



Australian Government

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Jason Lange
Executive Director
Office of Impact Analysis
Department of the Prime Minister and Cabinet
1 National Circuit
BARTON ACT 2600
Email: Helpdesk-OIA@pmc.gov.au

Dear Mr Lange

Sunsetting of the Radiocommunications Taxes Collection Regulations 1985 and the Radiocommunications Regulations 1993

I am writing to certify that Impact Analyses (IAs) are not required for the proposed remaking of the Radiocommunications Taxes Collection Regulations 1985 (the RTC Regulations) and Radiocommunications Regulations 1993 (the Radiocommunications Regulations).

The RTC Regulations and the Radiocommunications Regulations are, in accordance with the *Legislation Act 2003*, scheduled to sunset on 1 April 2023. Through consultation with relevant stakeholders, the department has determined that both the RTC Regulations and the Radiocommunications Regulations are operating effectively and efficiently, with only minor updates required. These updates will not impose any additional regulatory impact beyond what the current provisions impose.

RTC Regulations

The RTC Regulations specify refunds and tax exemptions under the *Radiocommunications Taxes Collection Act 1983* (RTC Act). The RTC Act applies to the transmitter licence tax, receiver licence tax and the spectrum licence tax – each tax has its own enabling legislation.

The RTC Regulations need to be remade to maintain the taxation arrangements that encourage the efficient use of scarce radiofrequency spectrum resources. Proposed minor amendments to the remade RTC Regulations would:

- consolidate the separate regulations dealing with the refund of tax where a licence is surrendered versus where it is cancelled – this distinction is no longer required because the refund formula is the same;
- clarify the scenarios in which a licence could be cancelled and a refund would not be available;
- allow for the refund of tax when it is paid annually – at present, refunds are only available if the tax for the term of the licence (typically several years) is paid at the time the licence is issued;
- replace references to the Spectrum Manager (a position which no longer exists) with the Australian Communications and Media Authority (ACMA); and
- remove several spent regulations.

With the proposed amendments, the department certifies that the RTC Regulations will operate effectively and efficiently. The remade RTC Regulations with the minor amendments would not impose any additional regulatory burden on business, community organisations or individuals when compared to the existing RTC Regulations. Therefore, an IA is not required for the remaking of the RTC Regulations.

As part of its assessment process, the department consulted publicly for four weeks from September to October in 2022. We notified relevant stakeholders of the consultation process and a consultation paper was placed on the department's website. The department received one submission from Telstra. Telstra proposed changes to clarify tax refund eligibility. The department has incorporated Telstra's proposals into the proposed amendments. The department also consulted ACMA, the government body with administrative responsibility for implementing the RTC Regulations, both in the development of the consultation paper and the design of the amended regulations.

Radiocommunications Regulations

The Radiocommunications Regulations:

- prescribe the criteria for an exemption that may be granted to defence personnel, visiting forces and contractors from parts of the *Radiocommunications Act 1992* (Radcomms Act);
- detail the position, title, and organisation of officers who may give directions in emergencies to which subsection 108(3) of the Radcomms Act applies (see regulation 32 and Schedule 2);
- prescribe the Commonwealth, state and territory fire, rescue and ambulance organisations for which, under paragraph 193(1)(a) of the Radcomms Act, their radiocommunications are protected from interference by making it an offence to undertake such interference (see regulation 34 and Parts 1 and 2 of Schedule 3);
- require the treaty between Australia and Timor Leste governing maritime boundaries in the Timor Sea to be observed in making decisions under the Radcomms Act;
- prescribe qualifications of persons able to give evidentiary certificates; and
- allow duplicate instruments to be issued in the event one is destroyed or lost.

The regulations were updated in 2021 when the Radcomms Act was streamlined and modernised. In remaking the Radiocommunications Regulations, the department will update the qualifications of persons able to give evidentiary certificates and bring up-to-date the position titles and organisations in Schedules 2 and 3 of the Regulations.

The instrument to remake the Radiocommunications Regulations with the minor amendments would not impose any additional regulatory burden on business, community organisations or individuals when compared to the existing Radiocommunications Regulations. With the proposed amendments, the department certifies that the Radiocommunications Regulations will operate effectively and efficiently, and that, therefore, an IA is not required for the remaking of the Radiocommunications Regulations.

The department's assessment was informed through consultation with stakeholders that rely on the Radiocommunications Regulations, as follows:

- The department wrote to the Department of Defence seeking its view on whether or not the Radiocommunications Regulations were operating effectively and efficiently. Defence responded in writing stating that 'In the context of the assessment required by OBPR, we consider that as far as the Regulations relate to defence matters, the Regulations continue to operate effectively and efficiently.'
- The department also wrote to ACMA seeking its view on whether or not the Regulations were operating effectively and efficiently. ACMA made some additional suggestions for updates to the provisions in the Radiocommunications Regulations, and otherwise considered that the proposed Radiocommunications Regulations would, if remade, operate effectively and efficiently.
- The department contacted the officers listed in Schedule 2 of the Radiocommunications Regulations, the organisations listed in Schedule 3 of the Radiocommunications Regulations, and several organisations that were established after the Radiocommunications Regulations were made and have a role in either Schedule 2 or 3 of the Radiocommunications Regulations. In the majority of instances,

there was support for the view that the Radiocommunications Regulations were still necessary in order to support the response to natural disasters. Agencies also notified of updates to position titles and organisations named in the regulations, where required.

I acknowledge that OIA will publish this letter for transparency purposes.

If you have any queries about this advice, please contact Ms Shanyn Sparreboom, Assistant Secretary, Competition and Spectrum Branch, on [REDACTED]

Yours sincerely



Lachlann Paterson
A/g Deputy Secretary
Communications and Media Group

24 January 2023