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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

Independent Communications Authority of South Africa

NOTICE 314 OF 2021

AMENDMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY ("ICT") COVID-19 NATIONAL DISASTER REGULATIONS

The Independent Communications Authority of South Africa ("the Authority"), hereby amends the ICT COVID-19 National Disaster Regulations published in Notice No. 238 (Government Gazette No. 43207) dated 6 April 2020, as amended, in terms of section 4(7)(b) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), to the extent reflected in the Schedule.



Dr Keabetswe Modimoeng
Chairperson
21/05/2021

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SCHEDULE

1. **Definitions**

In these regulations "the Regulations" means the regulations published by Government Notice No. 238 (Government Gazette No. 43207) of 6 April 2010, as amended by Government Notice No. 252 (Government Gazette No. 43279) of 5 May 2020, No. 500 (Government Gazette No. 43707) of 11 September 2020, Government Notice No. 678 (Government Gazette No. 43945) of 27 November 2020 and Government Notice No. 165 (Government Gazette No. 44374) of 31 March 2021.

2. **Amendment of regulation 4 of the Regulations**

Regulation 4 of the Regulations is hereby amended –

(a) by the substitution for sub-regulation (2) of the following sub-regulation:

"(2) Notwithstanding the provisions of sub-regulation (1), licensees shall ensure that all complaints received by them are resolved within twenty (20) working days from the date of notification thereof."

(b) by the substitution for the heading after sub-regulation (2) of the following heading:

"Tariffs Notification"

(c) by the deletion of sub-regulation (3).

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(d) by the substitution for sub-regulation (4) of the following sub-regulation:

"(4) Any tariffs associated with a service in terms of the Act, which are intended to benefit and/or support consumers during the National State of Disaster, may be lodged with the Authority one (1) day prior to their operation/commencement."

(e) by the substitution for sub-regulation (5) of the following sub-regulation:

"(5) All lodgements made in terms of sub-regulation (4) shall be deemed to constitute adequate notification in terms of these Regulations."

(f) by the deletion of sub-regulations (6), (7) and (8).

(g) by the substitution for sub-regulation (8A) of the following sub-regulation:

"(8A) Television broadcasting service Licensees are exempted from compliance with specific advertising requirements in terms of their licence conditions. Television broadcasting service Licensees shall comply with the local television content quotas during the National State of Disaster, to the extent reflected in the table below:

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Public Television Broadcasting	**Commercial Television Broadcasting**	**Community Television Broadcasting**
Minimum weekly average of its programming measured over a period of a year	Minimum weekly average of its programming measured over a period of a year	Minimum weekly average of its programming
45%	35%	55%

Table 1"

(h) by the deletion of sub-regulations (8B) and (8C).

(i) by the substitution for sub-regulation (8D) of the following sub-regulation:

"(8D) The exemptions indicated in sub-regulation (8A) shall automatically cease three (3) months after the termination of the National State of Disaster."

(j) by the deletion of sub-regulations (11) and (12).

(k) by the substitution for sub-regulation (12A) of the following sub-regulation:

"(12A) The suspension of the requirement for community broadcasting service licensees to hold any community meetings or AGMs and be required to submit proof of holding the meetings is lifted. Where it is not possible for a community broadcasting service licensee to hold a community meeting or AGM, such licensee

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must submit proof to the Authority before twenty-one (21) working days of the date specified in its constitutive documents for holding the community meetings or AGMs, where applicable."

(l) by the deletion of sub-regulation (12B).

(m) by the substitution for sub-regulation (12C) of the following sub-regulation:

"(12C) Community broadcasting service licensees that were due to hold any meetings or AGMs with their respective communities during the period of the National State of Disaster and it was not possible for them to hold the community meetings or AGMs, must hold such community meetings or AGMs within three (3) months after the expiry of the National State of Disaster."

(n) by the addition after sub-regulation (12C) of the following sub-regulation:

"(12D) Where a community broadcasting service licensee holds any community meetings or AGMs in accordance with its constitutive document, where applicable, it shall submit a detailed plan to the Authority before twenty-one (21) working days prior to such planned meetings or AGMs, advising on the following:

(a) Adherence with COVID-19 health protocols, directions and regulations as prescribed in terms of the Disaster Management Act, No. 57 of 2002;
(b) The platform for convening such community meeting or AGM (i.e. virtual or physical); and

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(c) A list of the registered members who have confirmed attendance to such community meeting or AGM."

(o) by the substitution for sub-regulation (15) of the following sub-regulation:

"(15) Subscription Broadcasting Licensees and Free-To-Air Broadcasting Licensees that need to apply for authorisation of channels may submit their requests for such authorisation not later than seven (7) days prior to the intended date of launch."

(p) by the substitution for sub-regulation (19) of the following sub-regulation:

"(19) Insofar as they are required to give notice thereof to the Authority, Licensees shall notify the Authority regarding new installations of electronic communications facilities on their networks within twenty (20) working days of the occurrence thereof."

3. **Amendment of regulation 5 of the Regulations**

Regulation 5 of the Regulations is hereby amended –

(a) by the insertion of sub-regulation (10A) after sub-regulation (10):

"(10A) Notwithstanding the provisions of sub-regulation (10), type approved equipment that operates in the radio frequency spectrum that is temporarily assigned in terms of these Regulations shall be decommissioned within three (3) months after the expiry of the temporary radio frequency spectrum

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licences as contemplated in regulation 6 (6) and (7) of these Regulations."

(b) By the substitution for sub-regulation (11) of the following sub-regulation:

"(11) Wherein a Supplier would like to continue using Equipment that has been Type Approved in line with these Regulations beyond the period contemplated in terms of sub-regulations (10) and (10A) above, they are required to apply for Type Approval in line with the applicable Type Approval Regulations."

4. **Amendment of regulation 6 of the Regulations**

Regulation 6 of the Regulations is hereby amended –

(a) by the substitution for sub-regulation (5) of the following sub-regulation:

"(5) Licensees shall pay pro-rated radio frequency spectrum licence fees, in terms of the Radio Frequency Spectrum Licence Fees Regulations, 2010, for the period commencing on 1 June 2021 to 31 August 2021, in relation to the bands specified in sub-regulations (3) and (4)."

(b) by the substitution for sub-regulation (5A) of the following sub-regulation:

"(5A) Payment of fees, in terms of sub-regulation (5), must be made to the Authority by no later than 15 June 2021."

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(c) by the substitution for sub-regulation (7) of the following sub-regulation:

"(7) No radio frequency spectrum licence assigned pursuant to sub-regulations (3) and (4) shall be valid after 31 August 2021."

(d) by the insertion of sub-regulation (7A) after sub-regulation (7):

"(7A) Notwithstanding the provisions of sub-regulations (6) and (7), the Authority may revoke the temporary radio frequency spectrum licences issued in terms of these Regulations earlier than the dates contemplated in sub-regulations (6) and (7), by publishing a 30-day notice in the Gazette."

(e) by the insertion of sub-regulation (12A) after sub-regulation (12):

"(12A) The duration of spectrum sharing agreements approved by the Authority pursuant to these Regulations shall not exceed the duration of the temporary radio frequency spectrum licence contemplated in sub-regulations (6) and (7)."

(f) by the substitution for sub-regulation (16) of the following sub-regulation:

"(16) A licensee assigned with temporary spectrum in terms of sub-regulations (3) and (4), must maintain network connectivity in line with regulatory requirements for the virtual classrooms platforms allocated respectively to it by the Authority, free of charge, for a period of seventeen (17) months from the date of confirmation of deployment by the operator as verified by the Authority in collaboration with the Department of Basic

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Education and the Department of Communications and Digital Technologies, notwithstanding that its licence for temporary spectrum assigned to it in terms of sub-regulations (3) and (4) has expired."

(g) by the substitution for sub-regulation (17) of the following sub-regulation:

"(17) A licensee assigned with temporary spectrum in terms of sub-regulations (3) and (4), that does not seek to extend the validity period of its temporary radio frequency spectrum licence post 31 May 2021, must maintain network connectivity for the virtual classrooms platforms as contemplated in sub-regulation (16) for a period of fourteen (14) months."

5. **Short Title and Commencement**

These regulations are called the "ICT COVID-19 National Disaster Fifth Amendment Regulations" and will come into force on 1 June 2021.

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