



Radiocommunications (Transmitter Licence Tax) Act 1983

Act No. 137 of 1983 as amended

This compilation was prepared on 1 July 2005
taking into account amendments up to Act No. 52 of 2005

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Contents

1	Short title [<i>see</i> Note 1]	1
2	Commencement [<i>see</i> Note 1].....	1
3	Collection Act.....	1
4	Interpretation	1
5	Application of Radiocommunications Act.....	1
6	Imposition of tax.....	1
7	Amount of tax.....	4
9	Regulations.....	4

Notes

5

An Act to impose a tax on the issue, the anniversary of the coming into force and the holding of a transmitter licence under the *Radiocommunications Act 1992*

1 Short title [see Note 1]

This Act may be cited as the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

2 Commencement [see Note 1]

This Act shall come into operation on the date fixed for the purposes of subsection 2(1) of the *Radiocommunications Act 1983*.

3 Collection Act

The *Radiocommunications Taxes Collection Act 1983* is incorporated and shall be read as one with this Act.

4 Interpretation

In this Act, *tax* means the tax imposed by this Act.

5 Application of Radiocommunications Act

Part 1.4 of the *Radiocommunications Act 1992* applies to this Act in the same way that it applies to that Act.

6 Imposition of tax

Licences not exceeding 12 months

- (1) Tax is imposed on the issue of a transmitter licence that is issued for a period not exceeding 12 months.

Licences of more than 12 months where there is an application

- (2) If:

Section 6

- (a) a person applying for a transmitter licence for a period of more than 12 months has made an election under subsection (4) that this subsection apply; and
 - (b) a licence for such a period is issued to the person;tax is imposed on the issue of the licence for the period the licence is in force.
- (3) Subject to subsections (5) and (6), if:
 - (a) a person applying for a transmitter licence for a period of more than 12 months has made an election under subsection (4) that this subsection apply; and
 - (b) a licence for such a period is issued to the person;tax is imposed on:
 - (c) the issue of the licence; and
 - (d) each anniversary of the day the licence came into force occurring during the period the licence is in force.
- (4) A person applying for a transmitter licence for a period exceeding 12 months must elect, in the application for the licence, that either subsection (2) or (3) is to apply in respect of the transmitter licence.
- (5) If the holder of a transmitter licence:
 - (a) at the time when the person applied for the licence, elects that subsection (3) apply; and
 - (b) subsequently notifies the ACMA, in writing, at least 21 days before the next anniversary of the day the licence came into force that is more than 12 months before the end of the period that the licence is in force, that this subsection is to apply;subsection (3) ceases to apply to the licence and tax is imposed on the holding of the licence on that anniversary.
- (6) If the holder of a transmitter licence:
 - (a) has elected that subsection (3) apply; and
 - (b) has failed to pay tax imposed on an anniversary of the day the licence came into force within 60 days after that anniversary (*the 60 day period*);subsection (3) ceases to apply the day after the end of the 60 day period and tax is imposed on the holding of the licence on that day.

Licences of more than 12 months where there is no application

- (7) If:
- (a) a person is issued a transmitter licence for a period of more than 12 months under section 100B, 102 or 102A of the *Radiocommunications Act 1992*; and
 - (b) before the licence is issued, the person makes an election under subsection (9) that this subsection is to apply;
- tax is imposed on the issue of the licence for the period the licence is in force.
- (8) Subject to subsections (11) and (12), if:
- (a) a person is issued a transmitter licence for a period of more than 12 months under section 100B, 102 or 102A of the *Radiocommunications Act 1992*; and
 - (b) before the licence is issued, the person makes an election under subsection (9) that this subsection is to apply;
- tax is imposed on:
- (c) the issue of the licence; and
 - (d) each anniversary of the day the licence came into force occurring during the period the licence is in force.
- (9) Before a person is issued a transmitter licence under section 100B, 102 or 102A of the *Radiocommunications Act 1992* for a period exceeding 12 months, the person must elect, in the form approved in writing by the ACMA, that either subsection (7) or (8) is to apply in respect of the transmitter licence.
- (10) However, for the purposes of this section, if the person does not make an election under subsection (9) before the transmitter licence is issued, the person is taken to have elected, before the licence is issued, that subsection (8) is to apply in respect of the licence.
- (11) If the holder of a transmitter licence:
- (a) before the licence is issued, elects that subsection (8) is to apply; and
 - (b) subsequently notifies the ACMA, in writing, at least 21 days before the next anniversary of the day the licence came into force that is more than 12 months before the end of the period that the licence is in force, that this subsection is to apply;

subsection (8) ceases to apply to the licence and tax is imposed on the holding of the licence on that anniversary.

- (12) If the holder of a transmitter licence:
- (a) before the licence is issued, elects that subsection (8) is to apply; and
 - (b) fails to pay tax imposed on an anniversary of the day the licence came into force within 60 days after that anniversary (the **60 day period**);
- subsection (8) ceases to apply the day after the end of the 60 day period and tax is imposed on the holding of the licence on that day.

7 Amount of tax

- (1) The amount of tax in respect of the issue of a transmitter licence, the anniversary of a transmitter licence coming into force or the holding of a transmitter licence is the amount determined by the ACMA.
- (2) A determination may, among other things, provide for amounts of tax in relation to:
 - (a) specified periods; or
 - (b) specified classes of licences; or
 - (c) specified classes of persons.
- (3) In making a determination, the ACMA is to take into account such matters as are specified in the regulations.
- (4) A determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

9 Regulations

The Governor-General may make regulations for the purposes of section 7.

Table of Acts**Notes to the *Radiocommunications (Transmitter Licence Tax) Act 1983*****Note 1**

The *Radiocommunications (Transmitter Licence Tax) Act 1983* as shown in this compilation comprises Act No. 137, 1983 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 22 April 1997 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Radiocommunications (Transmitter Licence Tax) Act 1983</i>	137, 1983	22 Dec 1983	20 Aug 1985 (see <i>Gazette</i> 1985, S322)	
<i>Radiocommunications (Transmitter Licence Tax) Amendment Act 1992</i>	144, 1992	7 Dec 1992	1 July 1993	S. 7(2)
<i>Radiocommunications (Transmitter Licence Tax) Amendment Act 1995</i>	107, 1995	29 Sept 1995	29 Mar 1996 (see s. 2)	—
<i>Radiocommunications (Transmitter Licence Tax) Amendment Act 1997</i>	43, 1997	22 Apr 1997	1 July 1997	Sch. 1 (items 3, 4) [see Table A]
<i>Radiocommunications (Transmitter Licence Tax) Amendment Act 2000</i>	36, 2000	3 May 2000	31 May 2000 (see s. 2)	Sch. 1 (item 5) [see Table A]
<i>Radiocommunications (Transmitter Licence Tax) Amendment Act 2002</i>	7, 2002	4 Apr 2002	Schedule 1 (item 1): 29 Mar 1996 Remainder: Royal Assent	Sch. 1 (item 2) [see Table A]
<i>Radiocommunications (Transmitter Licence Tax) Amendment Act 2005</i>	52, 2005	1 Apr 2005	Schedules 1 and 2: 1 July 2005 (see s. 2(1)) Remainder: Royal Assent	Sch. 2 [see Table A]

Table of Amendments**Table of Amendments**

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

Provision affected	How affected
Title	am. No. 144, 1992; No. 107, 1995; No. 36, 2000
S. 5	rs. No. 144, 1992
Subhead. to s. 6(1)	ad. No. 7, 2002
Subhead. to s. 6(2)	ad. No. 7, 2002
S. 6	am. No. 144, 1992 rs. No. 107, 1995 am. No. 43, 1997; No. 36, 2000; No. 7, 2002; No. 52, 2005
S. 7	rs. No. 144, 1992 am. No. 107, 1995; No. 43, 1997; No. 36, 2000; No. 52, 2005
S. 8	rep. No. 144, 1992

Table A

Application, saving or transitional provisions

Radiocommunications (Transmitter Licence Tax) Amendment Act 1997
(No. 43, 1997)

Schedule 1

3 Transitional—notifications

- (1) This item applies to a notification that was given to the SMA under paragraph 6(5)(b) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* before the commencement of this item.
- (2) The *Radiocommunications (Transmitter Licence Tax) Act 1983* has effect, after the commencement of this item, as if the notification had been given to the ACA under paragraph 6(5)(b) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* as amended by this Act.

4 Transitional—determinations

- (1) This item applies to a determination that was in force under section 7 of the *Radiocommunications (Transmitter Licence Tax) Act 1983* immediately before the commencement of this item.
 - (2) The *Radiocommunications (Transmitter Licence Tax) Act 1983* has effect, after the commencement of this item, as if the determination had been made by the ACA under section 7 of the *Radiocommunications (Transmitter Licence Tax) Act 1983* as amended by this Act.
 - (3) This item does not prevent the variation or revocation of the determination.
-

Table A

Radiocommunications (Transmitter Licence Tax) Amendment Act 2000
(No. 36, 2000)

Schedule 1

5 Application of amendments

The amendments made by this Schedule apply in relation to the imposition of tax in respect of a transmitter licence, if both:

- (a) the relevant anniversary of the issue of the licence; and
- (b) the corresponding anniversary of the licence coming into force;

occur after the commencement of this item.

Radiocommunications (Transmitter Licence Tax) Amendment Act 2002
(No. 7, 2002)

Schedule 1

2 Transitional—deeming provisions for the transition from tax purportedly imposed on issued licences to tax actually imposed

Definitions

- (1) In this item:

issued licence means a transmitter licence issued for a period of more than 12 months under section 100B, 102 or 102A of the *Radiocommunications Act 1992* before this item commenced.

Licence Tax Act means the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

Elections under subsection 6(9)

- (2) For the purposes of the Licence Tax Act:

- (a) a person who, before this item commenced, purportedly elected that subsection 6(2) of that Act is to apply to an issued licence, is taken instead to have elected at that time that subsection 6(7) is to apply to the licence; and

Table A

- (b) a person who, before this item commenced, purportedly elected that subsection 6(3) of that Act is to apply to an issued licence, is taken instead to have elected at that time that subsection 6(8) is to apply to the licence.

The election is taken to have been made in accordance with subsection 6(9) of the Licence Tax Act.

Note: Tax is therefore imposed by subsection 6(7) or (8) of the Licence Tax Act depending on the deemed election of the person. Tax might also be imposed by subsection 6(11) of that Act if a person is taken to have notified the ACA that the subsection is to apply (see subitem (4) of this item) or by subsection 6(12) of the Licence Tax Act if a person failed to pay the tax within the 60 day period mentioned in that subsection.

Discharge of liability for previous payments

- (3) For the purposes of the Licence Tax Act, a person who, before this item commenced, paid an amount that purported to be a payment of tax imposed by subsection 6(2), (3), (5) or (6) of that Act in respect of an issued licence, is taken instead to have paid the equivalent tax imposed on the licence by subsection 6(7), (8), (11) or (12).

Notifications under subsection 6(11)

- (4) For the purposes of the Licence Tax Act, a person who, before this item commenced, purportedly notified the ACA in accordance with subsection 6(5) of that Act that that subsection is to apply to an issued licence, is taken instead to have notified the ACA at that time that subsection 6(11) is to apply to the licence.

Section 7 determinations

- (5) For the purposes of the Licence Tax Act, a determination under section 7 of that Act that was made before this item commenced is taken always to have had effect as if:
- (a) any reference in the determination to subsection 6(2) of that Act is taken also to include a reference to subsection 6(7);
and
 - (b) any reference in the determination to subsection 6(3) of that Act is taken also to include a reference to subsection 6(8);
and
 - (c) any reference in the determination to subsection 6(5) of that Act is taken also to include a reference to subsection 6(11);
and

Table A

- (d) any reference in the determination to subsection 6(6) of that Act is taken also to include a reference to subsection 6(12).

Radiocommunications (Transmitter Licence Tax) Amendment Act 2005
(No. 52, 2005)

Schedule 2

1 Definitions

In this Schedule:

Imposition Act means the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

transition time means the commencement of this Schedule.

2 Continued effect of election notices

A notice that was given to the ACA before the transition time under paragraph 6(5)(b) or 6(11)(b) of the Imposition Act as then in force has the same effect after the transition time as it would have had if the amendments of that paragraph made by Schedule 1 to this Act had not been made.

3 Continued effect of form approvals

An approval made by the ACA under subsection 6(9) of the Imposition Act that was in force immediately before the transition time has effect on and after the transition time as if it were an approval under that subsection as amended by Schedule 1 to this Act.

4 Continued effect of amount determinations

A determination made by the ACA under subsection 7(1) of the Imposition Act that was in force immediately before the transition time has effect on and after the transition time as if it had been made by the ACMA under that subsection as amended by Schedule 1 to this Act.