



# **Radiocommunications (Trading Rules for Spectrum Licences) Determination 2012**

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made under section 88 of the

*Radiocommunications Act 1992*

## **Compilation No. 5**

**Compilation date:** 21 August 2021

**Includes amendments up to:** F2021L01151

Prepared by the Australian Communications and Media Authority, Melbourne

## About this compilation

### **This compilation**

This is a compilation of the *Radiocommunications (Trading Rules for Spectrum Licences) Determination 2012* that shows the text of the law as amended and in force on 21 August 2021 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Federal Register of Legislation ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Federal Register of Legislation for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Federal Register of Legislation for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

**1 Title**

This determination is the *Radiocommunications (Trading Rules for Spectrum Licences) Determination 2012*.

**4 Purpose**

This determination sets out the rules for the trading of spectrum licences.

*Note* Under section 88 of the *Radiocommunications Act 1992*, the ACMA 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.

**5 Interpretation**

In this determination, unless the contrary intention appears:

*ACMA* means the Australian Communications and Media Authority.

*Act* means the *Radiocommunications Act 1992*.

*Australian Spectrum Map Grid (ASMG)* means the map grid known as the *Australian Spectrum Map Grid 2012* published by the ACMA as in force from time to time.

*Note* The Australian Spectrum Map Grid 2012 is available on the ACMA website.

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

*Hierarchical Cell Identifier Scheme (HCIS)* means the cell grouping hierarchy scheme used to describe geographic areas in the *ASMG*.

*Level 1 cell* means a Level 1 cell of the HCIS.

*licence* means a spectrum licence.

*licensee* means the holder of a spectrum licence.

*minimum contiguous bandwidth (MCB)* means the minimum contiguous bandwidth specified for a frequency band in Schedule 1 of this determination.

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

*standard trading unit (STU)* in relation to a licence, means a parcel of spectrum space that consists of:

- (a) a geographic area equal to a Level 1 cell; and
- (b) a frequency band where the lower and upper frequency limits of each segment are integers when described in Hertz.

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

*Trading Form* means the form approved by the ACMA under section 6 of this determination.

*Note* The following terms, used in this determination, are defined in the Act and have the meaning given to them by the Act:

- device
- frequency band
- spectrum licence

## **6 Approval of form**

The ACMA must approve, in writing, a Trading Form.

## **7 What may be traded**

Subject to section 8, a licensee may:

- (a) trade all or part of their licence to an existing licensee or to another person; and
- (b) trade parts of the licence to different persons.

*Note* Under subsection 86 (2) of the Act, an assignment covered by subsection 86 (1) cannot take effect before the Register is amended under Part 3.5 of the Act to take it into account.

## **8 Restrictions on trading**

- (1) A licensee must only trade all or part of their licence as:
  - (a) a single whole STU; or
  - (b) a multiple of whole STUs.
- (2) A licensee must not trade a part of their licence if the trade results in a licence with a bandwidth that is less than the MCB for the frequency band in which the licence operates, without obtaining the ACMA's prior written permission.
- (3) A licensee must not transfer their licence for the purpose of providing security for a loan.

*Note* Section 68 of the Act permits a licensee to authorise other persons to operate devices under the licence.

## **9 Information to be given to the ACMA**

- (1) The information to be given to the ACMA 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 the frequency band and geographic area of:
      - (i) the part traded; and
      - (ii) the remaining part of the licence; 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.

*Note 1* Section 86 of the Act requires parties to trading to give the ACMA such information about the assignment as the ACMA requires to amend the Register.

*Note 2* To give effect to a trade, the ACMA may vary a licence or the conditions of a licence, or issue or cancel licences — see section 87 of the Act.

*Note 3* The ACMA must make the changes to the Register that are necessary as a result of trading — see section 146 of the Act.

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

## **10 Review of decision**

- (1) A licensee whose interests are affected by a refusal by the ACMA to give written permission under subsection 8 (2) of this determination may apply to the Administrative Appeals Tribunal for review of the decision.
- (2) If the ACMA makes a decision mentioned in subsection (1), the ACMA must give notice of the decision to a licensee whose interests it affects.
- (3) The notice must include a statement to the effect that:
  - (a) subject to the *Administrative Appeals Tribunal Act 1975*, a licensee dissatisfied with the decision may apply to the Tribunal for a review of the decision; and
  - (b) the licensee may request a statement under section 28 of that Act in relation to the decision.

**Schedule 1**                      **Minimum contiguous bandwidths**  
(section 5, subsection 8(2))

<b>Item</b>	<b>Band (MHz)</b>	<b>Minimum contiguous bandwidth (MHz)</b>
1	703-748	5
2	758-803	5
3	814-845	5
4	859-890	5
4A	890-915	5
4B	935-960	5
5	1710-1785	5
6	1805-1880	5
7	1900–1980	5
8	2110–2170	5
9	2302–2400	5
10	2500-2570	5
11	2620-2690	5
12	3425–3492.5	10
13	3542.5–3700	10
14	25100-27500	50

## Endnotes

### Endnote 1 – About the endnotes

The endnotes provide information about this compilation and the compiled law.

Endnote 2 (Abbreviation key) sets out abbreviations that may be used in the endnotes.

Endnote 3 (Legislation history) provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

Endnote 4 (Amendment history) provides information about the amendments at the provision (generally section or equivalent) level and includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

It also includes information about any misdescribed amendment (that is, an amendment that does not accurately describe the amendment to be made). If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history. If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

### Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

Ch = Chapter(s)

Dict = Dictionary

Div = Division(s)

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

(md not incorp) = misdescribed amendment  
cannot be given effect

mod = modified/modification

No. = Number(s)

par = paragraph(s)/subparagraph(s)

Pt = Part(s)

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

**Endnote 3 – Legislation history**

<b>Title</b>	<b>Date of FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
<i>Radiocommunications (Trading Rules for Spectrum Licences) Determination 2012</i>	21 August 2012 (see F2012L01718)	22 August 2012	-
<i>Radiocommunications (Trading Rules for Spectrum Licences) Amendment Determination 2013</i>	6 January 2014 (see F2014L00034)	7 January 2014	-
<i>Radiocommunications (Trading Rules for Spectrum Licences) Amendment Determination 2015 (No. 1)</i>	25 May 2015 (see F2015L00726)	26 May 2015	-
<i>Radiocommunications – 3.4 GHz Band Omnibus Variation 2018 (No. 1)</i>	27 July 2018 (see F2018L01063)	28 July 2018	-
<i>Radiocommunications (Trading Rules for Spectrum Licences) Amendment Determination 2020 (No. 1)</i>	24 Nov 2020 (see F2020L01458)	25 Nov 2020	
<i>Radiocommunications (Trading Rules for Spectrum Licences) Amendment Determination 2021 (No.1)</i>	20 August 2021 (see F2021L01151)	21 August 2021	

**Endnote 4 – Amendment history**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
Table of contents.....	rep. 2013 No. 1
Section 3.....	rep. LA s 48D
Section 4.....	rep. LA s 48C
Schedule 1.....	am. 2013 No. 1; am. 2015 No. 1; am. 2018 No. 1; am. 2020 No. 1, am. 2021 No.1