertakings by providers

- (1) A person who is, or expects to be, the provider of a service may give a written undertaking to the Commission in connection with the provision of access to the service.

Note: The following are examples of the kinds of things that might be dealt with in the undertaking:

- (a) terms and conditions of access to the service;
 - (b) procedures for determining terms and conditions of access to the service;
 - (c) an obligation on the provider not to hinder access to the service;
 - (d) an obligation on the provider to implement a particular business structure;
 - (e) an obligation on the provider to provide information to the Commission or to another person;
 - (f) an obligation on the provider to comply with decisions of the Commission or another person in relation to matters specified in the undertaking;
 - (g) an obligation on the provider to seek a variation of the undertaking in specified circumstances.
- (2) The undertaking must specify the expiry date of the undertaking.
- (3) The Commission may accept the undertaking, if it thinks it appropriate to do so having regard to the following matters:
- (a) the legitimate business interests of the provider;
 - (b) the public interest, including the public interest in having competition in markets (whether or not in Australia);
 - (c) the interests of persons who might want access to the service;
 - (d) whether access to the service is already the subject of an access regime;
 - (da) whether the undertaking is in accordance with an access code that applies to the service;
 - (e) any other matters that the Commission thinks are relevant.

- (4) The Commission must not accept the undertaking unless the Commission has first:
 - (a) published the undertaking and invited people to make submissions to the Commission on the undertaking; and
 - (b) considered any submissions that were received within the time limit specified by the Commission when it published the undertaking.
- (4A) The Commission may accept the undertaking without complying with subsection (4) if the Commission is satisfied that the undertaking is in accordance with an access code that is in operation at the time of acceptance.
- (5) If the Commission accepts the undertaking:
 - (a) the undertaking comes into operation at the time of acceptance; and
 - (b) the undertaking continues in operation until its expiry date, unless it is earlier withdrawn.
- (6) If the undertaking provides for disputes about the undertaking to be resolved by the Commission, then the Commission may resolve the disputes in accordance with the undertaking.
- (6A) If the undertaking provides for the Commission to make decisions, then the Commission must make decisions in accordance with the undertaking.
- (7) The provider may withdraw or vary the undertaking at any time, but only with the consent of the Commission.

44ZZAA Access codes prepared by industry bodies

- (1) An industry body may give a written code to the Commission setting out rules for access to a service.
- (2) The code must specify the expiry date of the code.
- (3) The Commission may accept the code, if it thinks it appropriate to do so having regard to the following matters:
 - (a) the legitimate business interests of providers who might give undertakings in accordance with the code;

Section 44ZZAA

- (b) the public interest, including the public interest in having competition in markets (whether or not in Australia);
 - (c) the interests of persons who might want access to the service covered by the code;
 - (d) whether access to the service is already the subject of an access regime;
 - (e) any matters specified in regulations made for the purposes of this subsection;
 - (f) any other matters that the Commission thinks are relevant.
- (4) The Commission must not accept the code unless the Commission has first:
- (a) published the code and invited people to make submissions to the Commission on the code; and
 - (b) considered any submissions that were received within the time limit specified by the Commission when it published the code.
- (5) If the Commission accepts the code:
- (a) the code comes into operation at the time of acceptance; and
 - (b) the code continues in operation until its expiry date, unless it is earlier withdrawn.
- (6) The industry body may withdraw or vary the code at any time, but only with the consent of the Commission.
- (7) If the industry body that gave the code to the Commission has ceased to exist, a withdrawal or variation under subsection (6) may be made by a body or association prescribed by the regulations as a replacement for the original industry body.
- (8) In this section:

code means a set of rules (which may be in general terms or detailed terms).

industry body means a body or association prescribed by the regulations for the purposes of this section.

44ZZB Undertakings cannot be accepted in certain cases

The Commission cannot accept an undertaking given under section 44ZZA if the service concerned is a declared service.

44ZZC Register of access undertakings and access codes

- (1) The Commission must maintain a public register that includes all access undertakings and access codes that have been accepted by the Commission, including those that are no longer in operation.
- (2) The register must include all variations of access undertakings and access codes.

Division 7—Enforcement and remedies

44ZZD Enforcement of determinations

- (1) If the Federal Court is satisfied, on the application of a party to a determination, that another party to the determination has engaged, is engaging, or is proposing to engage in conduct that constitutes a contravention of the determination, the Court may make all or any of the following orders:
 - (a) an order granting an injunction on such terms as the Court thinks appropriate:
 - (i) restraining the other party from engaging in the conduct; or
 - (ii) if the conduct involves refusing or failing to do something—requiring the other party to do that thing;
 - (b) an order directing the other party to compensate the applicant for loss or damage suffered as a result of the contravention;
 - (c) any other order that the Court thinks appropriate.
- (2) If the Federal Court has power under subsection (1) to grant an injunction restraining a person from engaging in particular conduct, or requiring a person to do anything, the Court may make any other orders (including granting an injunction) that it thinks appropriate against any other person who was involved in the contravention concerned.
- (3) A reference in this section to a person involved in the contravention is a reference to a person who has:
 - (a) aided, abetted, counselled or procured the contravention; or
 - (b) induced the contravention, whether through threats or promises or otherwise; or
 - (c) been in any way (directly or indirectly) knowingly concerned in or a party to the contravention; or
 - (d) conspired with others to effect the contravention.

44ZZE Enforcement of prohibition on hindering access

- (1) If the Federal Court is satisfied, on the application of any person, that another person (the *obstructor*) has engaged, is engaging, or is proposing to engage in conduct constituting a contravention of section 44ZZ, the Court may make all or any of the following orders:
 - (a) an order granting an injunction on such terms as the Court thinks appropriate:
 - (i) restraining the obstructor from engaging in the conduct; or
 - (ii) if the conduct involves refusing or failing to do something—requiring the obstructor to do that thing;
 - (b) an order directing the obstructor to compensate a person who has suffered loss or damage as a result of the contravention;
 - (c) any other order that the Court thinks appropriate.
- (2) If the Federal Court has power under subsection (1) to grant an injunction restraining a person from engaging in particular conduct, or requiring a person to do anything, the Court may make any other orders (including granting an injunction) that it thinks appropriate against any other person who was involved in the contravention concerned.
- (3) The grounds on which the Court may decide not to make an order under this section include the ground that Divisions 2 and 3 provide a more appropriate way of dealing with the issue of the applicant's access to the service concerned.
- (4) A reference in this section to a person involved in the contravention is a reference to a person who has:
 - (a) aided, abetted, counselled or procured the contravention; or
 - (b) induced the contravention, whether through threats or promises or otherwise; or
 - (c) been in any way (directly or indirectly) knowingly concerned in or a party to the contravention; or
 - (d) conspired with others to effect the contravention.

Section 44ZZF

44ZZF Consent injunctions

On an application for an injunction under section 44ZZD or 44ZZE, the Federal Court may grant an injunction by consent of all of the parties to the proceedings, whether or not the Court is satisfied that the section applies.

44ZZG Interim injunctions

- (1) The Federal Court may grant an interim injunction pending determination of an application under section 44ZZD or 44ZZE.
- (2) If the Commission makes an application under section 44ZZE to the Federal Court for an injunction, the Court must not require the Commission or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

44ZZH Factors relevant to granting a restraining injunction

The power of the Federal Court to grant an injunction under section 44ZZD or 44ZZE restraining a person from engaging in conduct may be exercised whether or not:

- (a) it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
- (b) the person has previously engaged in conduct of that kind; or
- (c) there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

44ZZI Factors relevant to granting a mandatory injunction

The power of the Federal Court to grant an injunction under section 44ZZD or 44ZZE requiring a person to do a thing may be exercised whether or not:

- (a) it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that thing; or
- (b) the person has previously refused or failed to do that thing;
or

- (c) there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that thing.

44ZZJ Enforcement of access undertakings

- (1) If the Commission thinks that the provider of an access undertaking in operation under section 44ZZA has breached any of its terms, the Commission may apply to the Federal Court for an order under subsection (2).
- (2) If the Federal Court is satisfied that the provider has breached a term of the undertaking, the Court may make all or any of the following orders:
 - (a) an order directing the provider to comply with that term of the undertaking;
 - (b) an order directing the provider to compensate any other person who has suffered loss or damage as a result of the breach;
 - (c) any other order that the Court thinks appropriate.
- (3) The Federal Court cannot make an order under this section unless:
 - (a) the provider is a corporation; or
 - (b) the breach relates to access to the service by a third party that is a corporation; or
 - (c) the breach involves access to the service in the course of, or for the purposes of, constitutional trade or commerce.

44ZZK Discharge or variation of injunction or other order

The Federal Court may discharge or vary an injunction or order granted under this Division.

Division 8—Miscellaneous

44ZZL Register of determinations

The Commission must maintain a public register that specifies the following information for each determination:

- (a) the names of the parties to the determination;
- (b) the service to which the determination relates;
- (c) the date on which the determination was made.

44ZZM Commission may perform functions and exercise powers under other access regimes

- (1) The Commission may:
 - (a) perform any function conferred on it by, and for the purposes of, a law of the Commonwealth, or of a State or Territory, that establishes an access regime; and
 - (b) exercise any power:
 - (i) conferred by that law to facilitate the performance of that function; or
 - (ii) necessary or convenient to permit that function to be performed.
- (2) The Commission must not, under subsection (1):
 - (a) perform a function conferred on it by a law of a State or Territory; or
 - (b) exercise a power that is so conferred;unless the conferral of the function or power is in accordance with any relevant agreement between the Commonwealth and the State or Territory concerned.

44ZZN Compensation for acquisition of property

- (1) If:
 - (a) a determination would result in an acquisition of property; and

- (b) the determination would not be valid, apart from this section, because a particular person has not been sufficiently compensated;
the Commonwealth must pay that person:
 - (c) a reasonable amount of compensation agreed on between the person and the Commonwealth; or
 - (d) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.
- (2) In assessing compensation payable in a proceeding begun under this section, the following must be taken into account if they arise out of the same event or transaction:
 - (a) any damages or compensation recovered, or other remedy, in a proceeding begun otherwise than under this section;
 - (b) compensation awarded under a determination.
- (3) In this section, *acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.

44ZZNA Operation of Parts IV and VII not affected by this Part

This Part does not affect the operation of Parts IV and VII.

44ZZO Conduct by directors, servants or agents

- (1) If, in a proceeding under this Part in respect of conduct engaged in by a body corporate, it is necessary to establish the state of mind of the body corporate in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
 - (b) that the director, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate:
 - (a) by a director, servant or agent of the body corporate within the scope of the person's actual or apparent authority; or
 - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, if the giving of the direction,

Section 44ZZO

consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;

is taken for the purposes of this Part to have been engaged in also by the body corporate, unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

(3) If, in a proceeding under this Part in respect of conduct engaged in by an individual, it is necessary to establish the state of mind of the individual, it is sufficient to show:

- (a) that the conduct was engaged in by a servant or agent of the individual within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the relevant state of mind.

(4) Conduct engaged in on behalf of an individual:

- (a) by a servant or agent of the individual within the scope of the actual or apparent authority of the servant or agent; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the individual, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent;

is taken, for the purposes of this Part, to have been engaged in also by that individual, unless that individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(5) If:

- (a) an individual is convicted of an offence; and
- (b) the individual would not have been convicted of the offence if subsections (3) and (4) had not been enacted;

the individual is not liable to be punished by imprisonment for that offence.

(6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and

- (b) the person's reasons for the intention, opinion, belief or purpose.
- (7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

44ZZOA Tribunal may perform functions and exercise powers under other access regimes

- (1) The Tribunal may:
 - (a) perform any function:
 - (i) conferred on it by, and for the purposes of, a law of the Commonwealth, or of a State or Territory, that establishes an access regime; and
 - (ii) relating to the review of particular decisions under that law; and
 - (b) exercise any power:
 - (i) conferred by that law to facilitate the performance of that function; or
 - (ii) necessary or convenient to permit that function to be performed.
- (2) Without limiting the generality of subsection (1), a law made for the purposes of that subsection may:
 - (a) specify the persons by whom, and the circumstances in which, such a review may be sought; and
 - (b) specify the procedures to be followed by the Tribunal in conducting such a review.
- (3) The Tribunal must not, under subsection (1):
 - (a) perform a function conferred on it by, and for the purposes of, a law of a State or Territory; or
 - (b) exercise a power that is so conferred;unless the conferral of the function or power is in accordance with any relevant agreement between the Commonwealth and the State or Territory concerned.

Section 44ZZP

44ZZP Regulations about review by the Tribunal

The regulations may make provision about the following matters in relation to the functions of the Tribunal under this Part:

- (a) the constitution of the Tribunal;
- (b) the arrangement of the business of the Tribunal;
- (c) the disclosure of interests by members of the Tribunal;
- (d) determining questions before the Tribunal and questions that arise during a review;
- (e) procedure and evidence, including the appointment of persons to assist the Tribunal by giving evidence (whether personally or by means of a written report).

44ZZQ Regulations about fees for inspection etc. of registers

The regulations may make provision about the inspection of registers maintained under this Part (including provision about fees).

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