
GENERAL NOTICE

NOTICE 978 OF 2009
INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA
ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005):
REGULATIONS

The Independent Communications Authority of South Africa hereby intends to amend the following regulations in the schedules:

1. Standard Terms and Conditions – Individual Licence, Government Gazette No. 30530 of 2007.
2. Standard Terms and Conditions – Class Licence, Government Gazette No. 30512 of 2007.
3. Process and Procedures - Individual Licence, Government Gazette No. 398 of 2008.
4. Process and Procedures – Class Licence, Government Gazette No. 397 of 2008.

A copy of the regulations is available on the Authority's website (www.icasa.org.za) and in the ICASA Library at 164 Katherine Street, Pin Mill Farm, First Floor, Block D between 10h00 and 16h30, Monday to Friday.

Interested persons are hereby invited to submit written comments or written representations with regard to the proposed regulations, to be received **by no later than 16h30 on 24 August 2009** by post, hand delivery or facsimile transmission for the attention of:

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Independent Communications Authority of South Africa,
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PARIS MASHILE
CHAIRPERSON
ICASA

ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)**REGULATIONS**

Amendment of the regulations:

Standard Terms and Conditions – Individual Licence, Government Gazette
No. 30530 of 2007.

The Independent Communications Authority of South Africa has, under section 8 read with section 4 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) made the regulations in the schedule.

SCHEDULE 1**1. Definitions**

In these regulations “the Regulations” means the regulations published by Government Gazette No. 30530 of 2007.

2. Amendment of regulation 1 of the Regulations

Regulation 1 of the Regulations is hereby amended by the insertion for the definition “public service announcement” after the definition “licensee” of the following definition:

“Public service announcement” means a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge or information the dissemination of which is in the public interest and/or which attempts to solicit support for, or create awareness of, any non-profit organisation or any other organisation which conducts activities in the public interest.

3. Substitution of regulation 3 of the Regulations

The following regulation is hereby substituted for regulation 3 of the Regulations:

3. NOTIFICATION OF LICENSEE DETAILS AND INFORMATION

- (1) A licensee must submit written notice to the Authority within seven (7) days of the occurrence of changes in respect of:
 - (a) the board of directors of the Licensee;
 - (b) the name of the Licensee; and
 - (c) shareholding (except for those listed on the stock exchange)
- (2) No fee is payable in respect of notifications in terms of these regulations.

4. Substitution of regulation 6 of the Regulations

The following regulation is hereby substituted for regulation 6 of the Regulations:

6. COMMENCEMENT OF OPERATIONS

A licensee must commence operation of the BS specified in the Licence within:

- (a) Six (6) months from the effective date in respect of free to air sound BS;
- (b) Twelve (12) months from the effective date in respect of free to air television BS; or
- (c) Twelve (12) months from the effective date in respect of subscription BS.

Unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the period referred in paragraphs (a), (b) and (c).

5. Substitution of regulation 9 of the Regulations

The following regulation is hereby substituted for regulation 9 of the Regulations:

9. SAFETY MEASURES

- (1) A licensee must, in respect of all apparatus, equipment and installations that it owns, leases or uses, take such safety 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, radiation and related risks.
- (2) A licensee must adhere to regulatory broadcast standards in respect of frequency, power outputs and type approval.

6. Amendment of regulation 10 of the Regulations

Regulation 10 of the Regulations is hereby amended by the substitution for subregulations (1) and (2) of the following subregulations:

(1) 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, safety measures, regulatory broadcast standards and other requirements of the Act and related legislation;
- (b) Allow for the assessment and allocation of applicable fees and related requirements;
- (c) Facilitate the efficient use of scarce resources; and
- (d) Collect and compile information to be used for the purposes of sectoral planning and reporting.

(2) In respect of each information request referred to in subregulation (1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries will be addressed.

7. Deletion of regulation 11 of the Regulations

Regulation 11 of the Regulations is hereby repealed.

8. Substitution of regulation 12 of the Regulations

The following regulation is hereby substituted for regulation 12 of the Regulations:

12. PUBLIC SERVICE ANNOUNCEMENTS

- (1) The Licensee must broadcast public service announcements in the public interest as may be requested by the Authority in writing.
- (2) The Licensee may broadcast public service announcements in the public interest as may be requested by a Public Service Institution in writing.

9. Substitution of regulation 14 of the Regulations

The following regulation is hereby substituted for regulation 14 of the Regulations:

14. SPECIFIC TERMS AND CONDITIONS

The Authority may impose specific terms and conditions upon a Licensee in terms of section 9(7) of the Act, and the related legislation. These specific terms and conditions are contained in the schedule and include but are not limited to:

- (a) Geographic coverage area of the licensed BS setting out the scope of coverage (regional or national) and universal service and access targets, if any;
- (b) Language(s) to be used by the BS Licensee;
- (c) Format of the licensed BS, including but not limited to the content and presentation type of the sound and/or television BS e.g. full service, adult contemporary, talk radio, etc;
- (d) Local content obligations of the licensed BS in addition to those prescribed by the Authority;
- (e) Other general programming obligations of the licensed BS including without limitation, obligations in respect of news, actuality programming, political issues of public interest, educational programming and programming to meet the needs of the children, the youth, women and disabled persons, etc;
- (f) Ownership and control structures of the Licensee;
- (g) Obligations in respect of ownership and control by persons from historically disadvantaged groups in respect of the Licensee, in addition to those prescribed by the Authority;
- (h) Industry human resources training and skills development requirements of the licensed BS;
- (i) Community-related obligations of the licensed BS;
- (j) Broadcast hours of the licensed BS if fewer than twenty four (24) hours per day; and
- (k) In relation to the South African Broadcasting Corporation:
 - (i) Its obligations in respect of publicising the Television Licence fee;
 - (ii) Cross-subsidisation issues as between its public commercial and public services; and
 - (iii) The provision of audited financial statements to the Authority.

10. Substitution of regulation 16 of the Regulations

The following regulation is hereby substituted for regulation 16 of the regulations:

16. CONTRAVENTION AND PENALTIES

Upon determination of non-compliance by the Complaints and Compliance Committee in terms of the ICASA Act, the Authority may impose a fine not exceeding:

- (a) One Million Rands (R1 000 000, 00) for contravention of regulations 3(1), 4, 6, 7, 9, 10(1) and 12(1).
- (b) One Million Rands (R1 000 000, 00) for repeated contraventions of these regulations.
- (c) One Hundred Thousand Rands (R100 000, 00) for contravention of any regulation not specified in paragraph (a).