



# Telecommunications (Charges) Determination 2012

*Australian Communications and Media Authority Act 2005*

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The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Determination under subsection 60 (1) of the *Australian Communications and Media Authority Act 2005*.

Dated 18<sup>th</sup> May 2012

*Chris Chapman*  
[signed]  
Member

*Richard Bean*  
[signed]  
Member/~~General Manager~~

Australian Communications and Media Authority

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## Part 1 Introduction

### 1 Name of Determination

This Determination is the *Telecommunications (Charges) Determination 2012*.

### 2 Commencement

This Determination commences on 1 July 2012.

Note: All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

### 3 Revocation

The following instruments are revoked:

- (a) *Telecommunications (Charges) Determination 2009*;
- (b) *Telecommunications (Facility Installation Permit – Application Charge) Determination 2007*;
- (c) *Telecommunications (Facility Installation Permit – Public Inquiry Charges) Determination 2007*;
- (d) *Telecommunications (Nominated Carrier Declaration Application Charge) Determination 2007*;
- (e) *Telecommunications (Protection Zone and Submarine Cable Permit – Application Charges) Determination 2008*.

### 4 Interpretation

In this Determination:

**ACMA** means the Australian Communications and Media Authority.

**ACMA Act** means the *Australian Communications and Media Authority Act 2005*.

**ACMA staff** has the same meaning as in the ACMA Act.

**ACMA workers:**

- (a) means:
  - (i) the ACMA staff;
  - (ii) officers or employees of an authority of the Commonwealth whose services are made available for the purposes of the ACMA under section 55 of the ACMA Act;
  - (iii) the Chair and other ACMA members appointed under section 20 of the ACMA Act;but
- (b) does not include associate members of the ACMA appointed under section 24 of the ACMA Act.

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***associate members*** means the members appointed under section 24 of the ACMA Act.

***Australian waters*** has the same meaning as in clause 2 of Schedule 3A to the Telecommunications Act.

***authority of the Commonwealth*** has the same meaning as in section 55 of the ACMA Act.

***carrier*** has the same meaning as in the Telecommunications Act.

***certification body*** has the same meaning as in section 410 of the Telecommunications Act.

***coastal waters*** has the same meaning as in clause 2 of Schedule 3A to the Telecommunications Act.

***facility installation permit*** means a permit, as described in clause 21 of Schedule 3 to the Telecommunications Act, authorising a carrier to carry out the installation of one or more facilities.

***facility installation permit application*** means an application under clause 21 of Schedule 3 to the Telecommunications Act for a facility installation permit.

***linked (NPZ) installation permit*** means a trans-zone (NPZ) installation permit the subject of a linked (NPZ) installation permit application.

***linked (NPZ) installation permit application*** means an application under clause 64 of Schedule 3A to the Telecommunications Act for a trans-zone (NPZ) installation permit which is submitted together with a protection zone installation permit application in relation to the same submarine cable.

***members*** means the members appointed under section 20 of the ACMA Act.

***non-protection zone installation permit*** has the same meaning as in clause 64 of Schedule 3A to the Telecommunications Act.

***non-protection zone installation permit application*** means an application under clause 64 of Schedule 3A to the Telecommunications Act for a non-protection zone installation permit.

***online application*** means an application submitted electronically on the ACMA website using the ACMA's number management system.

Note: The ACMA website can be found at [www.acma.gov.au](http://www.acma.gov.au) and at the time of making this instrument the ACMA's number management system was known as the "Online Numbering System" or "NUMB".

***protection zone*** has the same meaning as in clause 2 of Schedule 3A to the Telecommunications Act.

***protection zone (declaration) request*** means a request under clause 5 of Schedule 3A to the Telecommunications Act that the ACMA declare a protection zone.

***protection zone installation permit*** has the same meaning as in clause 2 of Schedule 3A to the Telecommunications Act.

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**protection zone installation permit application** means an application under clause 51 of Schedule 3A to the Telecommunications Act for a protection zone installation permit (including such an application in respect of that part of a trans-zone submarine cable that is, or will be, located in a protection zone).

**protection zone (revocation) request** means a request under clause 24 of Schedule 3A to the Telecommunications Act that the ACMA revoke a declaration of a protection zone.

**protection zone (variation) request** means a request under clause 24 of Schedule 3A to the Telecommunications Act that the ACMA vary a declaration of a protection zone.

**public inquiry** means a public inquiry held by the ACMA under subclause 25 (2) of Schedule 3 to the Telecommunications Act in relation to a facility installation permit.

**Remuneration Tribunal** means the tribunal established under subsection 4 (1) of the *Remuneration Tribunal Act 1973*.

**submarine cable** has the same meaning as in clause 2 of Schedule 3A to the Telecommunications Act.

**Telecommunications Act** means the *Telecommunications Act 1997*.

**trans-zone (NPZ) installation permit** means a non-protection zone installation permit in respect of that part of a trans-zone submarine cable that is, or will be, located in Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory.

**trans-zone submarine cable** means a submarine cable that is, or will be, located partly in a protection zone and partly in Australian waters that are not in a protection zone and that are not coastal waters of a State or the Northern Territory.

## **Part 2                      Charges for services or matters under the Telecommunications Act**

### **5                      Purpose of Determination**

Under subsection 60 (1) of the ACMA Act, the ACMA may make determinations fixing charges for:

- (a) services provided by the ACMA; and
- (b) any matter in relation to which expenses are incurred by the ACMA under the Acts specified in the subsection (including the Telecommunications Act).

The purpose of this Determination is to fix charges for such matters under the Telecommunications Act as are set out in Schedule 1.

### **6                      Charges relating to ACMA's costs**

For the purposes of section 60 of the ACMA Act, the charge mentioned in column 3 of an item in Schedule 1 is the charge fixed for:

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- (a) provision of a service or matter mentioned in column 2 of that item; or
  - (b) the service or matter mentioned in column 2 of the item, in relation to which expenses are incurred, or to be incurred, by the ACMA,
- as the case requires.

## **7 Hourly rate of charge**

For this Determination, the hourly rate of charge for each person providing a service or matter to which the rate applies is:

- (a) for a total period less than 1 hour — the greater of:
  - (i) \$99; and
  - (ii) the proportion of \$197 equal to the proportion of an hour for which charge is to be made; and
- (b) for each completed hour — \$197; and
- (c) for a part of an hour after a completed hour — the proportion of \$197 equal to the proportion of an hour for which charge is to be made.

## **8 Special rules – charges for facility installation permit applications (not relating to public inquiry)**

- (1) This section applies if a deposit is paid under item 4.1 of Schedule 1 (*the deposit*).
- (2) If:
  - (a) 1 or more amounts are payable under item 4.2 of Schedule 1; and
  - (b) the aggregate of those amounts is less than the deposit,the amounts referred to in paragraph (a) will be deducted from the deposit, and the ACMA must refund the difference to the applicant.
- (3) If:
  - (a) 1 or more amounts are payable under item 4.2 of Schedule 1; and
  - (b) the aggregate of those amounts is greater than the deposit,the applicant must pay the difference under subparagraph 12 (c) (i).

## **9 Special rules – charges for facility installation permit applications (relating to public inquiry)**

- (1) This section applies if a deposit is paid under item 5.1 of Schedule 1 (*the public inquiry deposit*).
- (2) If:
  - (a) 1 or more amounts are payable under items 5.2 or 5.3 of Schedule 1; and
  - (b) the aggregate of those amounts is less than the public inquiry deposit,the amounts mentioned in paragraph (a) will be deducted from the public inquiry deposit, and the ACMA must refund the difference to the applicant.

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- (3) If:
- (a) 1 or more amounts are payable under items 5.2 or 5.3 of Schedule 1; and
  - (b) the aggregate of those amounts is greater than the public inquiry deposit, the applicant must pay the difference under subparagraph 12 (c) (ii).

**10 Special rules – charges payable in relation to a request for a declaration, variation or revocation of a protection zone**

- (1) This section applies if a deposit is paid under items 6.1 or 6.2 of Schedule 1 (*the protection zone deposit*).
- (2) If:
- (a) 1 or more amounts are payable under items 6.3 or 6.4 of Schedule 1; and
  - (b) the aggregate of those amounts is less than the protection zone deposit, the amounts mentioned in paragraph (a) will be deducted from the protection zone deposit, and the ACMA must refund the difference to the applicant.
- (3) If:
- (a) 1 or more amounts are payable under items 6.3 or 6.4 of Schedule 1; and
  - (b) the aggregate of those amounts is greater than the protection zone deposit, the applicant must pay the difference under subparagraph 12 (c) (iii).

**11 Special rules – charges payable in relation to an application for a permit to install a submarine cable**

- (1) This section applies if a deposit is paid under item 7.4 of Schedule 1 (*the submarine cable deposit*).
- (2) If:
- (a) 1 or more amounts are payable under item 7.5 of Schedule 1; and
  - (b) the aggregate of those amounts is less than the submarine cable deposit, the amounts mentioned in paragraph (a) will be deducted from the submarine cable deposit, and the ACMA must refund the difference to the applicant.
- (3) If:
- (a) 1 or more amounts are payable under item 7.5 of Schedule 1; and
  - (b) the aggregate of those amounts is greater than the submarine cable deposit, the applicant must pay the difference under subparagraph 12 (c) (iv).

**12 By whom and when is a charge payable?**

The charges are payable by the applicant:

- (a) in the case of a charge mentioned in items 1.1, 3.1, 4.1, 6.1, 6.2, 7.1, 7.2, 7.3, 7.4, 7.6 or 7.7 of Schedule 1 — when the application is made;

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- (b) in the case of a charge mentioned in item 5.1 of Schedule 1 — within 7 days of the applicant being notified by the ACMA of the intention to hold a public inquiry in relation to the facility installation permit application;
  - (c) in the case of a charge mentioned in:
    - (i) subsection 8 (3) in relation to item 4.2 of Schedule 1;
    - (ii) subsection 9 (3) in relation to items 5.2 or 5.3 of Schedule 1;
    - (iii) subsection 10 (3) in relation to items 6.3 or 6.4 of Schedule 1; or
    - (iv) subsection 11 (3) in relation to item 7.5 of Schedule 1,by the due date specified in an invoice issued by the ACMA to the applicant for the charge; and
  - (d) in any other case in which a charge is payable at the hourly rate or on the basis of actual costs — by the due date specified in an invoice issued by the ACMA to the applicant for the charge.

## **Part 3                      Transitional arrangements**

### **13                      Transitional arrangements – facility installation permit applications (not relating to public inquiry)**

If:

- (a) prior to 1 July 2012, a deposit was paid under item 1 of Schedule 1 to the *Telecommunications (Facility Installation Permit – Application Charge) Determination 2007*; and
  - (b) as at 1 July 2012 — the deposit has not been reduced to nil,
- then section 8 applies to the residue of the deposit as if it was the deposit mentioned in that section.

### **14                      Transitional arrangements – facility installation permit applications (relating to public inquiry)**

If:

- (a) prior to 1 July 2012, a deposit was paid under item 1 of Schedule 1 to the *Telecommunications (Facility Installation Permit – Public Inquiry Charges) Determination 2007*; and
- (b) as at 1 July 2012 — the deposit has not been reduced to nil,

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then section 9 applies to the residue of the deposit as if it was the public inquiry deposit mentioned in that section.

**15 Transitional arrangements – request for a declaration, variation or revocation of a protection zone**

If:

- (a) prior to 1 July 2012, a deposit was paid under items 1 or 2 of Schedule 1 to the *Telecommunications (Protection Zone and Submarine Cable Permit — Application Charges) Determination 2008*; and
- (b) as at 1 July 2012 — the deposit has not been reduced to nil,

then section 10 applies to the residue of the deposit as if it was the protection zone deposit mentioned in that section.

**16 Transitional arrangements – application for a permit to install a submarine cable**

If:

- (a) prior to 1 July 2012, an amount was paid under item 4 of Schedule 2 to the *Telecommunications (Protection Zone and Submarine Cable Permit — Application Charges) Determination 2008*; and
- (b) as at 1 July 2012 — the amount has not been reduced to nil,

then section 11 applies to the residue of the amount as if it was the submarine cable deposit mentioned in that section.



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## Schedule 1 Charges payable

(sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16)

### Part 1 Nominated carrier declaration charges

Column 1 Item	Column 2 Matter	Column 3 Charge
1.1	Making an application mentioned in section 77 of the Telecommunications Act for a nominated carrier declaration in relation to one or more specified network units	\$2 320

### Part 2 Charges payable in relation to certain connection permits and labelling certifications

Column 1 Item	Column 2 Matter	Column 3 Charge
2.1	Considering an application made under subsection 390 (1) of the Telecommunications Act for a connection permit for the connection of customer equipment	Hourly rate
2.2	Considering an application made under subsection 390 (2) of the Telecommunications Act for a connection permit for the connection of customer cabling	Hourly rate
2.3	Activities of an ACMA officer acting as a certification body in connection with dealing with an application for a written statement under paragraph 408 (5) (a) of the Telecommunications Act	Hourly rate

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**Part 3 Charges payable in relation to certain numbering applications**

<b>Column 1 Item</b>	<b>Column 2 Matter</b>	<b>Column 3 Charge</b>
3.1	Making an application mentioned in paragraph 457 (1) (a) of the Telecommunications Act for the allocation of a number otherwise than in accordance with an allocation system determined under section 463 of the Telecommunications Act	(1) For online applications — \$138 for each online application for the first number or block of sequential numbers and \$3 for each subsequent block of sequential numbers  (2) For applications other than online applications — \$151 for each application for the first number or block of sequential numbers and \$4 for each subsequent block of sequential numbers

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**Part 4 Facility installation permits – application charges**

<b>Column 1 Item</b>	<b>Column 2 Matter</b>	<b>Column 3 Charge</b>
4.1	Deposit to accompany a facility installation permit application	\$7 290
4.2	Activities of ACMA workers in connection with dealing with a facility installation permit application that do not relate to the conduct of a public inquiry in relation to the permit	Hourly rate

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**Part 5 Facility installation permits – public inquiry charges**

<b>Column 1 Item</b>	<b>Column 2 Matter</b>	<b>Column 3 Charge</b>
5.1	Deposit payable on account of the expenses to be incurred by the ACMA for the holding of a public inquiry in relation to the issuing of a facility installation permit	\$53 190
5.2	Activities of ACMA workers in relation to the holding of the public inquiry in relation to the issuing of a facility installation permit	Hourly rate

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5.3	<p>Any other expenses incurred by the ACMA not included in item 5.2 in relation to the holding of the public inquiry in relation to the issuing of a facility installation permit, including the following:</p> <ul style="list-style-type: none"> <li>(a) daily payments to members or associate members under a determination made by the Remuneration Tribunal;</li> <li>(b) travel costs and allowances to members, associate members or ACMA staff;</li> <li>(c) transcript costs;</li> <li>(d) legal costs;</li> <li>(e) consultant costs;</li> <li>(f) costs associated with the hire of venues for public hearings</li> </ul>	Actual costs
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**Part 6            Charges payable to declare, vary or revoke a protection zone**

Column 1 Item	Column 2 Matter	Column 3 Charge
6.1	Deposit payable on account of the expenses to be incurred by the ACMA in relation to a protection zone (declaration) request	\$195 000
6.2	Deposit payable on account of the expenses to be incurred by the ACMA in relation to a protection zone (revocation) request or a protection zone (variation) request	\$143 000
6.3	<p>Charges for the activities of ACMA staff in relation to a:</p> <ul style="list-style-type: none"> <li>(a) protection zone (declaration) request;</li> <li>(b) protection zone (revocation) request;</li> <li>(c) protection zone (variation) request</li> </ul>	Hourly rate
6.4	<p>External costs incurred by the ACMA in relation to a protection zone (declaration) request, protection zone (revocation) request or protection zone (variation) request including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>(a) advertising costs;</li> <li>(b) venue hire and catering costs;</li> <li>(c) travel expenses;</li> <li>(d) consultation costs</li> </ul>	Actual costs

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**Part 7            Charges payable in relation to certain permits to install a submarine cable**

<b>Column 1 Item</b>	<b>Column 2 Matter</b>	<b>Column 3 Charge</b>
7.1	Protection zone installation permit — charge for the purposes of clause 53 of Schedule 3A to the Telecommunications Act, in relation to considering and processing a protection zone installation permit application	\$2 660 for each submarine cable the subject of the application
7.2	Protection zone installation permit / linked (NPZ) installation permit — considering and processing an application to extend the duration of a protection zone installation permit or a linked (NPZ) installation permit	\$595
7.3	Non-protection zone installation permit, other than a linked (NPZ) installation permit — charge for the purposes of clause 66 of Schedule 3A to the Telecommunications Act, in relation to considering and processing a non-protection zone installation permit application other than a linked (NPZ) installation permit application, excluding the additional charges mentioned at items 7.4 and 7.5	\$8 176 for each submarine cable the subject of the application
7.4	Non-protection zone installation permit application / linked (NPZ) installation permit application — deposit payable on account of the charges at item 7.5	\$25 000
7.5	Non-protection zone installation permit application / linked (NPZ) installation permit application — charge for the purposes of clause 66 of Schedule 3A to the Telecommunications Act, in relation to external costs for the use of external consultants in considering a non-protection zone installation permit application or a linked (NPZ) installation permit application	Actual costs
7.6	Non-protection zone installation permit, other than a linked (NPZ) installation permit — considering and processing an application to extend the duration of a non-protection zone installation permit, other than a linked (NPZ) installation permit	\$595
7.7	Linked (NPZ) installation permit — considering and processing a linked (NPZ) installation permit application, excluding the additional charges mentioned at items 7.4 and 7.5	\$7 388 for each submarine cable the subject of the application

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