

Confidential communications with the Authority

12. (1) Subject to sub-regulation (2), a person may submit in writing to the Authority a request for a confidential meeting with the Authority, in terms of section 29(1) of the Act.

- (2) A person may not request a confidential meeting with the Authority -
- (a) if the topic(s) of the meeting concerns information that the Authority believes or has decided is not confidential in terms of the Act and these regulations; or
 - (b) if that person is prohibited from engaging in *ex parte* communications with the Authority on the topic(s) of the requested meeting by any regulations made in terms of Act.
- (3) The request for a confidential meeting with the Authority must include -
- (a) the name and contact details of the person making the request and the name and contact details of the person for whom the request is made, if different;
 - (b) a clear and concise statement(s) of the topic(s) of the meeting;
 - (c) a list of all the persons who will attend the meeting; and
 - (d) a list of all of the written information, if any, that will be submitted to the Authority at the meeting.

(4) If the Authority grants the request in terms of section 29(3) of the Act, it will publish notice of the meeting in the *Government Gazette* at least seven days prior to the meeting, provided that if the person requesting the meeting has shown sufficient cause for urgency, publication in the *Government Gazette* may be made less than seven days.

(5) At the conclusion of the meeting, the Authority will prepare a report setting out all relevant details of the meeting and keep that report in its files located at the head offices of the Authority.

(6) Any written information submitted to the Authority at the meeting will be treated as if designated confidential in terms of section 28 of the Act, in which case the regulations herein regarding confidential information will apply, subject to section 29(5) of the Act.

L. NJACOBS
CHAIR PERSON- BOARD OF DIRECTORS
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 308

2012

**REGULATIONS REGARDING LICENCE CONDITIONS FOR
TELECOMMUNICATIONS SERVICE LICENCES**

The Board of the Communications Regulatory Authority of Namibia, in terms of sections 38 and 39 of the Communications Act, of 2009 (Act No. 8 of 2009) read with regulation 11 of the "Regulations Regarding Rule-Making Procedures: Communications Act", as published in Government Gazette

4630, Notice No. 334, hereby publishes these “Regulations Regarding License Conditions for Telecommunications Service Licences” effective from the date of publication in the *Government Gazette*.

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning and –

“Act” means the Communications Act, 2009 (Act No. 8 of 2009).

Purpose

2. These regulations impose conditions on telecommunications service licensees in addition to the conditions imposed by the Act.

Applicability

3. These regulations are applicable to –

(a) All telecommunications service licensees.

Authorisation

4. (1) All ECS licensees, issued with a telecommunications service are duly authorised to provide telecommunications services in terms of the “Regulations Setting out Broadcasting and Telecommunications Service Licence Categories” as published in Government Gazette 4714, Notice No. 124, dated 18 May 2011.

(2) All licensees issued with an ECNS and Comprehensive telecommunications service (ECS and ECNS) licence are duly authorised to install, maintain and operate the necessary infrastructure in that regard to provide telecommunications services in terms of the “Regulations Setting out Broadcasting and Telecommunications Service Licence Categories” as published in Government Gazette 4714, Notice No. 124, dated 18 May 2011.

Licence Area

5. The licence area is the Republic of Namibia or any part thereof.

Hours of Operation

6. (1) A Licensee must provide an electronic communication network and services for twenty four (24) hours, three hundred and sixty five (365) days per year.

(2) Where a Licensee cannot provide the licensed network and/or service due to circumstances beyond its control for a continuous period of twelve (12) hours or longer, the licensee must notify the Authority in writing of such circumstances within twelve (12) hours.

Technical conditions

7. The licensees shall comply with the technical conditions as will be prescribed in terms of sections 38, 39, 44, 48, 49, 50, and 80 of the Act as well as any specific terms and conditions contained in the licence.

Quality of Service

8. The licensees shall comply with quality of service standards as prescribed by the Authority from time to time in terms of the rule-making regulations with regard to network quality, infrastructure, billing and service quality.

Publication of tariffs and fees

9. As per section 53 of the Act, the licensee must provide the Authority with all tariffs and fees pertaining to electronic communication services offered, including infrastructure sharing subject to section 50 of the Act.

Competition

10. The licensees shall comply with sections 33, 35 and 48 of the Act.

Consumer Protection

11. The licensees shall comply with the provisions relating to consumer protection as prescribed in terms of sections 79 of the Act as well as any specific terms and conditions contained in the rule-making regulations for quality of service.

Interconnection

12. Licensees have the obligation to interconnect with other licensees in compliance with section 49 of the Act within thirty (30) days from receiving a formal request for another licensees subject to the provisions contained in section 49 of the Act

Infrastructure Sharing

13. Licensees have the rights and obligations to lease facilities from and to any other licensee, subject to and in accordance with arrangements agreed between them, failing which the Authority may take the appropriate steps in terms of sections 48 and 50 of the Act.

Rights of way

14. (1) All licensees issued with an ECNS and Comprehensive telecommunications service (ECS and ECNS) licence are granted rights in terms of section 59 of the Act in so far as it has been made applicable to them in terms of section 38(12) or 38(13).

(2) Subject to subparagraph 12(1) all licensees must comply with the provisions of section 60 to 68 of the Act in providing infrastructure and services as part of their licence obligations.

Safety Measures

15. Licensees shall, in respect of all apparatus, equipment and installations that it owns, leases or uses, take such measures as may be prescribed and in any event such reasonable and necessary safety measures to safeguard life or property, and limit exposure to electromagnetic emission and related risks as contained in section 80 of the Act.

Payment of Fees

16. (1) Licences shall only be awarded after payment of the applicable fees to the Authority.

(2) Except for community broadcasting licensees, licensees shall pay an annual regulatory levy as determined by the Authority in terms of section 23, from time to time, as per its annual financial statements as approved by its independent auditors and members, in terms of the relevant regulation.

(3) The levy shall be payable within sixty (60) days of the Act, from the date of approval of its annual financial statements in terms of section 55.

(4) The licensees shall submit their annual financial statements to the Authority in terms of section 91 of the Act.

(5) The Authority shall not be obliged to issue an invoice to the licensee but shall issue a receipt upon receipt of the verified and correct payment.

Duration of licences

17. (1) In terms of section 38(9), the authorisation to provide telecommunications services shall automatically expire after 15 years, from the date of publishing of final licence conditions in the *Government Gazette*.

(2) Licensees shall apply to renew their licences six (6) months prior to the expiry of the licence in terms of section 40 and 42 of the Act.

(3) In terms of section 42(3) of the Act, in the event that the licensees fail to settle fees payable, the Authority may declare the licence to be forfeited.

(4) A licence will lapse six (6) months after the date of the issue of that licence in the event that no commercial telecommunications services are provided under that licence. The Authority may, after considering a written request from a licensee, extend, in writing, for such further periods as may be determined by the Authority and, if applicable, condone the licensee's failure to commence rendering telecommunications services timeously, in which event the licence will lapse at the expiry of such extended period.

Ownership and control

18. The licence shall be awarded subject to section 46 of the Act.

Amendment, renewal and transfer of licence or transfer of control of licence

19. For the amendment, renewal and transfer of licence or transfer of control of licence, the licensee shall comply with the "Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences", published in Government Gazette No. 4785, Notice Number 272, dated 29 August 2011, as may be amended from time to time.

Reporting, monitoring and compliance

20. (1) The Authority may request any information in the format as requested by the Authority and, determined by it as relevant from the licensees for the purposes of monitoring and ensuring compliance with the Act and the regulations prescribed by the Authority, to which request the licensee shall comply in the manner set out by the Authority and in terms of section 55 of the Act.

(2) The Authority may, in the course of carrying out its obligations under the Act require a Licensee to provide information, so as to enable it to:

- (a) Monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation;
- (b) Facilitate efficient use of scarce resources;
- (c) collect and compile information to be used for the purpose of sectoral analysis, planning, reporting and conducting inquiries.

(3) In respect to each request for information referred to in sub-clause (2), except where otherwise addressed in applicable regulations, the Authority will provide a detailed specification of its information request, applicable response times and identify a contact person to whom queries may be addressed.

Regulatory offences

21. The Authority will prosecute regulatory offences and enforce these licence conditions in terms of sections 114 and 115 of the Act.

Universal Service Fund

22. Licensees may be granted universal service obligations and/or may be required to contribute towards the Universal Service Fund in the manner as prescribed by the Authority in terms of relevant legislation and regulations, in the manner as set forth by the Authority, from time to time.

Revocation of licence

23. The licence may be revoked in terms of sections 42 and 115 of the Act.

Amendment of licence conditions

24. The Authority may amend these conditions from time to time in terms of the rule-making procedure regulations.

Supervision by authority

25. The Authority shall supervise compliance with these conditions in terms of sections, 114 and 115 of the Act.

Duty to furnish information

26. The licensees are obliged to supply information in advance to the Authority in terms of section 55 relating to changes regarding its contact details, contact persons, statistics on its communications services, intended change of ownership, intended change of control, change of business address, court orders made against it, or any matter that materially affects its licensed operations, but not limited thereto and as may be reasonably required to meet the objections of the Act.

L.N. JACOBS

CHAIR PERSON - BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA