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## GOVERNMENT NOTICE

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### INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

No. R. 246

3 March 2009



### INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

REGULATIONS IN TERMS OF SECTION 4 READ WITH SECTION 73 OF  
ELECTRONIC COMMUNICATIONS ACT (ACT No. 36 of 2005), IN RESPECT OF E-  
RATE

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I, Paris Mashile, Chairperson of the Independent Communications Authority of South Africa, hereby publish the regulations made by the Authority under section 4 read with section 69(3) of the Electronic Communications Act (Act No. 36 of 2005).

A handwritten signature in black ink, appearing to read 'Paris Mashile', written over a horizontal line.

PARIS MASHILE  
CHAIRPERSON  
ICASA

## Schedule

### 1. DEFINITIONS

In these regulations any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned, unless the context otherwise indicates:

- 1.1 “**Act**” means the Electronic Communications Act, 2005 (Act No. 36 of 2005);
- 1.2 “**Authority**” means the Independent Communications Authority of South Africa established in terms of the Independent Communications Authority of South Africa Act, 2000 (Act no. 13 of 2000) as amended.
- 1.3 “**E-rate**” means the discount of no less than 50% applicable to public schools or public further training colleges, or any other independent schools or private further education and training colleges, as may be declared, to be entitled to the discount for utilising internet services provided by a licensee.
- 1.4 “**Further education and training colleges**” means Further Education and Training Colleges as defined in the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006);
- 1.5 “**ICASA Act**” means the Independent Communications Authority of South Africa Act, 2000 (Act no. 13 of 2000) as amended.
- 1.6 “**Internet**” means a collection of interconnected computer networks using the Internet Protocol which allows them to function as a single, large virtual network.
- 1.7 “**Internet Protocol**” means the method or protocol by which data is sent from one computer to another on the internet.
- 1.8 “**Independent schools**” means independent schools as defined in the South African Schools Act, 1996 (Act no 84 of 1996);

1.9 "Public schools" means all public schools as defined in the South African Schools Act, 1996 (Act No. 84 of 1996);

1.10 "Retail rate" means the lowest commercial charge levied for a service contemplated in terms of section 73(3) of the Act by a licensee for making available services to public schools or further education and training colleges and independent schools that qualify for the E-rate discount.

## 2. PURPOSE, SCOPE AND APPLICATION OF THE REGULATIONS

2.1 The regulations prescribe the manner in which E-rate must be implemented in respect of all public schools as defined in the South African Schools Act, 1996 (Act No. 84 of 1996), and all public further education and training colleges as defined in the Further Education and Training Colleges Act, 2006.

2.2 These regulations apply to Electronic Communications Service (ECS) and Electronic Communications Network Service (ECNS) Licensees.

## 3. IMPLEMENTATION OF E-RATE

All licensees must charge schools receiving internet service a total minimum discounted rate of 50% of the total charge levied by the licensees. The discount is applicable of the total charge levied by the licensee which includes but is not limited to the following:

3.1 any connectivity charges for access to the Internet;

3.2 charges for any equipment used for or in association with connectivity to the Internet; and

3.3 all calls made to an Internet Service Provider.

#### **4. MONITORING**

All licensees must keep records of the following documents for a period of not less than 3 (three) years:

- 4.1 signed contracts;
- 4.2 internet service provider bills to schools;
- 4.3 details of services and locations at which they are provided;
- 4.4 the effective date of services provided; and
- 4.5 resumption date should the service be cancelled.

#### **5. OBLIGATION OF LICENSEES**

- 5.1 All licensees must provide internet services at e-rate to all public schools as defined in the South African Schools Act, 1996 (Act No. 84 of 1996), and all public further education and training colleges as defined in the Further Education and Training Colleges Act, 2006.
- 5.2 All licensees must provide guidance and support, upon request, to schools on the functionality of their services.
- 5.3 All licensees must ensure that the services and support are available in accordance with the End-User and Subscriber Service Charter Regulations 2008, Government Gazette No. 31556.

#### **6. CONTRAVENTION AND PENALTIES**

- 6.1 A licensee who fails to comply with these regulations is guilty of an offence and is subject to the imposition of a fine of a maximum of R150 000 by the Authority, in addition to any other sanctions as provided for in section 17E of the ICASA Act.

6.2 A subscriber who is aggrieved by the failure of a licensee or its agent to comply with these regulations may lodge a complaint within 60 days after having become aware of the said failure with the Authority for investigation and if appropriate, adjudication by the Complaints and Compliance Committee in terms of section 17B and C of the ICASA Act and the imposition of a sanction by Council in terms of section 17E of the ICASA Act.

#### **7. AMENDMENT AND REPEAL**

The Authority may amend or repeal these regulations by notice in the Gazette.

#### **8. EFFECTIVE DATE**

These regulations will become effective on the day of publication in the Gazette.

**SCHEDULE A – APPLICATION FORM**

1	<b>SCHOOL DETAILS</b>		
	Official Name of School Quintile No.		
	<b>EMIS Number</b>		
	<b>Postal Address</b>	Province	
		District	
		Circuit	
	<b>Code</b>		
	Physical Address		
	Code		
	Telephone	Fax	
	e-Mail Address		
	Principal (Please note that the Principal will be acting on behalf of the school)	Tel	
	Chairperson of Governing Body	Tel	

<b>TYPE OF CONNECTIVITY</b>			
	Number of Computers with Internet Access	Type of Connectivity	(Specify)
	Electronic communications service licensee (ECS) / electronic communications network services licensee (ECNS)		(Specify)
	Current Subscription Fee per month		(Specify)

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 Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510  
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