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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

RADIOCOMMUNICATIONS (TRANSMITTER LICENCE TAX) AMENDMENT
BILL 1992

RADIOCOMMUNICATIONS (RECEIVER LICENCE TAX) AMENDMENT BILL
1992

RADIOCOMMUNICATIONS (TEST PERMIT TAX) AMENDMENT BILL 1992

RADIOCOMMUNICATIONS TAXES COLLECTION AMENDMENT BILL 1992

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and
Communications, Senator the Hon. Bob Collins)



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OUTLINE

These four Bills amend four Acts which relate to the imposition and collection of taxes in relation to licences and permits granted under the *Radiocommunications Act 1983*.

The four Acts amended are:

- . *Radiocommunications (Transmitter Licence Tax) Act 1983*
- . *Radiocommunications (Receiver Licence Tax) Act 1983*
- . *Radiocommunications (Test Permit Tax) Act 1983*
- . *Radiocommunications Taxes Collection Act 1983*

The amendments are consequential upon the enactment of the new *Radiocommunications Act 1992*, which is being introduced as a Bill in the Senate this week. This package of tax Bills has been introduced in the House of Representatives separately to the main Bill to comply with section 55 of the Constitution.

The amendments in these Bills will ensure that the taxes which were imposed in relation to the grant of certain kinds of licences and permits under the *Radiocommunications Act 1983* will be imposed in relation to corresponding licences and permits granted under the new *Radiocommunications Act*.

Currently, there are close to 90 different kinds of transmitter licences which can be granted, for which tax is payable in relation to the grant of the licence. There are also a number of different kinds of receiver licences for which tax is payable. The amount of tax imposed in relation to each kind of licence or permit is specified in regulations under each tax Act.

The amendments will provide for the amount of the tax to be determined by the Spectrum Management Agency (SMA) and will make any such determination a disallowable instrument. The reason for the change to the use of a disallowable instrument, rather than regulations, is because of a need for more flexibility in setting the level of the fees and to ensure that the SMA itself can set the level of fees

which equitable recoup the costs of spectrum management across all licences which are issued under the new Act.

At present, the regulations require regular amendment to take into account new categories of licence which are developed to meet changing needs of spectrum users, the development of new technology and changes to the value of spectrum used by particular kinds of licences. The use of disallowable instruments in the setting of the levels of licence and permit taxes will ensure that there is flexibility to change fee levels in response to changes in demand for particular parts of the spectrum and to introduce new fees for new kinds of licences, but will ensure that accountability to the Parliament remains, as the determinations by the SMA will be subject to Parliamentary disallowance.

Under the new Radiocommunications Act, apparatus licences will be able to be granted for a period of up to 5 years. Amendments are made to the *Radiocommunications Taxes Collection Act 1983* to ensure that where a licence or permit is issued for a period longer than 12 months, fees will be payable on an annual instalment basis rather than on the grant of the instrument alone.

FINANCIAL IMPACT STATEMENT

The amendments in these Bills are expected to have no significant impact on Commonwealth revenue in the short term. The levels of fees set under the regulations under each Act at the time the new Radiocommunications Act commences will continue in force as if they were determined by the SMA.

ABBREVIATIONS

In this Explanatory Memorandum, the following abbreviations are used:

1992 Act	<i>Radiocommunications Act 1992</i>
1983 Act	<i>Radiocommunications Act 1983</i>
SMA	Spectrum Management Agency

**RADIOCOMMUNICATIONS (TRANSMITTER LICENCE TAX) AMENDMENT
BILL 1992**

NOTES ON CLAUSES

Clause 1 - Short title

This clause provides for the citation of the *Radiocommunications (Transmitter Licence Tax) Amendment Act 1992*.

Clause 2 - Principal Act

This clause provides that in this amending Act, 'Principal Act' means the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

Clause 3 - Commencement

This clause provides that the amending Act commences on 1 July 1993, the day on which the 1992 Act commences.

Clause 4 - Long title

This clause amends the long title of the Principal Act to reflect changes in the 1992 Act, which will provide for the issue, rather than the grant, of transmitter licences.

Clause 5 - Repeal of section 5

Section 5 of the Principal Act provides that certain provisions of the 1983 Act, which provided for the additional operation of that Act, apply in like manner to the Principal Act.

This clause repeals section 5 and substitutes a new section which applies Part 1.4 of the 1992 Act, which sets out the application of that Act, to the Principal Act in the same way.

Clause 6 - Imposition of tax

Section 6 of the Principal Act imposes tax on the grant of a transmitter licence.

This clause makes a consequential amendment to section 6 to provide that tax is imposed on the issue of a transmitter licence.

Clause 7 - Repeal of sections 7 and 8

Clause 7(1) provides for the repeal of sections 7 and 8 of the Principal Act and the substitution of a new section 7.

Sections 7 and 8 provided for the amount of tax to be ascertained in accordance with the regulations, and for a transitional provision which is now spent.

The new section 7 will enable the SMA to determine the amount of tax in respect of the issue of a transmitter licence and will make any such determination a disallowable instrument.

Clause 7(2) is a transitional provision which ensures that until the SMA makes a determination under section 7 of the Principal Act as amended, the regulations made under section 9 of the Principal Act which were in force immediately before the commencement of the new Act continue in force as if they were determinations made by the SMA.

**RADIOCOMMUNICATIONS (RECEIVER LICENCE TAX) AMENDMENT BILL
1992**

NOTES ON CLAUSES

Clause 1 - Short title

This clause provides for the citation of the *Radiocommunications (Receiver Licence Tax) Amendment Act 1992*.

Clause 2 - Principal Act

This clause provides that in this amending Act, 'Principal Act' means the *Radiocommunications (Receiver Licence Tax) Act 1983*.

Clause 3 - Commencement

This clause provides that the amending Act commences on 1 July 1993, the day on which the 1992 Act commences.

Clause 4 - Long title

This clause amends the long title of the Principal Act to reflect changes in the 1992 Act, which will provide for the issue, rather than the grant, of receiver licences.

Clause 5 - Repeal of section 5

Section 5 of the Principal Act provides that certain provisions of the 1983 Act, which provided for the application of that Act, apply in like manner to the Principal Act.

This clause repeals section 5 and substitutes a new section which applies Part 1.4 of the 1992 Act, which sets out the application of that Act, to the Principal Act in the same way.

Clause 6 - Imposition of tax

Section 6 of the Principal Act imposes tax on the grant of a receiver licence.

This clause makes a consequential amendment to section 6 to provide that tax is imposed on the issue of a receiver licence.

Clause 7 - Repeal of sections 7 and 8

Clause 7(1) provides for the repeal of sections 7 and 8 of the Principal Act and the substitution of a new section 7.

Sections 7 and 8 provided for the amount of tax to be ascertained in accordance with the regulations, and for a transitional provision which is now spent.

The new section 7 will enable the SMA to determine the amount of tax in respect of the issue of a receiver licence and will make any such determination a disallowable instrument.

Clause 7(2) is a transitional provision which ensures that until the SMA makes a determination under section 7 of the Principal Act as amended, the regulations made under section 9 of the Principal Act which were in force immediately before the commencement of the new Act continue in force as if they were determinations made by the SMA.

RADIOCOMMUNICATIONS (TEST PERMIT TAX) AMENDMENT BILL 1992**NOTES ON CLAUSES****Clause 1 - Short title**

This clause provides for the citation of the *Radiocommunications (Test Permit Tax) Amendment Act 1992*.

Clause 2 - Principal Act

This clause provides that in this amending Act, 'Principal Act' means the *Radiocommunications (Test Permit Tax) Act 1983*.

Clause 3 - Commencement

This clause provides that the amending Act commences on 1 July 1993, the day on which the 1992 Act commences.

Clause 4 - Long title

This clause repeals the long title of the Principal Act and substitutes a new long title which reflects changes in the 1992 Act, which will provide for the issue of permits, rather than the grant of test permits.

Clause 5 - Short title

This clause amends the short title of the Principal Act to reflect different terminology in the 1992 Act.

Clause 6 - Interpretation

Section 4 of the Principal Act contains definitions of terms used in the Principal Act.

This clause omits the definition of 'test permit' in section 4 as the definition is no longer necessary.

Clause 7 - Repeal of section 5

Section 5 of the Principal Act provides that certain provisions of the 1983 Act, which provided for the application of that Act, apply in like manner to the Principal Act.

This clause repeals section 5 and substitutes a new section which applies Part 1.4 of the 1992 Act, which sets out the application of that Act, to the Principal Act in the same way.

Clause 8 - Repeal of section 6

Section 6 of the Principal Act imposes tax on the grant of a test permit.

This clause repeals section 6 and substitutes a new section to provide that tax is imposed on the issue of a permit.

Clause 9 - Repeal of sections 7 and 8

Clause 9(1) provides for the repeal of sections 7 and 8 of the Principal Act and the substitution of a new section 7.

Sections 7 and 8 provided for the amount of tax to be ascertained in accordance with the regulations, and for a transitional provision which is now spent.

The new section 7 will enable the SMA to determine the amount of tax in respect of the issue of a permit and will make any such determination a disallowable instrument.

Clause 9(2) is a transitional provision which ensures that until the SMA makes a determination under section 7 of the Principal Act as amended, the regulations made under section 9 of the Principal Act which were in force immediately before the commencement of the new Act continue in force as if they were determinations made by the SMA.

RADIOCOMMUNICATIONS TAXES COLLECTION AMENDMENT BILL 1992

NOTES ON CLAUSES

Clause 1 - Short title

This clause provides for the citation of the *Radiocommunications Taxes Collection Amendment Act 1992*.

Clause 2 - Principal Act

This clause provides that in this amending Act, 'Principal Act' means the *Radiocommunications Taxes Collection Act 1983*.

Clause 3 - Commencement

This clause provides that the amending Act commences on 1 July 1993, the day on which the 1992 Act commences.

Clause 4 - Long title

This clause repeals the long title of the Principal Act and substitutes a new long title which reflects the changes in the taxes imposed in relation to the 1992 Act.

Clause 5 - Incorporation of the Radiocommunications Act

Section 3 of the Principal Act provides that the 1983 Act is incorporated and shall be read as one with the Principal Act.

This clause makes a consequential amendment to section 3 to update the reference to the 1983 Act.

Clause 6 - Repeal of section 4

Section 4 of the Principal Act contains definitions of terms used in the Principal Act.

This clause omits section 4 and substitutes a new section which contains new definitions which reflect the changes made to the taxes that were imposed in relation to the 1983 Act.

Clause 7 - Repeal of section 5

Section 5 of the Principal Act provides that certain provisions of the 1983 Act, which provided for the application of that Act, apply in like manner to the Principal Act.

This clause repeals section 5 and substitutes a new section which applies Part 1.4 of the 1992 Act, which sets out the application of that Act, to the Principal Act in the same way.

Clause 8 - By whom tax payable

Section 6 of the Principal Act provides that tax on the grant of an instrument is payable by the holder of the instrument.

This clause makes a minor consequential amendment to section 6 to refer to the issue, rather than the grant, of an instrument.

Clause 9 - Repeal of section 7

This clause provides for the repeal of section 7 of the Principal Act and the substitution of a new section 7.

Section 7 made the tax imposed on the grant of an instrument under the 1983 Act payable on the grant of the instrument.

The new section 7 will make the tax imposed on the issue of an instrument payable:

- . if it is issued for 12 months or less, on the issue of the licence;
- . if it is issued for more than 12 months, by equal instalments due on the day of issue and each anniversary of that day during the period of the instrument.

The reason for this change is that the 1992 Act will enable apparatus licences to be issued for a period up to 5 years. In such a case, it would be fairer to enable the tax on the issue to be paid on an annual instalment basis rather than on issue alone.

Clause 10 - Repeal of section 10

This clause repeals section 10 of the Principal Act, which is a transitional provision which is now spent, and substitutes new sections 10 and 10A.

New section 10 ensures that tax which is due may be recovered as a debt due to the Commonwealth.

New section 10A will enable the SMA to enter into arrangements with persons or other bodies to receive tax payments on behalf of the Commonwealth.

