



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Communications Act 8 of 2009
sections 38 and 39

**Regulations regarding Licence Conditions for
Telecommunications Service Licences**

General Notice 308 of 2012

(GG 5037)

came into force on date of publication: 13 September 2012

as amended by

General Notice 159 of 2020 (GG 7197)

came into force on date of publication: 29 April 2020

General Notice 24 of 2021 (GG 7445)

came into force on date of publication: 1 February 2021

These regulations and amendments were made by the
Communications Regulatory Authority of Namibia.

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**[The capitalisation of the regulation headings
is reproduced here as it appears 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.

[There are no paragraphs additional to paragraph (a) in the *Government Gazette*.]

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.

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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.

[Both “twenty-four” and “sixty-five” should be written with a hyphen.]

- (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 licensee subject to the provisions contained in section 49 of the Act

[The phrase “for another licensees” should probably be “from another licensee”.]

Infrastructure Sharing

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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.

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(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) A licensee must submit reports to the Authority in accordance with the Regulations on Reporting Obligations for Licensees, published under General Notice No. 24 of 1 February 2021.

[subregulation (1) substituted by General Notice 24/2021]

(2)

[subregulation (2) deleted by General Notice 24/2021]

(3)

subregulation (3) deleted by General Notice 24/2021]

21. .

[regulation 21 deleted by General Notice 159/2020]

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.

23.

[regulation 23 deleted by General Notice 159/2020]

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Amendment of licence conditions

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

25.

[regulation 25 deleted by General Notice 159/2020]

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.