



# Radiocommunications (Trading Rules for Spectrum Licences) Determination 1998

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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

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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 must not trade a part of the licence if any of the resulting licences would contain a minimum contiguous bandwidth that is less than the bandwidth for the band set out in Schedule 1.

(3) 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:
  - (i) a description of that part, by reference to the latitude and longitude of its geographic areas, and the upper and lower frequencies of its frequency bands; and
  - (ii) a description of the remainder of the licence, by reference to the latitude and longitude of its geographic areas, and the upper and lower frequencies of its frequency bands; 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.

**Schedule                      Minimum contiguous bandwidths**

<b>Column 1</b>	<b>Column 2</b>
<b>Band</b>	<b>Minimum contiguous bandwidth</b>
825-845 MHz	1 MHz
870-890 MHz	1 MHz
1900-1980 MHz	5 MHz
2110-2170 MHz	5 MHz
3425-3492.5 MHz	2.5 MHz
3542.5-3575 MHz	2.5 MHz

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**TABLE OF AMENDMENTS**

**1.** *Radiocommunications (Trading Rules for Spectrum Licences) Determination 1998*, notified in the Commonwealth of Australia Gazette on 1 June 1998 comprises the *Radiocommunications (Trading Rules for Spectrum Licences) Determination 1998* as amended by the other determinations specified as follows:

(a) *Radiocommunications (Trading Rules for Spectrum Licences) Amendment Determination 2000*, notified in the Commonwealth of Australia Gazette on 26 July 2000;

(b) *Radiocommunications (Trading Rules for Spectrum Licences) Amendment Determination (No.2) 2000*, notified in the Commonwealth of Australia Gazette on 6 December 2000.