

EXPOSURE DRAFT

2016–2017

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT (28/11/2016)

Telecommunications (Regional Broadband Scheme) Charge Bill 2017

No. , 2017

(Communications and the Arts)

**A Bill for an Act to impose a charge to support the
funding of fixed wireless broadband and satellite
broadband, and for related purposes**

28/11/2016 3:24 PM

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A Bill for an Act to impose a charge to support the funding of fixed wireless broadband and satellite broadband, and for related purposes

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The Parliament of Australia enacts:

6

^1 Short title

7

This Act is the *Telecommunications (Regional Broadband Scheme) Charge Act 2017*.

8

9

^2 Commencement

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- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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12

13

14

Commencement information

Column 1

Column 2

Column 3

Provisions

Commencement

Date/Details

1. Sections ^1 and ^2 and anything in this Act not elsewhere covered by this table

The day this Act receives the Royal Assent.

2. Sections ^3 to ^19

At the same time as Schedule 4 to the *Telecommunications Legislation Amendment (Competition and Consumer) Act 2017* commences.

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

Telecommunications (Regional Broadband Scheme) Charge Bill

1

2017

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Section ^3

- 1 (2) Any information in column 3 of the table is not part of this Act.
2 Information may be inserted in this column, or information in it
3 may be edited, in any published version of this Act.

4 ^3 Definitions

5 In this Act:

6 *ACCC* means the Australian Competition and Consumer
7 Commission.

8 *administrative cost component*, for a month, has the meaning
9 given by section ^16.

10 *amount* includes a nil amount.

11 *annual administrative cost amount*, for an eligible financial year,
12 has the meaning given by section ^14.

13 *annual base amount*, for an eligible financial year, has the
14 meaning given by section ^10.

15 *annual chargeable services amount*, for an eligible financial year,
16 has the meaning given by section ^9.

17 *base component*, for a month, has the meaning given by section
18 ^12.

19 *carriage service provider* has the same meaning as in the
20 *Telecommunications Act 1997*.

21 *chargeable service associated with a local access line* of a person
22 for a month has the same meaning as in Part 3 of the
23 *Telecommunications (Consumer Protection and Service Standards)*
24 *Act 1999*.

25 *connection*, in relation to a telecommunications network, has the
26 same meaning as in the *Telecommunications Act 1997*.

27 Note: See the definition of *connected* in section 7 of the
28 *Telecommunications Act 1997*, and section 18A of the *Acts*
29 *Interpretation Act 1901*.

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1 **designated administrative costs** has the same meaning as in Part 3
2 of the *Telecommunications (Consumer Protection and Service*
3 *Standards) Act 1999*.

4 **eligible financial year** has the same meaning as in Part 3 of the
5 *Telecommunications (Consumer Protection and Service Standards)*
6 *Act 1999*.

7 **eligible funding recipient** has the same meaning as in Part 3 of the
8 *Telecommunications (Consumer Protection and Service Standards)*
9 *Act 1999*.

10 **eligible service** has the same meaning as in section 152AL of the
11 *Competition and Consumer Act 2010*.

12 **facility** has the same meaning as in the *Telecommunications Act*
13 *1997*.

14 **fixed wireless broadband service** has the same meaning as in the
15 *Telecommunications Act 1997*.

16 **indexation factor**, for a financial year, has the meaning given by
17 section ^18.

18 **index number**, in relation to a quarter, means the All Groups
19 Consumer Price Index number, being the weighted average of the 8
20 capital cities, published by the Australian Statistician in respect of
21 that quarter.

22 **month** means calendar month.

23 **monthly administrative cost amount**, for a month, has the meaning
24 given by section ^15.

25 **monthly base amount**, for a month, has the meaning given by
26 section ^11.

27 **person** has the same meaning as in the *Telecommunications Act*
28 *1997*.

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Section ^4

1 *satellite broadband service* has the same meaning as in Part 3 of
2 the *Telecommunications (Consumer Protection and Service*
3 *Standards) Act 1999*.

4 *telecommunications network* has the same meaning as in the
5 *Telecommunications Act 1997*.

6 **^4 Extension to external Territories**

7 This Act extends to each external Territory referred to in section 10
8 of the *Telecommunications Act 1997*.

9 Note: See also section 7 of the *Telecommunications (Consumer Protection*
10 *and Service Standards) Act 1999*.

11 **^5 Act to bind Crown**

12 This Act binds the Crown in right of each of the States, of the
13 Australian Capital Territory and of the Northern Territory.
14 However, it does not bind the Crown in right of the
15 Commonwealth.

16 **^6 Imposition of charge**

17 If a person has an annual chargeable services amount for an
18 eligible financial year, charge is imposed on that amount.

19 **^7 Amount of charge**

20 The amount of a charge that this Act imposes on an annual
21 chargeable services amount for an eligible financial year is equal to
22 that annual chargeable services amount.

23 **^8 Person liable to pay charge**

24 Charge imposed by this Act on a person's annual chargeable
25 services amount for an eligible financial year is payable by the
26 person.

1 **^9 Annual chargeable services amount**

- 2 (1) For the purposes of this Act, a person's *annual chargeable*
3 *services amount* for an eligible financial year is the sum of:
4 (a) the person's annual base amount for the eligible financial
5 year; and
6 (b) the person's annual administrative cost amount for the
7 eligible financial year.
- 8 (2) If a person's annual chargeable services amount for an eligible
9 financial year:
10 (a) is not an amount of whole dollars; and
11 (b) is above zero;
12 the amount is to be rounded to the nearest dollar (rounding 50 cents
13 upwards).
- 14 (3) For the purposes of subsection (2), *dollar* includes \$0.

15 **^10 Annual base amount**

- 16 (1) For the purposes of this Act, a person's *annual base amount* for an
17 eligible financial year is the sum of the person's monthly base
18 amounts for each of the months in the eligible financial year.
- 19 (2) If there are no chargeable services associated with a local access
20 line of the person for a particular month, disregard that month for
21 the purposes of subsection (1).

22 **^11 Monthly base amount**

23 For the purposes of this Act, a person's *monthly base amount* for a
24 month is the amount calculated using the formula:

25 Base component \times $\frac{\text{Number of chargeable services}}{\text{associated with a local access line}}$

26 where:

27 *base component* means the base component for that month.

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Section ^12

1 ***number of chargeable services associated with a local access line***
2 means the total number of chargeable services associated with a
3 local access line of the person for that month.

4 **^12 Base component**

5 *First eligible financial year*

- 6 (1) For the purposes of this Act, the ***base component*** for a month in
7 the first eligible financial year is:
8 (a) \$7.09; or
9 (b) if another amount is determined under subsection (4) in
10 relation to that month—that other amount.

11 *Second and subsequent eligible financial years*

- 12 (2) For the purposes of this Act, the ***base component*** for a month in:
13 (a) the second eligible financial year; or
14 (b) a later financial year;
15 is:
16 (c) the amount calculated using the formula in subsection (3); or
17 (d) if another amount is determined under subsection (4) in
18 relation to that month—that other amount.
- 19 (3) The formula mentioned in paragraph (2)(c) is:

20 Previous base component × Indexation factor
21 where:

22 ***indexation factor*** means the indexation factor for the financial
23 year.

24 ***previous base component*** means the base component for a month
25 in the previous financial year.

26 *Determinations*

- 27 (4) The Minister may, by legislative instrument:

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- 1 (a) for the purposes of paragraph (1)(b), determine a single
2 specified amount in relation to each of the months in the first
3 eligible financial year; or
4 (b) for the purposes of paragraph (2)(d), determine a single
5 specified amount in relation to each of the months in a
6 specified financial year.

7 Note: See also section ^19.

- 8 (5) In deciding whether to make a determination under subsection (4),
9 the Minister must have regard to the following:
10 (a) the most recent advice that the ACCC has given to the
11 Minister under section ^13;
12 (b) such other matters (if any) as the Minister considers relevant.

13 **^13 Advice by the ACCC about base component**

- 14 (1) The ACCC:
15 (a) may give advice to the Minister in relation to the exercise of
16 the Minister's power under subsection ^12(4); and
17 (b) must do so:
18 (i) at least once during the 5-year period beginning at the
19 start of the first eligible financial year; and
20 (ii) at least once during each subsequent 5-year period.
- 21 (2) In giving advice under subsection (1), the ACCC:
22 (a) must have regard to the principle set out in subsection (3);
23 and
24 (b) may have regard to such other matters (if any) as the ACCC
25 considers relevant.
- 26 (3) The principle mentioned in paragraph (2)(a) is that amounts
27 received by the Commonwealth by way of so much of charge
28 imposed under this Act as is attributable to the annual base amount
29 should be sufficient, over time, to offset reasonable losses incurred
30 by eligible funding recipients in relation to:
31 (a) the connection of premises to a telecommunications network
32 in order that a carriage service provider can provide:

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Section ^14

- 1 (i) fixed wireless broadband services to an end-user at the
2 premises; or
3 (ii) satellite broadband services to an end-user at the
4 premises; or
5 (b) the supply of eligible services to a carriage service provider
6 in order that the carriage service provider can provide:
7 (i) fixed wireless broadband services to an end-user at
8 premises; or
9 (ii) satellite broadband services to an end-user at premises;
10 or
11 (c) facilities that are used, or proposed to be used, to supply:
12 (i) fixed wireless broadband services; or
13 (ii) satellite broadband services; or
14 (d) a matter that is incidental or ancillary to a matter mentioned
15 in paragraph (a), (b) or (c).
- 16 (4) For the purposes of subsection (3), it is immaterial whether losses
17 were incurred before or after the commencement of this section.
- 18 (5) In giving advice under subsection (1), the ACCC must assume that
19 Division 6 of Part 3 of the *Telecommunications (Consumer*
20 *Protection and Service Standards) Act 1999* had not been enacted.
21 Note: That Division deals with charge offset certificates.
- 22 (6) To avoid doubt, the use of the word “Regional” in:
23 (a) the short title of this Act; or
24 (b) the name of the Regional Broadband Scheme Special
25 Account;
26 does not limit subsection (3) of this section.

27 **^14 Annual administrative cost amount**

- 28 (1) For the purposes of this Act, a person’s ***annual administrative cost***
29 ***amount*** for an eligible financial year is the sum of the person’s
30 monthly administrative cost amounts for each of the months in the
31 eligible financial year.

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- 1 (2) If there are no chargeable services associated with a local access
2 line of the person for a particular month, disregard that month for
3 the purposes of subsection (1).

4 **^15 Monthly administrative cost amount**

5 For the purposes of this Act, a person's *monthly administrative*
6 *cost amount* for a month is the amount calculated using the
7 formula:

8 Administrative cost component \times $\frac{\text{Number of chargeable services}}{\text{associated with a local access line}}$

9 where:

10 *administrative cost component* means the administrative cost
11 component for that month.

12 *number of chargeable services associated with a local access line*
13 means the total number of chargeable services associated with a
14 local access line of the person for that month.

15 **^16 Administrative cost component**

- 16 (1) For the purposes of this Act, the *administrative cost component*
17 for a month in the first eligible financial year is \$0.01266.
- 18 (2) For the purposes of this Act, the *administrative cost component*
19 for a month in the second eligible financial year is \$0.00172.
- 20 (3) For the purposes of this Act, the *administrative cost component*
21 for a month in the third eligible financial year is \$0.00.
- 22 (4) For the purposes of this Act, the *administrative cost component*
23 for a month in the fourth eligible financial year is \$0.0027.
- 24 (5) For the purposes of this Act, the *administrative cost component*
25 for a month in the fifth eligible financial year is \$0.00.
- 26 (6) For the purposes of this Act, the *administrative cost component*
27 for a month in:
28 (a) the sixth eligible financial year; or

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Section ^17

- 1 (b) a later financial year;
2 is:
3 (c) the amount calculated, to 5 decimal places (rounding up if the
4 sixth decimal place is 5 or more), using the formula in
5 subsection (7); or
6 (d) if another amount is determined under subsection (8) in
7 relation to that month—that other amount.
- 8 (7) The formula mentioned in paragraph (6)(c) is:
9 Previous administrative cost component \times Indexation factor
10 where:
11 *indexation factor* means the indexation factor for the financial
12 year.
13 *previous administrative cost component* means the administrative
14 cost component for a month in the previous financial year.
- 15 *Determinations*
- 16 (8) For the purposes of paragraph (6)(d), the Minister may, by
17 legislative instrument, determine a single specified amount in
18 relation to each of the months in a specified financial year.
19 Note: See also section ^19.
- 20 (9) In deciding whether to make a determination under subsection (8),
21 the Minister must have regard to the following:
22 (a) the most recent advice that the ACCC has given to the
23 Minister under section ^17;
24 (b) such other matters (if any) as the Minister considers relevant.

^17 Advice by the ACCC about administrative cost component

- 26 (1) The ACCC:
27 (a) may give advice to the Minister in relation to the exercise of
28 the Minister's power under subsection ^16(8); and
29 (b) must do so:

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- 1 (i) at least once during the 5-year period beginning at the
2 start of the first eligible financial year; and
3 (ii) at least once during each subsequent 5-year period.
- 4 (2) In giving advice under subsection (1), the ACCC:
5 (a) must have regard to the principle that amounts received by
6 the Commonwealth by way of so much of charge imposed
7 under this Act as is attributable to the annual administrative
8 cost amount should be sufficient, over time, to offset
9 designated administrative costs incurred after the start of the
10 first eligible financial year; and
11 (b) may have regard to such other matters (if any) as the ACCC
12 considers relevant.
- 13 (3) In giving advice under subsection (1), the ACCC must assume that
14 Division 6 of Part 3 of the *Telecommunications (Consumer*
15 *Protection and Service Standards) Act 1999* had not been enacted.
16 Note: That Division deals with charge offset certificates.

17 ^18 Indexation factor

- 18 (1) For the purposes of this Act, the *indexation factor* for a financial
19 year is the number calculated, to 3 decimal places (rounding up if
20 the fourth decimal place is 5 or more), using the formula:
- $$21 \frac{\text{Index number for the reference March quarter}}{\text{Index number for the base March quarter}}$$
- 22 where:
- 23 *base March quarter* means the last March quarter before the
24 reference March quarter.
- 25 *reference March quarter* means the last March quarter before the
26 financial year.
- 27 (2) Subject to subsection (3), if (whether before or after the
28 commencement of this section) the Australian Statistician has
29 published or publishes an index number in respect of a quarter in
30 substitution for an index number previously published in respect of

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Section ^19

1 that quarter, the publication of the later index number must be
2 disregarded for the purposes of this section.

3 (3) If (whether before or after the commencement of this section) the
4 Australian Statistician has changed or changes the index reference
5 period for the Consumer Price Index, then, for the purposes of the
6 application of this section after the change took place or takes
7 place, regard must only be had to the index number published in
8 terms of the new index reference period.

9 **^19 Disallowance of determinations**

10 *Scope*

11 (1) This section applies to a determination made under subsection
12 ^12(4) or ^16(8).

13 *Disallowance*

14 (2) Either House of the Parliament may, following a motion upon
15 notice, pass a resolution disallowing the determination. For the
16 resolution to be effective:

- 17 (a) the notice must be given in that House within 15 sitting days
18 of that House after the copy of the determination was tabled
19 in the House under section 38 of the *Legislation Act 2003*;
20 and
21 (b) the resolution must be passed, in pursuance of the motion,
22 within 15 sitting days of that House after the giving of that
23 notice.

24 (3) If neither House passes such a resolution, the determination takes
25 effect on the day immediately after the last day upon which such a
26 resolution could have been passed if it were assumed that notice of
27 a motion to disallow the determination was given in each House on
28 the last day of the 15 sitting day period of that House mentioned in
29 paragraph (2)(a).

30 (4) Section 42 (disallowance) of the *Legislation Act 2003* does not
31 apply to the determination.

