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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

**NO. 6127** **15 April 2025**

## INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

## EXTENSION OF THE DUE DATE FOR THE RENEWAL OF RADIO FREQUENCY SPECTRUM LICENCES REGULATIONS, 2025

The Independent Communications Authority of South Africa ("**the Authority**"), hereby publishes the Extension of the Due Date for the Renewal of Radio Frequency Spectrum Licences Regulations, 2025 in terms of sections 31(3)(b) and 4(7)(b) of the Electronic Communications Act 36 of 2005 read with section 4(3)(j) of the Independent Communications Authority of South Africa Act 13 of 2000.

**MOTHIBI G. RAMUSI**
**CHAIRPERSON**

## SCHEDULE

### 1. DEFINITIONS AND INTERPRETATION

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Electronic Communications Act 36 of 2005 ("**the ECA**") or the Independent Communications Authority of South Africa ("**ICASA Act**"), as amended, or the Radio Frequency Spectrum Regulations, 2015 has the meaning so assigned and the following words shall have the meaning set out below:

a) "**Licence"** means a radio frequency spectrum licence issued pursuant to section 31 of the ECA;

b) **"Licensee"** means the holder of a valid Licence as at 31 March 2025;

c) "**Radio Frequency Spectrum Regulations**" means the Radio Frequency Spectrum Regulations published under GenN 279 in GG 38641 of 30 March 2015, as amended; and

d) "**Regulations**" means the regulations as prescribed herein.

### 2. PURPOSE OF REGULATIONS

2.1. These Regulations are made in terms of sections 31(3)(b) and 4(7)(b) of the ECA, read with section 4(3)(j) of the ICASA Act, to –

2.1.1. prescribe, amongst others, procedures and criteria for the renewal of radio frequency spectrum licences; and

2.1.2. make regulations on any matter consistent with the objects of the ICASA Act, the ECA, and the underlying statutes or that are incidental or necessary for the performance of the functions of the Authority.

2.2. The Authority makes these Regulations under exigent circumstances to extend the due date for the payment of the prescribed licence fee and renewal of Licences as stipulated in the Radio Frequency Spectrum Regulations for the renewals which were due by 31 March 2025.

## 3. EXTENSION OF DUE DATE FOR THE RENEWAL LICENCES

3.1. Notwithstanding the provisions of Regulation 10 of the Radio Frequency Spectrum Regulations –

3.1.1. the due date for the payment of the prescribed licence fees and renewals which were due by 31 March 2025 is hereby extended to 30 June 2025; and

3.1.2. all Licences which were not renewed by payment of the prescribed licence fees by 31 March 2025 shall not expire but shall be deemed to be valid until 30 June 2025.

3.2. These Regulations shall apply with retrospective effect to all affected Licensees that continued to utilise radio frequency spectrum in terms of their respective Licences during the period between 31 March 2025 and the publication of these Regulations.

3.3. If a Licensee fails to pay the prescribed licence fee for the renewal of a Licence by 30 June 2025, then the Licence shall expire immediately at 00h00 on 01 July 2025.

## 4. EFFECTIVE DATE

4.1. These Regulations shall –

4.1.1. apply with effect from the date of publication thereof in the Government Gazette; and

4.1.2. lapse on 1 July 2025 at 00h00.

## 5. SAVINGS PROVISION

Unless otherwise stated in these Regulations, any matter pertaining to payment of prescribed licence fees and renewal of Licences shall be regulated in accordance with the Radio Frequency Spectrum Regulations.

**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

# Extension of the Due Date for the Renewal of Radio Frequency Spectrum Licences Regulations, 2025

## Reasons Document

**April 2025**

## 1. INTRODUCTION

1.1. The Independent Communications Authority of South Africa ("**the Authority**" **or** "**ICASA**") may, in terms of sections 31(3)(b) and 4(7)(b) of the Electronic Communications Act 36 of 2005 ("**ECA**"), read with section 4(3)(j) of the ("Independent Communications Authority of South Africa Act 13 of 2000 ("**ICASA Act**"), make regulations to –

1.1.1. prescribe, amongst others, procedures and criteria for the renewal of radio frequency spectrum licences; and

1.1.2. make regulations on any matter consistent with the objects of the of the ECA and the underlying statutes or that are incidental or necessary for the performance of the functions of the Authority.

1.2. For the reasons set out more fully below, the Authority publishes the regulations attached to this reasons document ("**the Regulations**") without following the procedure set out in section 4(4) of the ECA as the Authority has determined that the public interest dictates that the Regulations be made without delay.

## 2. BACKGROUND

2.1 Since 26 March 2025, the Authority has been experiencing intermittent unavailability of its online licensing platform, namely: the Automated Spectrum Management System ("**the Licensing Platform**").

2.2 The intermittent unavailability of the Licensing Platform has negatively impacted upon the ability of licensees to: (a) renew a licence; (b) submit a new radio frequency spectrum licence application to the Authority; and (c) amend an existing licence in accordance with the provisions of the ECA. This has also negatively impacted upon the Authority's operations.

2.3 The Authority has accordingly appointed an information technology service provider ("**the Service Provider**") to resolve the technical issues experienced by the Authority and licensees.

2.4 Since 26 March 2025, the Service Provider in collaboration with the information technology division of the Authority, has implemented several updates to the Licensing Platform to resolve the technical issues, conduct an extensive database clean-up and improve the operating system and business process management servers.

2.5 Whilst the Authority has assiduously attempted to expedite the resolution of the technical issues, it has been advised that the required upgrades to the Licensing Platform can only be completed by 31 May 2025.

2.6 In the circumstances, based on the enquiries received by the Authority, it became apparent that a substantial number of licensees were not able to renew licences by the due date prescribed in terms of Regulation 10 of the Radio Frequency Spectrum Regulations, 2015 i.e., **31 March 2025**.

2.7 Upon consideration of the circumstances described in paragraphs 2.1 to 2.6 above, the Authority has identified the need to extend the renewal due date to allow the affected licensees sufficient time to ensure that their licences are renewed.

2.8 The purpose of this reasons document is to outline the Authority's reasons regarding its decisions with respect to the Regulations.

## 3. LEGISLATIVE FRAMEWORK

3.1 In publishing the Regulations, the Authority was guided by the provisions of the ICASA Act and the ECA.

**The ICASA Act**

3.2 The Authority is empowered to make regulations on any matter consistent with the objects of the ICASA Act and the underlying statutes or that are incidental or necessary for the performance of the function of the Authority.[1]

**The ECA**

3.3 Section 31(3) of the ECA also states that the Authority may prescribe procedures and criteria for, *inter alia*, the renewal of radio frequency spectrum licences. In terms of section 1 of the ECA, "prescribed" (and by extension to "prescribe") is defined as "means prescribed by regulation made by the Authority in terms of this Act or the related legislation".

3.4 Section 4(3)(j) of the ICASA Act provides that the Authority make regulations on any matter consistent with the objects of the ICASA Act and the underlying statutes or that are incidental or necessary for the performance of the functions of the Authority.

3.5 In light of the exigent circumstances outlined above, the Authority has decided to extend the due date for the payment of the prescribed licence fee and renewal of licences as stipulated in the Radio Frequency Spectrum Regulations, 2015 for the renewals which were due by 31 March 2025 by making the Regulations. The Authority is of the view that the Regulations are necessary for the performance of its functions and consistent with the objects of the ECA.

3.6 The Authority is empowered in terms of section 4(7)(b) of the ECA to not follow a public notice and comment procedure contemplated in terms of section 4(4) of the ECA when making any regulation which the public interest requires should be made without delay.

[1] Section 4(3)(j) of the ICASA Act.

3.7 The public interest in this instance being the inability of the affected licensees, who are substantial in number, to renew their licences thereby leading to a situation where licensees are forced to stop utilising radio frequency spectrum or face potential sanction as they would be acting unlawfully in the absence of a validly renewed licence.

## 4. THE EXTENSION

4.1 To address the prejudice suffered by licensees who could not renew their licences due to the technical issues pertaining to the Licencing Platform, the Authority has decided to extend the due date for the payment of the prescribed licence fees for the extension of licences from 31 March to 30 June 2025.

4.2 Although the technical issues have endured for a period of approximately one week prior to the due date on 31 March 2025, the Authority considers it reasonable to afford licensees a period of three months, from 1 April to 30 June 2025 to complete the renewal of their licences.

4.3 The Authority does not consider that anyone will be prejudiced by its decision. To the contrary, should no extension be granted, licensees who wished to renew their licences but could not do so by the due date will be severely prejudiced.

4.4 Moreover, the granting of the extension will ensure that the Authority facilitates compliance with the rule of law, by avoiding criminalising the conduct of licensees who continued to use radio frequency spectrum without valid licences immediately after 31 March 2025 only because they could not renew their licences timeously, due to the technical issues pertaining to the Licencing Platform.

## 5. THE PROCESS

5.1 Section 4(4) of the ECA requires the Authority to publish, not less than 30 days before a regulation is made, the regulation in the gazette, firstly declaring the Authority's intention to make the regulation and secondly, inviting the interested parties to make written representations on the regulation.

5.2 The due date contemplated by Regulation 10 of the Radio Frequency Spectrum Regulations, 2015 is 31 March of the then current licence year. This date has passed as at publication of the Regulations without affected licensees being able to renew their licences as a result of the problems with the Licensing Platform outlined above.

5.3 Should the Authority follow the notice and comment procedure in relation to the Regulations, in accordance with section 4(4) of the ECA, the regulations which are necessary to ensure continuity of licensees' operations and compliance with relevant regulatory instruments may not be implemented timeously thereby impacting adversely on the ability of licensees to comply with their obligation to renew licences.

5.4 In the circumstances, the Authority has determined to act in terms of section 4(7)(b) of the ECA which empowers the Authority to make any regulations which the public interest requires be made without delay, without regard to the notice and comment procedure stipulated in section 4(4) of the ECA.

## 6. CONCLUSION

6.1 The Authority believes that the Regulations will ensure that the licensees are afforded an opportunity to comply with their obligation to renew the licences, considering that their failure to do so was generally on no fault or failure on their part.

6.2 The Regulations serve the public interest due to the large number of affected licensees, and taking into account the consequences of non-compliance which would prejudice the affected licensees as well as the general public at large which is served by the various affected licensees.

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