

---

**UNORDERED GOODS AND SERVICES AMENDMENT  
ACT 1989**

---

**No. 15 of 1989**

---

**TABLE OF PROVISIONS**

- |   |   |
|---|---|
| 1. Short title.   | 7. Amendment of section 10 of Principal Act (Certain acts prohibited).                              |
| 2. Commencement.  |   |
| 3. Principal Act.   |   |
| 4. Amendment of section 2 of Principal Act (Interpretation).  | 8. Amendment of section 11 of Principal Act (False orders).   |
| 5. Repeal of section 5 of Principal Act (Assertion of right to payment for unordered goods).  |   |
| 6. Substitution of sections 7, 8, and 9 of Principal Act.<br>7—Assertion to right to payment for unordered goods or services other than prescribed services.<br>8—Assertion of right to payment for prescribed services.<br>9—Conduct constituting assertion of right to payment. | 9. Amendment of section 12 of Principal Act (Certain proceedings not to be commenced or continued). |
|   | 10. Amendment of section 14 of Principal Act (Regulations).   |
|   | 11. Saving.   |





**UNORDERED GOODS AND SERVICES AMENDMENT  
ACT 1989**

---

**No. 15 of 1989**

---

\*\*\*\*\*

**AN ACT to amend the Unordered Goods and Services Act  
1973.**

**[Royal Assent 18 April 1989]**

**B**E it enacted by His Excellency the Governor of Tasmania,  
by and with the advice and consent of the Legislative  
Council and House of Assembly, in Parliament assembled, as  
follows:—

**1**—This Act may be cited as the *Unordered Goods and Services Amendment Act 1989*. Short title.

**2**—This Act shall commence on the day on which it receives the Royal assent. Commencement.

**3**—In this Act, the *Unordered Goods and Services Act 1973* Principal Act.  
is referred to as the **Principal Act**.

---

\* No. 9 of 1973. Amended by No. 115 of 1973.

Amendment of section 2 of Principal Act (Interpretation).

4—Section 2 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) the definition of “prescribed service” and substituting the following definition:—

“prescribed service” means—

(a) the making of a directory entry; or

(b) such other service as may be declared by the regulations to be a prescribed service for the purposes of this Act;

(b) by inserting after the definition of “recipient” in subsection (1) the following definition:—

“the regulations” means regulations in force under this Act;

(c) by omitting from the definition of “unordered goods” in subsection (1) “him.” and substituting “him;”;

(d) by adding after the definition of “unordered goods” in subsection (1) the following definition:—

“unordered services” means services that are rendered to a person in the State—

(a) otherwise than at the request of that person; and

(b) in the course of a trade or business, whether carried on within or without the State.

(e) by omitting from paragraph (a) of subsection (4) “Postmaster-General of the Commonwealth” and substituting “Australian Telecommunications Commission”.

Repeal of section 5 of Principal Act (Assertion of right to payment for unordered goods).

5—Section 5 of the Principal Act is repealed.

Substitution of sections 7, 8, and 9 of Principal Act.

6—Sections 7, 8, and 9 of the Principal Act are repealed and the following sections are substituted:—

Assertion to right to payment for unordered goods or services other than prescribed services.

7—(1) A person shall not assert a right to payment from another person, being—

(a) a right to payment for unordered goods; or

- (b) a right to payment for unordered services (other than a right to payment for the rendering of a prescribed service),

unless the first-mentioned person has reasonable cause to believe that he is entitled to assert that right to payment.

Penalty: Fine not exceeding 50 penalty units.

(2) In proceedings against a person for a contravention of this section, the burden of proving that he had reasonable cause to believe that he was entitled to assert a right to payment lies on that person.

8—(1) A person shall not assert a right to payment from another person for the rendering of a prescribed service unless the first-mentioned person knows or has reasonable cause to believe that the other person has authorized the rendering of that prescribed service.

Assertion of  
right to payment  
for prescribed  
services.

Penalty: Fine not exceeding 50 penalty units.

(2) A person is not liable to make any payment to another person, and is entitled to recover by action in a court of competent jurisdiction against another person any payment made by him to the other person, in full or part satisfaction of a charge for the rendering of a prescribed service unless he has authorized the rendering of that prescribed service.

(3) A person shall not be taken for the purposes of this section to have authorized the rendering of a prescribed service unless—

- (a) a document authorizing the rendering of that prescribed service has been signed by the person or by another person authorized by him;
- (b) a copy of the document has been given to the person before the right to payment of a charge for the rendering of that prescribed service is asserted; and
- (c) the document contains the prescribed particulars.

(4) For the purposes of subsection (3), the prescribed particulars are—

- (a) where the prescribed service to which the document relates is the making of a directory entry—
  - (i) the name of the directory or other similar publication in which the entry is made or proposed to be made;

- (ii) the name and address of the person publishing that directory or other similar publication;
  - (iii) particulars of the entry; and
  - (iv) the amount of the charge for the making of the entry or the basis on which the charge is, or is to be, calculated; and
- (b) in any other case—such particulars as may be prescribed for the purposes of this paragraph.

(5) In proceedings against a person for a contravention of this section, the burden of proving that he knew or had reasonable cause to believe that the other person had authorized the provision of a prescribed service lies on the first-mentioned person.

Conduct  
constituting  
assertion of right  
to payment.

9—(1) For the purposes of sections 7 and 8, a person shall be taken to assert a right to a payment from another person for unordered goods or unordered services, or for the rendering of a prescribed service, if the first-mentioned person—

- (a) makes a demand for the payment or asserts a present or prospective right to the payment;
- (b) threatens to bring any legal proceedings with a view to obtaining the payment;
- (c) places or causes to be placed on a list of defaulters or debtors the name of the other person, or threatens to do so, with a view to obtaining the payment;
- (d) invokes or causes to be invoked any other collection procedure, or threatens to do so, with a view to obtaining the payment; or
- (e) sends any invoice or other document that states the amount of the payment or sets out the price of the services or the charge for the rendering of the prescribed service but does not state as prominently (or more prominently) that no claim is made to the payment of that price or charge.

(2) For the purposes of subsection (1) (e), an invoice or other document purporting to have been sent by or on behalf of a person shall be deemed to have been sent by that person unless the contrary is established.

**7**—Section 10 of the Principal Act is amended as follows:—

- (a) by omitting “No person shall” and substituting “A person shall not”;
- (b) by omitting “for the making of a directory entry,” (wherever occurring) and substituting “for unordered services,”;
- (c) by omitting “for the making of the directory entry,” and substituting “for the unordered services,”;
- (d) by omitting “Five hundred dollars.” and substituting “Fine not exceeding 50 penalty units.”.

Amendment of section 10 of Principal Act (Certain acts prohibited).

**8**—Section 11 of the Principal Act is amended by omitting “Two hundred and fifty dollars.” and substituting “Fine not exceeding 50 penalty units.”.

Amendment of section 11 of Principal Act (False orders).

**9**—Section 12 of the Principal Act is amended as follows:—

- (a) by omitting from paragraph (a) “goods; or” and substituting “goods;”;
- (b) by omitting paragraph (b) and substituting the following paragraphs:—

Amendment of section 12 of Principal Act (Certain proceedings not to be commenced or continued).

(b) rendering outside the State any services that, if rendered in the State, would be unordered services for which the person rendering those services had no reasonable cause to believe that there was a right of payment; or

(c) rendering outside the State a service that, if rendered in the State, would have been a prescribed service, unless section 8 (3), or a provision in the law of another State or a Territory of the Commonwealth that corresponds to that subsection, has been complied with in relation to the rendering of that service.

**10**—Section 14 of the Principal Act is amended by omitting paragraphs (c), (d), and (e) of subsection (2) and substituting the following paragraphs:—

Amendment of section 14 of Principal Act (Regulations).

(c) declare a service to be a prescribed service for the purposes of this Act; and

(d) prescribe a penalty, not exceeding 10 penalty units, for an offence against the regulations.

Saving.

**11**—Nothing in this Act affects the application of the Principal Act, as in force immediately before the date of commencement of this Act, to and in relation to any matter arising, before or after that date, out of the occurrence, before that date, of an incident constituted by—

- (a) the delivery to a person of unordered goods;
  - (b) the making of a directory entry; or
  - (c) the rendering of a prescribed service,
- within the meaning of that Act as so in force.