



Republic of Namibia  
Annotated Statutes

**REGULATIONS**

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REGULATIONS MADE IN TERMS OF

**Communications Act 8 of 2009**  
section 129

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**Regulations regarding Licensee Disputes**

General Notice 148 of 2013

(GG 5194)

came into force on date of publication: 17 May 2013

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

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COMPLAINT FORM

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**REGULATIONS  
Communications Act 8 of 2009**

**Regulations regarding Licensee Disputes**

[The format of some of these regulations differs from the usual style. It is reproduced here as it appears in the *Government Gazette*. The capitalisation of the regulation headings is also 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, 2009 (Act No. 8 of 2009); and

“Access Agreement” refers to interconnection agreements and agreements concluded for the provision of access to network elements or combined network elements, interconnection between network elements, sharing of infrastructure, provision of network capacity for resale, and any other service not subject to a tariff concluded on a national and international basis;

“Dispute(s)” means any dispute -

- a. alleging non-compliance or breach of any provision of a licence;
- a) alleging non-compliance or breach of a contract for the provision of services regulated by the Act;
- b) alleging non-compliance or breach of the Act or Regulations;
- c) shall include, but not limited to, complaints involving the following -
  - i. billing;
  - ii. interference complaints;
  - iii. service delivery and product delivery;
  - iv. confidential information

[There are two paragraphs marked as “a” in this definition.]

“Complainant” means any person, natural or juristic, who may or may not be a customer or potential customer of a person providing a service contemplated in the Act; and

“Respondent” means the person against whom the Complaint is lodged, either a licensee or a person providing a service without a licence.

**Submission of documents to the Authority**

2. In these regulations submit or lodge “in writing to the Authority” means either physically or electronically -

- (1) by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek;
- (2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;

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- (3) by electronic mail to the following address: legal @cran.na
- (4) by facsimile to the following facsimile number: +26461 222 490; or
- (5) in any other manner or at alternative addresses set out by the Authority from time to time.

**Applicability**

- 3. These regulations are applicable to all disputes between -
  - (1) Licensees; and
  - (2) Persons providing a service without a licence in terms of regulation 5(2) of the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories published as No. 124 in Government Gazette 4714 dated 18 May 2011 (As amended in Government Gazette 5148, Notice 74, dated 13 March 2013).

**Submission of complaints by complainants**

- 4. (1) A Complainant may submit a Complaint in writing to the Authority on a form made available by the Authority (Attached to these regulations) -

**[The word “attached” should not be capitalised.]**

- a) after the Complainant has submitted the substance of the Complaint to the Respondent and after fourteen (14) days, the Respondent has not adequately resolved the matter; or
- b) upon a showing of good cause why the substance of the Complaint was not first submitted to the Respondent.
- (2) Complaints shall contain -
  - a) the name and contact details of the Complainant and the name and contact details of the person submitting the Complaint, if different;
  - b) the name of the Respondent, or if the name of the Respondent is unknown, as many identifying details as are available in order to assist the Authority in identifying the Respondent;
  - c) an accurate and concise statement of the facts illustrating the Complaint and demonstrating that the Respondent acted wrongly;
  - d) a clear and concise statement of the specific relief or remedy sought; and
  - e) any other relevant information.

**Adjudication of Disputes**

- 5. (1) Upon receiving a dispute, the Authority will within 48 hours issue an acknowledgement of receipt and a reference number, and if the dispute is not frivolous or vexatious, inform the other party or parties of the dispute by providing a copy.

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(2) Respondent must submit in writing to the Authority a response within fourteen (14) days, and simultaneously provide a copy of the response to the Complainant. If the dispute involves radio frequency interference, the Respondent must submit a response to the Authority within 48 hours.

(3) The Complainant may submit in writing to the Authority its reply to the response within seven (7) days, and simultaneously provide a copy of the reply to the Respondent. In the case of radio frequency interference disputes, the Complainant may submit its reply within 48 hours to the Authority.

(4) All written submissions must be clear and concise and conform to any further requirements determined by the Authority from time to time.

(5) The Authority may request additional information or documentation from the parties relating to the dispute, and may stipulate the time periods within and the manner in which such information or documentation should be submitted.

(6) After the submission of all written submissions required by the proceeding regulation, the Authority may do any one or more of the following, and in no particular order -

- a. order mediation in terms of section 132 of the Act;
- b. initiate an investigation in terms of sections 122 - 127 of the Act;
- c. conduct oral hearings in terms of the following regulation;
- d. refuse to grant the relief sought in the dispute, either wholly or partly;
- e. grant the relief sought in the dispute, either wholly or partly;
- f. impose any appropriate penalty, including a fine; or
- g. take any other action or decision, as may be appropriate in the circumstances, or refuse to take any action or decision, as may be appropriate in the circumstances.

**Oral hearings**

**6.** (1) If the Authority considers it necessary or appropriate, it will conduct an oral hearing.

(2) The Authority must invite the Complainant and Respondent and any witnesses, at least seven (7) days prior to the oral hearing, to make oral submissions.

(3) Unless otherwise specified by the Authority, hearings will be open to the public.

(4) The format and agenda of the hearing is at the discretion of the Authority, depending on the nature of the Complaint.

(5) All oral submissions must -

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- (a) include a statement of the name and contact details of the person making the oral submission and the name and contact details of the person for whom the oral submissions is made, if different; and
- (b) be clear and concise; and
- (c) conform to any further requirements determined by the Authority.

(6) If the Authority considers it necessary, it will provide the opportunity for the submission of responses to oral submissions.

(7) The Authority may request further oral or written submissions, for example, further information or clarification, from the person making the oral submissions, which documentation must be provided to the Authority in the time and the manner set out by the Authority.

(8) At the conclusion of the hearing, the Authority as part of the record of the hearing must prepare a concise report summarizing the oral submissions.

**Decisions of the Authority**

7. (1) The Authority will render a decision in respect of the Complaint within thirty (30) days.

(2) After rendering its decision, the Authority will reduce the decision to writing, which must contain -

- a. concise findings of fact and conclusions of law;
- b. the appropriate order, sanction, relief, or remedy or the denial of the requested order; and
- c. sanction, relief or remedy.

(3) In the event the Authority is unable to render a decision within thirty (30) days, the Authority will inform the Complainant and the Respondent of its inability and the reasons for such inability and what measures are being taken to address the matter urgently. The matter must be addressed within a further maximum period of fourteen (14) days, unless the Authority has identified extraordinary circumstances beyond its reasonable control that makes it impossible to render its decision within the further maximum period of fourteen (14) days.

**Condonation**

8. (1) In the event that a party is unable to comply with the times set out in these regulations, that party may request from the Authority an extension of time, provided that any extension of time granted by the Authority will not exceed fourteen (14) days calculated from the original due date.

**Confidential information**

9. (1) Any person providing information or documentation may designate information as confidential, provided, however, if the Authority is of the opinion that the information is not confidential, it must inform the person that he may withdraw the information, agree that it will not be treated as confidential, or request a hearing on the issue of

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confidentiality to be conducted in terms of section 28 of the Act and the Regulations Regarding Hearings as published in Government Gazette 5037, Notice No 310, dated 13 September 2012.

(2) Any person making oral submissions may request a closed hearing on the grounds that the submissions are confidential, provided, however, if the Authority is of the opinion that the information is not confidential, it must inform the person that he may withdraw the information, agree that it will not be treated as confidential, or request a hearing on the issue of confidentiality to be conducted in terms of section 28 of the Act. Closed hearings will be treated as confidential meetings in terms of section 29 of the Act, and the notice of the closed meeting required by section 29(4) must be maintained in the relevant file.

***Ex Parte* communications**

**10.** (1) A person may not communicate with the members of the Board, the chief executive officer or staff members of, or consultants to the Authority, to discuss the subject matter of a dispute proceeding, except as provided for herein.

**Record of Disputes**

**11.** (1) All documents deemed relevant by the Authority to the dispute proceedings contemplated by these regulations must be maintained by the Authority separately for each proceeding in files located at the head offices of the Authority and, if practicable, on the Authority's website.

(2) Except for confidential information, any person may examine the files at the head offices of the Authority during normal business hours and copies may be made on payment of a fee determined by the Authority from time to time, and, if available, on the Authority's website where copies may be downloaded free of charge.

**Publication of decisions**

**12.** (1) All decisions made in terms of these regulations will be communicated to the parties to the dispute and other relevant parties in writing and, at the discretion of the Authority, may be published in the *Gazette*.

(2) The Authority will keep a register of decisions and copies of all decisions, which will be held at the head offices of the Authority and if practicable, on the Authority's website.

(3) Any person may examine the register of decisions, and copies of decisions at the head offices of the Authority during normal business hours and copies may be made on payment of a fee determined by the Authority, and, if available, on the Authority's website where copies may be downloaded free of charge.

**Reconsideration**

**13.** (1) The Authority may, on its own, reconsider any decision made in terms of these regulations within the time set out in section 31 of the Act.

(2) Any person may submit to the Authority in writing a request to reconsider any decision made in terms of these regulations within 30 days of notice of the decision, and the Authority must reconsider such decision within the time set out in section 31 of the Act.

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(3) The Authority may publish its decision on reconsideration without further submissions b4lg received, or it may provide an opportunity for further submissions in the manner set out by the Authority.

**[There is an obvious typographical error in the *Government Gazette* in the phrase which should be "without further submissions being received".]**

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**COMPLAINT FORM**

**To view content without printing, scroll down.**

**To print at full scale (A4), double-click the icon below.**



Gen. Not. 148/2013  
Complaint Form

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**COMPLAINT FORM**

**LICENSEE DISPUTE**

In terms of Regulation 4 of the Regulations Regarding Licensee Disputes, Licensee Disputes must be submitted on this form, after the Respondent has been given fourteen (14) days to first resolve the matter.

|   |
|---|
| Was this Complaint first submitted to Respondent? _____<br>If yes, on what date was it submitted to Respondent? _____<br>If not, please submit the substance of the Complaint to the Respondent and if after fourteen (14) days, the Respondent has not adequately resolved the matter, you may submit it to the Authority. Alternatively, show good cause why the substance of the Complaint was not first submitted to the Respondent.<br>_____<br>_____<br>_____<br>_____<br>_____ |
|---|

After completing this form, sign it and return it to the Authority, as required by the Regulations Regarding Licensee Disputes.

A. COMPLAINANT

|                              |  |
|------------------------------|--|
| Complainant                  |  |
| Physical Address             |  |
| Postal Address               |  |
| Telephone number(s)          |  |
| Facsimile number             |  |
| Electronic mail address (es) |  |

B. CONTACT PERSON (IF DIFFERENT FROM COMPLAINANT)

|                              |  |
|------------------------------|--|
| Contact Person               |  |
| Physical Address             |  |
| Postal Address               |  |
| Telephone number(s)          |  |
| Facsimile number             |  |
| Electronic mail address (es) |  |



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C. RESPONDENT

|                              |  |
|------------------------------|--|
| Respondant                   |  |
| Physical Address             |  |
| Postal Address               |  |
| Telephone number(s)          |  |
| Facsimile number             |  |
| Electronic mail address (es) |  |

D. COMPLAINT

Provide an accurate and concise statement of the facts illustrating the Complaint and demonstrating that the Respondent acted wrongly.

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E. RELIEF SOUGHT

Provide a clear and concise statement of the specific relief or remedy sought

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|  |

F. ANY OTHER INFORMATION

Provide any other relevant information.

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|  |

Signed by \_\_\_\_\_ at \_\_\_\_\_ in his/her capacity as \_\_\_\_\_ duly authorized and warranting such authority and warranting that the information provided herein is true and correct, on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

\_\_\_\_\_  
Signature

**ACKNOWLEDGEMENT OF RECEIPT BY CRAN:**

|            |  |
|------------|--|
| Name:      |  |
| Date:      |  |
| Place:     |  |
| Signature: |  |