



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$6.60

WINDHOEK - 19 May 2020

No. 7216

CONTENTS

Page

GENERAL NOTICE

No. 187	Communications Regulatory Authority of Namibia: Notice of intention to make Regulations Prescribing Fees for Spectrum Licences, Certificates and Examinations: Communications Act, 2009	1
---------	---	---

General Notice

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 187 2020

NOTICE OF INTENTION TO MAKE REGULATIONS PRESCRIBING FEES FOR SPECTRUM LICENCES, CERTIFICATES AND EXAMINATIONS: COMMUNICATIONS ACT, 2009

The Communications Regulatory Authority of Namibia (hereafter “the Authority”) in terms of regulation 4(3) of the Regulations Regarding Rule-Making Procedures published as General Notice No. 334 of 17 December 2010 (hereafter “the Regulations Regarding Rule-Making Procedures”) publishes this notice of intention to make “Regulations Prescribing Fees for Spectrum Licenses, Certificates and Examinations”, which contains the following:

1. A concise statement of the purpose for the proposed Regulations as set out in Schedule 1;
2. A draft of the proposed Regulations as set out in Schedule 2.

The Authority in terms of regulation 7 of the Regulations Regarding Rule-Making Procedures further gives notice herewith that it will hold a public hearing regarding the proposed Regulations as follows:

DATE: TBA

TIME: TBA

VENUE: TBA

Members of the public are invited to make oral submissions at the aforesaid public hearing subject to the following:

1. Any person desirous to make oral submissions at the aforesaid public hearing must deliver written notice thereof to the Authority not later than 10 days before the date of the hearing. Such written notice must be accompanied by concise statement setting out the basis and rationale of the oral submissions.
2. Oral submissions made at the aforesaid public hearing must -
 - (a) Include a statement of the name and contact details of the person making the oral submissions and the name and contact details of the person of entity on whose behalf the oral submissions are made, if different;
 - (b) Be clear and concise.
3. The aforesaid notice of oral submissions and concise statement must be delivered to the Authority either physically or electronically as follows:
 - (a) By hand to the head offices of the Authority, namely Communications House, 56 Robert Mugabe Avenue, Windhoek;
 - (b) By post to the head offices of the Authority namely Private Bag 13309, Windhoek;
 - (c) By electronic mail to the following address legal@cran.na;
 - (d) By facsimile to the following facsimile number +264 61 222 790; or
 - (e) By fax to email to: 088642748.

Members of the public are further invited to make written submissions to the Authority no later than 31 days from the date of publication of this notice of intention to make regulations, in the manner set out below for making written submissions.

Reply comments to written submissions may be submitted to the Authority.

- (a) no later than 15 days after the time for the making of written submissions has lapsed; or
- (b) if the opportunity for the submission of reply comments is published in a subsequent Gazette, after the lapse of 14 days from the date of such publication.

All written submissions must -

- (a) contain the name and contact details of the person making the written submissions and the name and contact details of the person or entity on whose behalf the written submissions are made, if different; and
- (b) be clear and concise.

All written submissions must be delivered to the Authority in the manner provided above for the delivery of notices of oral submissions.

H. M. GAOMAB II
CHAIRPERSON OF THE BOARD
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

SCHEDULE 1
CONCISE STATEMENT OF PURPOSE

1. The proposed Regulations are to prescribe the fees payable in respect of -
 - (a) licenses issued in terms of section 101(2) of the Communications Act, 2009 (Act No. 8 of 2009) conferring on the licensee the right to use, or to cause any person in his or her employ or under his or her control to use a transmitter for any prescribed purpose or to use any radio frequency or group of radio frequencies or radio receiver for any purpose and in the manner prescribed or determined in the licence concerned;
 - (b) certificates of proficiency that were issued in terms of section 101(3) of that Act; and
 - (c) examinations the Authority conducted or caused to be conducted, to determine whether a certificate of proficiency referred to in paragraph (b) could be issued to a person.
2. The proposed Regulations further seek to repeal the Regulations Setting Out Fees for Spectrum Licences, Certificates and Examinations, published under General Notice No. 155 of 1 June 2017.

**PROPOSED REGULATIONS SETTING OUT FEES FOR
SPECTRUM LICENCES, CERTIFICATES AND EXAMINATIONS:
COMMUNICATIONS ACT, 2009**

In terms of section 38(5), 101 and 129 of the Communications Act, 2009 (Act No. 8 of 2009) the Communications Regulatory Authority of Namibia -

- (a) makes the Regulations set out in the Schedule;
- (b) with effect from 1 January 2021 repeals the Regulations Setting Out Fees for Spectrum Licences, Certificates and Examinations, which were published under General Notice No. 155 of 1 June 2017.

SCHEDULE

Definitions

1. In these Regulations, any word or expression to which a meaning is assigned in the Act, has the same meaning and -

“AM” means amplitude modulation;

“Authority” means the Communications Regulatory Authority of Namibia;

“certificate” means a certificate of proficiency referred to in section 101(3)(i) of the Act;

“DAB” is an acronym for Digital Audio Broadcasting;

“DRM” is an acronym for Digital Radio Mondiale;

“examination” means an examination referred to in section 101(10) of the Act;

“Frequency Band Plan” means the Frequency Band Plan of Namibia published under General Notice No. 424 of 28 October 2016;

“HF” is an acronym for high frequency, which is the ITU designation for radio waves between 3 MHz and 30 MHz;

“IMT” is an acronym for International Mobile Telecommunications, which is the generic term used by the ITU to designate broadband mobile systems;

“ITU” is an acronym for International Telecommunications Union, which is a United Nations specialised agency for information and communications technologies;

“licensee” means any person to whom a spectrum license has been issued in terms of the Regulations Pertaining to Spectrum Licenses;

“MHz” is an acronym for megahertz, which is the measurement used to indicate the transmission speed of electronic devices where a megahertz represents one million cycles per minute;

“non-urban area” means any location within the borders of the Republic of Namibia outside an urban area;

“Regulations Pertaining to Spectrum Licenses” means the Regulations Prescribing Procedures Regarding Application for, and Amendment, Renewal, Transfer and Cancellation of Spectrum Licenses published under General Notice No. 104 of 29 April 2019;

“satellite news gathering” means temporary and occasional transmission with short notice of television or sound for broadcasting purposes using portable or transportable uplink earth stations operating in the framework of a fixed satellite service;

“spectrum license” means a spectrum license conferred on a licensee in terms of the Regulations Pertaining to Spectrum Licenses;

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

“VHF” is an acronym for very high frequency, which is the ITU designation for radio waves between 30 MHz and 300 MHz;

“UHF” is an acronym for ultrahigh frequency, which is the ITU designation for radio waves between 300 MHz and 3 GHz; and

“urban area” means any location within the area of a local authority established and declared under section 3 of the Local Authorities Act, 1992 (Act No. 23 of 1992).

Objects and application of Regulations

2. (1) The objects of these Regulations are to -
 - (a) utilise spectrum fees to enforce efficient use of radio frequency spectrum through optimum occupancy thereof and implementation of more spectrally efficient equipment;
 - (b) set spectrum fees to discourage hoarding of spectrum;
 - (c) set spectrum fees by taking into account the demand for radio frequency spectrum in a given spectrum band and the impact of inflation as indicated by the annual consumer price index published by the Namibia Statistics Agency on its official website from time to time;

- (d) provide transparency in pricing of radio frequency spectrum;
- (e) introduce bandwidth-dependent spectrum licence fees by utilising formula-based pricing set out in these Regulations in respect of spectrum licences awarded for fixed services, mobile services, IMT services, fixed or mobile satellite services and broadcasting services; and
- (f) achieve recovery of costs incurred by the Authority to execute its mandate in respect of spectrum management in terms of the Act.

(2) These regulations apply to all applicants for spectrum licenses, certificates or examinations contemplated in section 101 of the Act and licensees.

(3) These regulations do not apply to spectrum licences awarded in terms of regulation 6(1) of the Regulations Pertaining to Spectrum Licenses until the initial licence period has lapsed in terms of regulation 11(1)(b) of those Regulations and the Authority renewed the spectrum licence under regulation 13 of those Regulations.

General provisions

3. (1) A spectrum licence is issued and the right to utilise spectrum is conferred in accordance with the Regulations Pertaining to Spectrum Licenses.

(2) In accordance with regulations 11(1)(a) and 13(10)(a) of the Regulations Pertaining to Spectrum Licenses, a spectrum licence issued under Part 2 thereof automatically -

- (a) expires on 31 December of the year of issue;
- (b) renews under regulation 13(1)(a) of those Regulations for the ensuing year upon settlement of the invoice that the Authority issued to the licensee.
- (3) These Regulations prescribe the following fees payable to the Authority -
 - (a) annual and other fees payable with regard to the authorisation to utilise radio frequency spectrum conferred under the spectrum licence;
 - (b) fees payable for the issue of a certificate;
 - (c) fees payable with regard to an examination.

(4) The Authority may not issue or renew a spectrum licence or a certificate, or allow a person to write an examination, unless the applicable fees as set out in these Regulations are fully paid in advance to the Authority.

(5) Where the Authority determines that radio frequency spectrum will be conferred on a competitive basis in terms of regulation 6(1) of the Regulations Pertaining to Spectrum Licenses, the spectrum fee payable is the amounts to be paid by the licensee to the Authority in terms of regulation 10(1)(c) of those Regulations.

Flat fees relating to spectrum licence, certificate or examination

4. (1) The fees set out for items 1, 2, 3, 4, 5, 6 and 9 of Table 1 below are payable annually in advance and in full, and are not refundable in full or in part, regardless if a spectrum licence or the authorisation to utilise spectrum in terms of such licence pertaining to such fees -

- (a) is issued during the course of a specific calendar year; or
- (b) expires, is forfeited, lapses or is discontinued for whatever reason.

(2) A monthly fee is payable in respect of a spectrum licence for a mobile or fixed satellite news gathering station referred to item 7.4 of the Table 1 below, irrespective whether the month is a calendar month or a consecutive period of 30 days (the latter which, for purposes of this subregulation is deemed to be a month), subject thereto that -

- (a) the full monthly fee is payable per month or part thereof, regardless if radio frequency spectrum under the licence is utilised only for part of a month;
- (b) if the licence is issued prior to the end of a calendar year and expires in the ensuing calendar year for which a higher monthly fee is payable, the licensee must pay the lower monthly fee for the duration of year in which the license is issued and pay the higher fee for the remaining months in the ensuing year; and
- (c) a licensee desiring to continue to use radio frequency spectrum under a license due to expire must apply for renewal thereof in accordance with regulation 13 of the Regulations Pertaining to Spectrum Licenses.

(3) (a) Unless radio frequency spectrum is conferred by means of a spectrum auction in terms of Part 3 of the Regulations Pertaining to Spectrum Licenses, fees in respect of any spectrum licence issued in relation to items 7.1 to 7.3 and 8 (excluding item 8.5) in Table 1 below are payable annually in advance and in full.

- (b) If such license is forfeited, lapses or is discontinued for whatever reason prior to its expiry in terms of those Regulations, the licensee concerned may be refunded for any month during which it did not utilise radio frequency spectrum following such forfeiture, lapse, or discontinuance in terms of the Regulations pertaining to Spectrum Licences.
- (c) For purposes of paragraph (a), a part of a month is regarded as a full month.

(4) The fee payable by a licensee intending to use radio frequency spectrum in accordance with item 8.5 in the Table below, is a once-off non-refundable fee as specified in item 8.5.1 or 8.5.2, as the case may be.

TABLE 1
SPECTRUM LICENCES, CERTIFICATES AND EXAMINATIONS FEES

TYPE OF SPECTRUM LICENCE, CERTIFICATE OR EXAMINATION		FEES (N\$)
1. AMATEUR RADIO		
1.1	All classes of amateur radio spectrum licences	119.00
1.2	Beacon	119.00
1.3	Examination	119.00
1.4	Guest or special event spectrum licence	119.00
1.5	Repeater station	119.00
2. AERONAUTICAL		
2.1	Aircraft station	238.00
2.2	Glider / microlight	119.00
2.3	Ground station	143.00
2.4	Navigation aids / beacons	119.00

2.5	Operator certificate radiotelephony (including duplicate)		119.00
3. MARITIME			
3.1	Beacon		119.00
3.2	Operator certificate radiotelephony (including duplicate)		119.00
3.3	Ship Station		
	3.3.1	ITU assigned frequencies	356.00
	3.3.2	Any additional VHF or HF frequencies	1,188.00
3.4	Coast Station		
	3.4.1	ITU assigned frequencies	356.00
	3.4.2	Any additional VHF or HF frequencies	1,188.00
	3.4.3	Yacht and ski-boat stations	119.00
4. LAND MOBILE SERVICE			
4.1	Private alarm station (see item 6.1 for alarm systems)		396.00
4.2	Base Mobile Station		
	4.2.1	27/29 MHz band (including CB band)	119.00
	4.2.2	VHF/UHF per simplex frequency in urban areas	238.00
	4.2.3	VHF/UHF per simplex frequency in non-urban areas	143.00
4.3	Repeater (private and exclusive)		
	4.3.1	Duplex frequency urban areas	2,613.00
	4.3.2	Duplex frequency non-urban areas	950.00
	4.3.3	Simplex frequency (Parrot repeater)	428.00
	4.3.4	Any additional simplex frequency (per frequency)	238.00
4.4	Experimental Station		
	4.4.1	Experimental station valid for 6 months	238.00
4.6	National Occupancy (Base Mobile Station)		
	4.6.1	Not shared	1900.00
	4.6.2	Shared	238.00
5. HIGH FREQUENCY (HF) RADIO			
5.1	Fixed/mobile Station		356.00
5.2	Fixed radio station above 400Watt		2,375.00
6. RADIO COMMUNICATIONS SYSTEMS			
6.1	Alarm		
	6.1.1	Urban complexes (per control room and per frequency)	7,918.00
	6.1.2	All other areas (per control room and per frequency)	1,980.00
6.2	Load management (including telemetry)		7,918.00
6.3	Paging (one-way)		
	6.3.1	Commercial	
		6.3.1.1 Application	2,474.00
		6.3.1.2 Per control room	11,877.00
	6.3.2	Private	
		6.3.2.1 Per control room and per frequency	238.00
6.4	Radio trunking		
	6.4.1	For a maximum of one control channel per base station	1,189.00
	6.4.2	For each additional double frequency or if only one channel is used at a base station	5,939.00
6.5	Repeater (Community/Shared)		
	6.5.1	Urban area per duplex frequency (commercial use)	5,464.00
	6.5.2	All other areas per duplex (commercial use)	2,850.00
	6.5.3	All other areas per duplex (farmers associations only)	1,188.00

7. SATELLITE SERVICES (LAND, MOBILE, MARITIME)			
7.1	Immarsat		
	7.1.1	A terminal	3,563.00
	7.1.2	B,C and M terminal (64 kbit/s)	1,425.00
	7.1.3	D terminal (data only) RB GAN	594.00
7.2	Satellite digital uplink per 128 kbits/s		3,959.00
7.3	Uplink Broadcasting Signal Distribution Fixed Satellite Earth Station		59,386.00
7.4	Mobile or fixed satellite news gathering station (per month or part thereof)		5,939.00
8. BROADCASTING SERVICES			
8.1	Analogue FM Radio Broadcasting Transmitter		
	8.1.1	0.000 up to 100.999 Watt (ERP)	849.00
	8.1.2	101.000 up to 999.999 Watt (ERP)	1,697.00
	8.1.3	1000 Watt (ERP) and above	2,546.00
8.2	Digital Terrestrial Television Broadcasting Transmitter		
	8.2.1	0.000 up to 100.999 Watt (ERP)	9,251.00
	8.2.2	101.000 up to 999.999 Watt (ERP)	11,373.00
	8.2.3	1000 Watt (ERP) and above	14,173.00
8.3	DAB Digital Radio Broadcasting Transmitter		<i>(12 channels per frequency)</i>
	8.3.1	Regional	13,740.00 per transmitter
	8.3.2	National Single Frequency Network	13,740.00 per transmitter
8.4	DRM30 Digital Radio Broadcasting Transmitter		<i>(4 channels per frequency)</i>
	8.4.1	0.000 up to 1000 kW (ERP)	13,740.00 per transmitter
8.5	Other broadcasting services		
	8.5.1	Special event broadcast spectrum licence maximum 10 Watt (fee per day up to a maximum capped fee equal to 30 days' daily fee. If period thereafter exceeds 30 days the maximum fee shall then apply)	1,188.00 Maximum fee: 30,146.00
	8.5.2	Outside broadcasting vehicle links (per event irrespective of duration)	7,918.00
9. MISCELLANEOUS			
9.1	National Security Forces		130,649.00
9.2	Namibia Defence Force		130,649.00
9.3	Competency certificate (radios above 400 Watt)		119.00
9.4	Duplicate spectrum licences		119.00
9.5	Amendment of spectrum licence		99.00
9.6	Photocopies per A4 sheet		2.00

Formula-based fees

5. (1) For purposes of this regulation -
- (a) "BV" is an acronym for base value measured in Namibian Dollars per MHz and is currently set at N\$ 1,686.00 for mobile services and N\$ 118.00 for fixed services;
- (b) "BWF" is an acronym for bandwidth factor and refers to the bandwidth measured in MHz, which is made available to a licensee in terms of a spectrum licence;

- (c) “CF” is an acronym for coverage factor, which indicates the extent to which access to the radio frequency spectrum assigned to a licensee under a spectrum license is denied to other licensees;
- (d) “FBF” is an acronym for Frequency Band Factor, which sets out the spectrum fee for 1 MHz of similar usage in different spectrum bands as contained in the Frequency Band Plan specified in Tables 2 and 3;
- (e) “GEOF” is an acronym for geographical factor, which indicates whether radio frequency spectrum is assigned for use in an urban or non-urban area, or assigned for an area that comprises both types of area;
- (f) “SHRF” is an acronym for sharing factor, which indicates whether radio frequency spectrum is assigned exclusively or whether it is shared with another licensee or service as allocated in the Frequency Band Plan; and
- (g) “TF” is an acronym for the time factor, consisting of a period of 12 months.

(2) Subject to subregulation (3), in respect of spectrum licences for which a flat fee set out in regulation 4 is not payable an annual fee must be paid calculated in accordance with the formula:

$$\text{Annual spectrum fee} = BWF \times FBF \times CF \times SHRF \times GEOF \times BV$$

(3) Notwithstanding subregulation (1), spectrum licenses awarded by means of spectrum auctions in accordance with Part 3 of the Regulations Pertaining to Spectrum Licenses are not subject to the annual fee contemplated in that subregulation, provided that if any spectrum license awarded in accordance with the aforesaid Part 3 lapses or is not renewed, and is consequently awarded in a manner other than by a spectrum auction, those annual fees apply to the licensee to whom such license is awarded.

(4) BV is calculated to fully recover the Authority’s spectrum management costs in accordance with the formula:

$$BV = \frac{\text{total expected spectrum management costs} - \text{expected revenue raise from flat spectrum fees}}{\text{expected } \Sigma(BW \times FBF \times CF \times SHRF \times GEOF \times TF)}$$

(5) FBF is as set out in Tables 2 and 3 below:

TABLE 2
FREQUENCY BAND FACTOR:
FIXED SERVICES (INCLUDING POINT-TO-POINT AND POINT-TO-MULTIPOINT
FIXED LINKS)

Frequency Range		Frequency Band Factor (FBF)
From	To	
14 KHz	1350 MHz	0.5
1350 MHz	1427 MHz	0.75
1427 MHz	1675 MHz	1.5
1785 MHz	1805 MHz	1
2023 MHz	2300 MHz	1
2300 MHz	2400 MHz	1

2483.5 MHz	2500 MHz	1
2500 MHz	2690 MHz	1
3400 MHz	3600 MHz	2.5
3600 MHz	4200 MHz	1
4400 MHz	8500 MHz	0.75
10 GHz	15.35 GHz	0.75
17.7 GHz	100 GHz	0.5

TABLE 3
FREQUENCY BAND FACTOR:
MOBILE SERVICES (Time Division Duplex and Frequency Division Duplex)

Frequency Range		Frequency Band Factor (FBF)
From	To	
450 MHz	960 MHz	0.75
1427 MHz	1675 MHz	0.75
1710 MHz	1785 MHz	0.75
1805 MHz	1880 MHz	0.75
1920 MHz	1980 MHz	0.75
2110 MHz	2170 MHz	0.75
2300 MHz	2400 MHz	1
2500 MHz	2690 MHz	1
3300 MHz	3600 MHz	0.75

(6) CF is as set out in Table 4 below:

TABLE 4
COVERAGE FACTOR

	CF = 1	CF = 2	CF = 3	CF = 30
Coverage Area	Small Area Network $A \leq 5 \text{ km}^2$	Large Area Network $5 \text{ km}^2 < A \leq 600 \text{ km}^2$	Wide Area Network $600 \text{ km}^2 < A \leq 105,300 \text{ km}^2$	National network

(7) SHRF is as set out in Table 5 below:

TABLE 5
SHARING FACTOR

Exclusive Use	1
Shared	0.5

(8) GEOF is as set out in Table 6 below:

TABLE 6
GEOGRAPHICAL FACTOR

High density of population	1
Low density of population	0.5
Mixed high/low density of population	1

Transitional provisions

6. (1) The formula-based fees contemplated by regulation 5 will be payable with effect from 1 January 2021.

(2) A person or a spectrum licensee who applies in 2020 for a spectrum licence, or to renew authorisation to utilise spectrum for the ensuing calendar year as contemplated in regulation 13 of the Regulations Pertaining to Spectrum Licenses, must pay the relevant fee set out in the Regulations Setting Out Fees For Spectrum Licenses, Certificates and Examinations published under General Notice No. 155 of 1 June 2017 by the due date for payment notwithstanding that such a due date may be on or prior to 1 January 2021.

(3) Subregulation (2) applies in the same manner, but with the necessary changes, to certificates contemplated in items 2.5, 3.2 and 9.3 of the table in regulation 4.

Commencement

7. Subject to regulation 6(2) these regulations will become effective on 1 January 2021.
