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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Telecommunications (Regional
Broadband Scheme) Charge Bill 2019**

No. , 2019

(Communications, Cyber Safety 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**

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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

The Parliament of Australia enacts:

1 Short title

This Act is the *Telecommunications (Regional Broadband Scheme) Charge Act 2019*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with

Section 3

column 2 of the table. Any other statement in column 2 has effect according to its terms.

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 20	At the same time as Schedule 4 to the <i>Telecommunications Legislation Amendment (Competition and Consumer) Act 2019</i> commences.	

Note: This table relates only to the provisions of this Act as originally enacted.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.

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

3 Definitions

In this Act:

ACCC means the Australian Competition and Consumer Commission.

administrative cost component, for a month, has the meaning given by section 16.

amount includes a nil amount.

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

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

annual chargeable premises amount, for an eligible financial year, has the meaning given by section 9.

base component, for a month, has the meaning given by section 12.

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

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

combined component cap, for a month, has the meaning given by section 17A.

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

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

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

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

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

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

facilities has the same meaning as in the *Telecommunications Act 1997*.

Note: See the definition of **facility** in section 7 of the *Telecommunications Act 1997* (when read together with section 18A of the *Acts Interpretation Act 1901*).

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

indexation factor, for a financial year, has the meaning given by section 18.

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

month means calendar month.

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

monthly base amount, for a month, has the meaning given by section 11.

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

potentially concessional premises has the same meaning as in Part 3 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

recently connected greenfield premises, in relation to a person for a month, has the same meaning as in Part 3 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

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

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

4 Extension to external Territories

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

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

5 Act to bind Crown

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

6 Imposition of charge

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

7 Amount of charge

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

8 Person liable to pay charge

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

9 Annual chargeable premises amount

- (1) For the purposes of this Act, a person's ***annual chargeable premises amount*** for an eligible financial year is the sum of:
 - (a) the person's annual base amount for the eligible financial year; and
 - (b) the person's annual administrative cost amount for the eligible financial year.
- (2) If a person's annual chargeable premises amount for an eligible financial year:
 - (a) is not an amount of whole dollars; and
 - (b) is above zero;

the amount is to be rounded to the nearest dollar (rounding 50 cents upwards).

- (3) For the purposes of subsection (2), *dollar* includes \$0.

10 Annual base amount

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

11 Monthly base amount

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

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

where:

base component means the base component for that month.

number of chargeable premises associated with a local access line means the total number of chargeable premises associated with a local access line of the person for that month.

Note: If that month is in the first, second, third, fourth or fifth eligible financial year, the total number may be reduced under section 20.

12 Base component

First eligible financial year

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

Second and subsequent eligible financial years

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

Previous base component × Indexation factor

where:

indexation factor means the indexation factor for the financial year.

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

Determinations

- (4) The Minister may, by legislative instrument:
- (a) for the purposes of paragraph (1)(b), determine a single specified amount in relation to each of the months in the first eligible financial year; or
 - (b) for the purposes of paragraph (2)(d), determine a single specified amount in relation to each of the months in a specified financial year.

Note: See also section 19.

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

- (6) The Minister must not make a determination under subsection (4) unless the ACCC has given advice to the Minister under section 13.
- (7) A determination under subsection (4) must not be inconsistent with section 17A (which deals with the combined component cap).

13 Advice by the ACCC about base component

- (1) The ACCC:
 - (a) may give advice to the Minister in relation to the exercise of the Minister's power under subsection 12(4); and
 - (b) must do so:
 - (i) at least once during the 5-year period beginning at the commencement of this section; and
 - (ii) at least once during each subsequent 5-year period.
- (2) In giving advice under subsection (1), the ACCC:
 - (a) must have regard to the principle set out in subsection (3); and
 - (b) may have regard to such other matters (if any) as the ACCC considers relevant.
- (3) The principle mentioned in paragraph (2)(a) is that amounts received by the Commonwealth by way of so much of charge imposed under this Act as is attributable to the annual base amount should be sufficient, over time, to offset reasonable losses incurred by eligible funding recipients in relation to:
 - (a) the connection of premises to a telecommunications network in order that a carriage service provider can provide:
 - (i) fixed wireless broadband services to an end-user at the premises; or
 - (ii) satellite broadband services to an end-user at the premises; or
 - (b) the supply of eligible services to a carriage service provider in order that the carriage service provider can provide:
 - (i) fixed wireless broadband services to an end-user at premises; or

- (ii) satellite broadband services to an end-user at premises;
or
 - (c) facilities that are used, or proposed to be used, to supply:
 - (i) fixed wireless broadband services; or
 - (ii) satellite broadband services; or
 - (d) a matter that is incidental or ancillary to a matter mentioned in paragraph (a), (b) or (c).
- (4) For the purposes of subsection (3), it is immaterial whether losses were incurred before or after the commencement of this section.
- (5) In giving advice under subsection (1), the ACCC must assume that Division 6 of Part 3 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* had not been enacted.
Note: That Division deals with charge offset certificates.
- (6) To avoid doubt, the use of the word “Regional” in:
 - (a) the short title of this Act; or
 - (b) the name of the Regional Broadband Scheme Special Account; or
 - (c) section 92A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*;does not limit subsection (3) of this section.

14 Annual administrative cost amount

- (1) For the purposes of this Act, a person’s ***annual administrative cost amount*** for an eligible financial year is the sum of the person’s monthly administrative cost amounts for each of the months in the eligible financial year.
- (2) If there are no chargeable premises associated with a local access line of the person for a particular month, disregard that month for the purposes of subsection (1).

15 Monthly administrative cost amount

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

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

where:

administrative cost component means the administrative cost component for that month.

number of chargeable premises associated with a local access line means the total number of chargeable premises associated with a local access line of the person for that month.

Note: If that month is in the first, second, third, fourth or fifth eligible financial year, the total number may be reduced under section 20.

16 Administrative cost component

- (1) For the purposes of this Act, the *administrative cost component* for a month in the first eligible financial year is:
 - (a) \$0.01; or
 - (b) if another amount is determined under subsection (8) in relation to that month—that other amount.
- (2) For the purposes of this Act, the *administrative cost component* for a month in the second eligible financial year is:
 - (a) \$0.00172; or
 - (b) if another amount is determined under subsection (8) in relation to that month—that other amount.
- (3) For the purposes of this Act, the *administrative cost component* for a month in the third eligible financial year is:
 - (a) \$0.00; or
 - (b) if another amount is determined under subsection (8) in relation to that month—that other amount.

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- (4) For the purposes of this Act, the **administrative cost component** for a month in the fourth eligible financial year is:
- (a) \$0.0027; or
 - (b) if another amount is determined under subsection (8) in relation to that month—that other amount.
- (5) For the purposes of this Act, the **administrative cost component** for a month in the fifth eligible financial year is:
- (a) \$0.00; or
 - (b) if another amount is determined under subsection (8) in relation to that month—that other amount.
- (6) For the purposes of this Act, the **administrative cost component** for a month in:
- (a) the sixth eligible financial year; or
 - (b) a later financial year;
- is:
- (c) the amount calculated, to 5 decimal places (rounding up if the sixth decimal place is 5 or more), using the formula in subsection (7); or
 - (d) if another amount is determined under subsection (8) in relation to that month—that other amount.
- (7) The formula mentioned in paragraph (6)(c) is:
- $$\text{Previous administrative cost component} \times \text{Indexation factor}$$
- where:
- indexation factor** means the indexation factor for the financial year.
- previous administrative cost component** means the administrative cost component for a month in the previous financial year.
- Determinations*
- (8) The Minister may, by legislative instrument:
- (a) for the purposes of paragraph (1)(b), determine a single specified amount in relation to each of the months in the first eligible financial year; or
-

- (b) for the purposes of paragraph (2)(b), determine a single specified amount in relation to each of the months in the second eligible financial year; or
- (c) for the purposes of paragraph (3)(b), determine a single specified amount in relation to each of the months in the third eligible financial year; or
- (d) for the purposes of paragraph (4)(b), determine a single specified amount in relation to each of the months in the fourth eligible financial year; or
- (e) for the purposes of paragraph (5)(b), determine a single specified amount in relation to each of the months in the fifth eligible financial year; or
- (f) for the purposes of paragraph (6)(d), determine a single specified amount in relation to each of the months in a specified financial year.

Note: See also section 19.

- (9) In deciding whether to make a determination under subsection (8), the Minister must have regard to the following:
 - (a) the most recent advice that the ACCC has given to the Minister under section 17;
 - (b) such other matters (if any) as the Minister considers relevant.
- (10) The Minister must not make a determination under subsection (8) unless the ACCC has given advice to the Minister under section 17.
- (11) A determination under subsection (8) must not be inconsistent with section 17A (which deals with the combined component cap)

17 Advice by the ACCC about administrative cost component

- (1) The ACCC:
 - (a) may give advice to the Minister in relation to the exercise of the Minister's power under subsection 16(8); and
 - (b) must do so:
 - (i) at least once during the 5-year period beginning at the commencement of this section; and
 - (ii) at least once during each subsequent 5-year period.

- (2) In giving advice under subsection (1), the ACCC:
- (a) must have regard to the principle that amounts received by the Commonwealth by way of so much of charge imposed under this Act as is attributable to the annual administrative cost amount should be sufficient, over time, to offset designated administrative costs incurred after the start of the first eligible financial year; and
 - (b) may have regard to such other matters (if any) as the ACCC considers relevant.

17A Combined component cap

- (1) The sum of:
- (a) the base component for a month; and
 - (b) the administrative cost component for that month;
- must not exceed the combined component cap for that month.
- (2) For the purposes of this Act, the *combined component cap* for a month in the first eligible financial year is \$7.10.
- (3) For the purposes of this Act, the *combined component cap* for a month in:
- (a) the second eligible financial year; or
 - (b) a later eligible financial year;
- is the amount calculated using the following formula:

Previous combined component cap × Indexation factor

where:

indexation factor means the indexation factor for the financial year.

previous combined component cap means the combined component cap for a month in the previous financial year.

18 Indexation factor

- (1) For the purposes of this Act, the *indexation factor* for a financial year is the number calculated, to 3 decimal places (rounding up if the fourth decimal place is 5 or more), using the formula:

$$\frac{\text{Index number for the reference March quarter}}{\text{Index number for the base March quarter}}$$

where:

base March quarter means the last March quarter before the reference March quarter.

reference March quarter means the last March quarter before the financial year.

- (2) Subject to subsection (3), if (whether before or after the commencement of this section) the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published in respect of that quarter, the publication of the later index number must be disregarded for the purposes of this section.
- (3) If (whether before or after the commencement of this section) the Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard must only be had to the index number published in terms of the new index reference period.

19 Disallowance of determinations

Scope

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

Disallowance

- (2) Either House of the Parliament may, following a motion upon notice, pass a resolution disallowing the determination. For the resolution to be effective:
 - (a) the notice must be given in that House within 15 sitting days of that House after the copy of the determination was tabled in the House under section 38 of the *Legislation Act 2003*; and

- (b) the resolution must be passed, in pursuance of the motion, within 15 sitting days of that House after the giving of that notice.
- (3) If neither House passes such a resolution, the determination takes effect on the day immediately after the last day upon which such a resolution could have been passed if it were assumed that notice of a motion to disallow the determination was given in each House on the last day of the 15 sitting day period of that House mentioned in paragraph (2)(a).
- (3A) If:
- (a) notice of a motion to disallow the determination is given in a House of the Parliament within 15 sitting days of that House after the copy of the determination was tabled in that House under section 38 of the *Legislation Act 2003*; and
 - (b) at the end of 15 sitting days of that House after the giving of that notice of motion:
 - (i) the notice has not been withdrawn and the motion has not been called on; or
 - (ii) the motion has been called on, moved and (where relevant) seconded and has not been withdrawn or otherwise disposed of;
- the determination is then taken to have been disallowed, and subsection (3) does not apply to the determination.
- (4) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.
- Note 1: The 15 sitting day notice period mentioned in paragraph (2)(a) of this section is the same as the 15 sitting day notice period mentioned in paragraph 42(1)(a) of the *Legislation Act 2003*.
- Note 2: The 15 sitting day disallowance period mentioned in paragraph (2)(b) of this section is the same as the 15 sitting day disallowance period mentioned in paragraph 42(1)(b) of the *Legislation Act 2003*.

20 Transitional—reduction in total number of chargeable premises

25,000 or more potentially concessional premises where no premises are recently connected greenfield premises

- (1) For the purposes of this Act, if:
 - (a) the total number of potentially concessional premises in relation to a person for a month in:
 - (i) the first eligible financial year; or
 - (ii) the second eligible financial year; or
 - (iii) the third eligible financial year; or
 - (iv) the fourth eligible financial year; or
 - (v) the fifth eligible financial year;is 25,000 or more; and
 - (b) none of the chargeable premises associated with a local access line of the person for that month are recently connected greenfield premises in relation to the person for that month;

the total number of chargeable premises associated with a local access line of the person for that month is to be reduced by 25,000.

Less than 25,000 potentially concessional premises where no premises are recently connected greenfield premises

- (2) For the purposes of this Act, if:
 - (a) the total number of potentially concessional premises in relation to a person for a month in:
 - (i) the first eligible financial year; or
 - (ii) the second eligible financial year; or
 - (iii) the third eligible financial year; or
 - (iv) the fourth eligible financial year; or
 - (v) the fifth eligible financial year;is less than 25,000; and
 - (b) none of the chargeable premises associated with a local access line of the person for that month are recently connected greenfield premises in relation to the person for that month;

the total number of chargeable premises associated with a local access line of the person for that month is to be reduced by that total number of potentially concessional premises.

55,000 or more recently connected greenfield premises

- (3) For the purposes of this Act, if the total number of recently connected greenfield premises in relation to a person for a month in:
- (a) the first eligible financial year; or
 - (b) the second eligible financial year; or
 - (c) the third eligible financial year; or
 - (d) the fourth eligible financial year; or
 - (e) the fifth eligible financial year;
- is 55,000 or more, the total number of chargeable premises associated with a local access line of the person for that month is to be reduced by 55,000.

Less than 55,000 recently connected greenfield premises

- (4) For the purposes of this Act, if the total number of recently connected greenfield premises in relation to a person for a month in:
- (a) the first eligible financial year; or
 - (b) the second eligible financial year; or
 - (c) the third eligible financial year; or
 - (d) the fourth eligible financial year; or
 - (e) the fifth eligible financial year;
- is less than 55,000, the total number of chargeable premises associated with a local access line of the person for that month is to be reduced by that total number of recently connected greenfield premises.

Exception—subordinate members of associated groups

- (5) Subsections (1) and (2) do not apply in relation to a person for a month if the person is a subordinate member of an associated group during the whole or a part of the month.

Associated group

- (6) For the purposes of this section, if:
- (a) a person is in a position to exercise control of:
 - (i) a local access line; or
 - (ii) a telecommunications network; and
 - (b) the person has one or more associates;
- then:
- (c) the person is taken to belong to an associated group; and
 - (d) the associated group consists of the person and those associates; and
 - (e) each of those associates is a subordinate member of the associated group.
- (7) For the purposes of subsection (6), the question of whether a person is in a position to exercise control of:
- (a) a local access line; or
 - (b) a telecommunications network;
- is to be determined in the same manner in which that question is determined for the purposes of Part 8 of the *Telecommunications Act 1997*.
- (8) For the purposes of subsection (6), the question of whether a person has one or more associates is to be determined in the same manner in which that question is determined for the purposes of Part 8 of the *Telecommunications Act 1997*.
- (9) For the purposes of subsection (7), **local access line** has the same meaning as in Part 3 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.