



Australian
Communications
and Media Authority

Remaking the trading rules for Defence spectrum licences Consultation paper

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Contents

Executive summary	1
Issues for comment	2
What the instrument does	3
Proposed changes to the instrument	4
Invitation to comment	5
Making a submission	5
Publication of submissions	5
Privacy	5

Executive summary

Under Part 6 of the *Legislation Act 2003* (LA), most legislative instruments are automatically repealed. They ‘sunset’ on 1 April or 1 October that first occurs 10 years after the instrument was registered on the Federal Register of Legislation.¹

The [Radiocommunications \(Trading Rules for Defence Spectrum Licences\) Determination 2015](#) (Trading Rules for Defence Determination) will sunset on 1 October 2025, unless revoked and remade before that date.

We have the preliminary view that the Trading Rules for Defence Determination should be remade. We believe it plays a necessary role in the radiocommunications regulatory framework.

¹ Under subsection 54(2) of the LA, certain classes of legislative instruments are exempted from sunset provisions. This determination is not exempt.

Issues for comment

We welcome feedback on:

- The issues raised in this consultation paper.
- Whether the Trading Rules for Defence Determination is operating effectively.
- Any other issues relevant to our proposal to remake the instrument.

What the instrument does

The Trading Rules for Defence Determination is made under section 86 and subsection 88(1) of the *Radiocommunications Act 1992* (the Act).

The Department of Defence currently holds spectrum licences in the 20 GHz band (20.2–21.2 GHz) and 30 GHz band (30–31 GHz). These spectrum licences can be traded subject to any rules made under subsection 88(1) of the Act. This is consistent with other spectrum licences we have issued.²

The Trading Rules for Defence Determination specifies the rules that apply if the Department of Defence traded its 20 GHz band and 30 GHz band spectrum licences. This includes setting the standard trading unit (STU), which is the smallest bandwidth and geographic area of a spectrum licence that can be traded. In this case, the STU has a bandwidth of 1 GHz and the geographic area is the whole of Australia. This means that 20 GHz and 30 GHz spectrum licences can only be traded as a whole.

The technical framework established for the operation of radiocommunications devices under these licences, while suitable to ‘whole of band, whole of Australia’ usage by the Department of Defence, may become unsuitable if partial trading were permitted. As such, by specifying an STU for Defence spectrum licences in the 20 GHz and 30 GHz bands, the Trading Rules for Defence Determination ensures that spectrum in those bands maintains compatibility with the technical frameworks for the spectrum licences.

Although the Trading Rules for Defence Determination prohibits the Department of Defence from trading in units less than the relevant STU, it also provides that the Department of Defence may apply to the ACMA for the STU to be varied. If we consider that a trade should be permitted, we may also amend the technical framework (which may include adding or removing licence conditions) to manage coexistence between different licensees that would hold spectrum licences.

² Trading of spectrum licences is referred to as ‘assignment’ in the Trading Rules for Defence Determination and the Act, where a spectrum licensee may assign (i.e., trade) their licence to another entity.

Proposed changes to the instrument

We propose to remake the Trading Rules for Defence Determination in its current form, with only minor changes.

We want to:

- Retitle the instrument as the Radiocommunications (Trading Rules for Defence Spectrum Licences) Determination 2025.
- Replace references to legislation or legislative provisions that are outdated.
- Update definitions
- Allow the ACMA to give permission to trade part of a spectrum licence less than an STU (rather than amend the instrument).
- Remove provisions dealing with spectrum trades to provide security of a loan. These are not considered relevant for licences held by the Commonwealth.

You can find the draft Radiocommunications (Trading Rules for Defence Spectrum Licences) Determination 2025 in the key documents box on the consultation page.

Invitation to comment

Making a submission

We invite comments on the issues set out in this consultation paper.

- [Online submissions](#) can be made by uploading a document. Submissions in PDF, Microsoft Word or Rich Text Format are preferred.
- Submissions by post can be sent to:
The Manager
Spectrum Planning Section
Australian Communications and Media Authority
PO Box 78
Belconnen ACT 2616

The closing date for submissions is **COB, Friday 11 April 2025**.

Consultation enquiries can be emailed to freqplan@acma.gov.au.

Publication of submissions

We publish submissions on our website, including personal information (such as names and contact details), except for information that you have claimed (and we have accepted) is confidential.

Confidential information will not be published or otherwise released unless required or authorised by law.

Privacy

View information about our policy on the publication of submissions, including collection of personal information during consultation and how we handle that information.

Information on the *Privacy Act 1988*, how to access or correct personal information, how to make a privacy complaint and how we will deal with any complaints, is available in our [privacy policy](#).