

AUSTRALIAN COMMUNICATIONS AUTHORITY

Radiocommunications Act 1992

**Radiocommunications (Trading Rules for Spectrum Licences)
Determination 1998**

The AUSTRALIAN COMMUNICATIONS AUTHORITY determines the following rules for assignments of spectrum licences under paragraph 88 (1) (a) of the *Radiocommunications Act 1992*.

Dated 29 May 1998.

A.J SHAW
Chairman

R HORTON
Deputy Chairman

Australian Communications Authority

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Title

1. This Determination is called the Radiocommunications (Trading Rules for Spectrum Licences) Determination 1998.

Commencement

2. This determination commences on 1 June 1998.

Purpose

3. This determination sets out the rules for trading in spectrum licences.

[NOTE: Under s. 88 of the *Radiocommunications Act 1992*, the ACA may determine rules for the assignment of spectrum licences and the circumstances in which licences can be varied, issued or cancelled as a result of assignments.]

Interpretation

4. In this determination, unless the contrary appears:

ACA means the Australian Communications Authority.

Act means the *Radiocommunications Act 1992*.

geographic area, in relation to a licence, means the area within which operation of a radiocommunications device is authorised under the licence.

licence means a spectrum licence.

licensee means the holder of a licence.

Register means the Register of Radiocommunications Licences established under section 143 of the Act.

spectrum map grid means the map grid developed by the ACA for Australia, showing cells the sides of which measure 3 degrees of arc, 1 degree of arc or 5 minutes of arc, published by the ACA, copies of which are available from the ACA.

standard trading unit (STU) in relation to a licence, has the meaning it has in a marketing plan made under section 39 or section 39A of the Act that is made for the issue of the licence.

trade, in relation to a licence, means assign or otherwise deal with the whole or a part of the licence.

Trading Form means the form approved by the ACA under clause 5.

[NOTE: The following terms, used in this determination, are defined in the *Radiocommunications Act 1992* and have the meanings given to them by that Act: frequency band, spectrum licence.]

Approval of form

5. The ACA must approve, in writing, a Trading Form.

What may be traded

6. A licensee may:
 - (a) trade all or part of his or her licence to an existing licensee or to another person; and
 - (b) trade parts of the licence to different people.

[NOTE: Trading in a licence will not take effect before the trading is registered - see s. 86 of the Act.]

Restrictions on trading

7. (1) A licensee may not trade a part of his or her licence that is less than a whole STU or a multiple of whole STUs.

(2) A licensee may not transfer his or her licence for the purpose of providing security for a loan.

[NOTE: S. 68 of the Act permits a licensee to authorise other persons to operate devices under the licence.]

Information to be given to ACA

8. (1) The information to be given to the ACA under section 86 of the Act must include:

- (a) whether the whole or a part of the licence is traded; and
- (b) the name and postal address of the person to whom the licence or part is traded; and
- (c) if only part of the licence is traded - a description of that part, by reference to the STUs included in the part; and
- (d) the certificate issued under subsection 145 (3) of the Act for each device to be operated:
 - (i) under the licence or part traded; and
 - (ii) if only part of the licence is traded - under the remaining part of the licence;

if a new certificate is required as a result of the trading.

[NOTES: 1. S. 86 of the Act requires parties to trading to give the ACA such information about the assignment as the ACA requires to amend the Register.

2. To give effect to a trade the ACA may vary a licence or the conditions of a licence, or issue or cancel licences - see s. 87 of the Act.

3. The ACA must make the changes to the Register that are necessary as a result of trading - see s. 146 of the Act.]

(2) The information must be given to the ACA on the Trading Form.

Revocation

9. The Radiocommunications (Trading Rules for Spectrum Licences) Determination 1996 is revoked.

Transitional

10. A form approved by the ACA under clause 5 of the Radiocommunications (Trading Rules for Spectrum Licences) Determination 1997 is taken to be a form approved under clause 5 of this Determination.