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# GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

**DEPARTMENT OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES**

**NO. 7216** **12 March 2026**

## ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)

## DRAFT POLICY DIRECTION ON MATTERS RELEVANT TO ELECTRONIC COMMUNICATIONS NETWORK DEPLOYMENT PURSUANT TO THE NATIONAL POLICY ON RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES, 2023

1.1 The Minister of Communications and Digital Technologies ("the Minister") intends to issue a policy direction in terms of section 3 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) (“the Act”) as set out in the Schedule.

1.2 The objectives of this draft policy direction are to give effect to existing national and sector policy pertaining to access required to and use of land, both public and private, to facilitate the rollout of nationwide affordable high-speed broadband networks. The draft policy direction requests the Independent Communications Authority of South Africa (“the Authority”) to consider amendments to the Facilities Leasing Regulations, 2010, and to develop Rapid Deployment Regulations for this purpose.

1.3 Interested persons are invited to provide written comments on the draft policy direction within 30 calendar days of the date of publication, addressed to –

| |
|---|
| The Director-General, Department of Communications and Digital Technologies<br>For attention: Mr. A Wiltz, Chief Director, Digital Access and Services |
| First Floor, Block A3, iParioli Office Park, 1166 Park Street, Hatfield, Pretoria |
| Private Bag X860, Pretoria, 0001 |
| rapid@dcdt.gov.za; Cell: 0837140126 (Mr. L Motlatla) |

1.4 An interested person making a written submission is deemed to have consented to its disclosure to a requester, except if otherwise requested by such interested person based on one of the grounds for refusal of access to records as provided in the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

1.5 Comments received after the closing date will be disregarded.



**MR. SOLLY MALATSI, MP**
**MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES**
**DATE: 11 March 2026**

## SCHEDULE

## DRAFT POLICY DIRECTION ON MATTERS RELEVANT TO ELECTRONIC COMMUNICATIONS NETWORK DEPLOYMENT PURSUANT TO THE NATIONAL POLICY ON RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES, 2023

Recognising that –

- the National Policy on Rapid Deployment of Electronic Communications Networks and Facilities, 2023 (the National Policy) is dependent on implementation by the Authority to achieve the goals of the Electronic Communications Act, 2005 (the Act) and the goals of the National Development Plan, 2030 (NDP); and
- more focussed initiatives are required to ensure that the National Policy is implemented efficiently and effectively; and
- there are a number of other legal instruments that exist in relation to deployment of broadband networks and services in South Africa,

the Minister of Communications and Digital Technologies has decided to issue a policy direction under section 3(2)(b) and (e) of the Act, having regard to the National Policy.

Having regard to the public interest and having regard to international trends, the Authority is directed to identify the most suitable way to achieve the objectives of rapid deployment, and to:

1. Undertake a review of and if necessary, strengthen the Facilities Leasing Regulations in particular in regard to:

    (a) qualifying criteria for licensees who wish to exercise their Chapter 4 rights which should include as a minimum that:
        (i) the licensee is an ECNS licensee with a valid licence which is in compliance with its licence obligations and the law;
        (ii) there are no other suitable alternatives to forms of access requested to the facilities identified; and
        (iii) the requesting licensee has made available to the Authority the location of all of its facilities;

    (b) the terms on which access to essential facilities will be granted including as to price (on the basis that the Authority will determine “essential facilities” as required below, as a priority);

    (c) the concept of “open access”;

    (d) improving the time within which requests must be considered and approved and agreements finalised by licensees in terms of Chapter 8; and

    (e) monitoring, enforcement and implementation of the amended Facilities Leasing Regulations, which shall include the filing of all agreements with the Authority.

2. Develop a framework for new Rapid Deployment Regulations that takes account of the following principles:

(a) Unnecessary duplication of facilities in areas should be discouraged where existing facilities are available in particular where a licensee is or licensees are, by virtue of its or their extensive national networks, in a position to make access available.

(b) The creation of a central geographic information system (GIS) database should be established to which licensees can be required to contribute information concerning new and existing infrastructure, both as to location and type, as a priority and in this regard, the Authority is directed to liaise with the Department of Communications and Digital Technologies to –
   (i) determine the nature and parameters of information to be provided in the GIS database;
   (ii) identify who can access the information in the GIS database;
   (iii) agree the protocol for security of the GIS database;
   (iv) identify input, output and outcome indicators; and
   (v) ensure that the database shall be capable of connecting to and interfacing with other similar databases, including the GIS database of the DCDT, to ensure a comprehensive record can be established of the location and coverage of each type of technology and each network; and
   (vi) identify other similar initiatives within government where it may be appropriate to share resources and save costs by collaborating on such a system.

(c) The Authority shall enforce the provision by licensees of information concerning their network deployment (new and existing) as set out above, using its powers to require information. Such information shall be used strictly and only for purposes identified in this policy direction and to achieve the objectives set out in this policy direction. The Authority shall take such steps as are necessary to protect this information from unauthorised use or use which could compromise the commercial business interests of licensees, notwithstanding the obligation to provide such information including prescribing an obligation to make such filings in such format as the Authority requires. In making its requests for data, the Authority must make licensees aware that their data will be used to facilitate leasing of facilities as well as supporting deployment of electronic communications and other infrastructure.

(d) The Authority shall ensure that a reasonable portion of its budget for technical matters is set aside for research and development into new deployment methods and alternatives to existing methods of deployment.

(e) The policy has determined that requests for access to government servitudes, property and infrastructure that are associated with or part of electronic communications facilities or electronic communications networks and that are publicly funded shall be considered to be “reasonable” in terms of Chapter 8. The Authority shall consider whether it is appropriate to classify access to only certain types of such infrastructure as “reasonable” on the basis that they meet pre-determined criteria. The Authority may wish to consult with stakeholders in this regard, and it would be appropriate to issue guidelines to deal with the criteria for “reasonableness” in this context.

(f) To give effect to the objectives of this policy and in particular the need to avoid unnecessary duplication of infrastructure, the Authority should consider whether it would be appropriate to prescribe an obligation on licensees to simultaneously file

a copy of each request for a wayleave application, or at least the motivation for not leasing relevant existing infrastructure, with the Authority's facilities-leasing department so that the Authority may determine whether or not the licensee has met the requirements for a request.

(g) The Authority shall ensure that information provided under subsection (c) is updated no less frequently than once every two years or as often as the information changes and shall oblige licensees to act accordingly.

(h) The Authority shall take steps to monitor the accuracy of the information provided under (c) and (f) from time to time by independently verifying it.

(i) The Authority shall determine a process to be followed to declare a dispute between licensees or between licensees and third parties which considers, among other things –
   (i) that the dispute should be declared at least 14 calendar days before the licensee commences with an activity for which access to land is required and provided that a licensee may not continue to deploy broadband infrastructure while awaiting the resolution of the dispute;
   (ii) that disputes with land owners and other third parties which are not licensees may only be referred to the Authority if the third party agrees to submit to dispute resolution under the Rapid Deployment Regulations;
   (iii) that if damage is caused by a licensee entering and inspecting land, or building or maintaining broadband infrastructure, a property owner is entitled to the replacement value, if applicable or reasonable compensation agreed to between the property owner and the licensee, for any damage caused;
   (iv) that disputes relating to the replacement value or reasonability of compensation for damage should be referred to a court of competent jurisdiction;
   (v) that a decision made in accordance with the rapid deployment regulations should be, in all respects, effective and binding on the parties to the dispute unless an order of a court of competent jurisdiction is granted against the decision; and
   (vi) that any appeal against or review of a decision of the Authority should be referred to a court of competent jurisdiction.

(j) The Authority shall provide a report to the Minister annually on the steps taken to implement:
   (i) amendments to the Facilities Leasing Regulation; and
   (ii) the formulation of Rapid Deployment Regulations,

with the first report to be provided within 12 (twelve) months of the date of commencement of this policy direction.

## EXPLANATORY NOTE

1. Chapter 4 of the Act sets out the right of licensees to gain access to public and private land in order to deploy networks and particularly broadband networks, at speed. Despite the apparently wide rights given to licensees in this Chapter, licensees experience delays getting wayleaves and other permits to access public land and even private land. Every municipality has a different process and charges different fees and there is significant delay in issuing permits, despite the provisions of the National Infrastructure Development Act, 2014.

**Policy background**

2. A White Paper was published in 2016 in which a chapter was devoted to the concept of 'rapid deployment' which was followed by the publication of the National Policy of 2023. The National Policy must be reviewed at least every three years.

3. The National Policy provides that national coverage of broadband infrastructure is necessary for the creation of a digital economy and digital society. All spheres of government must enable the rapid deployment of broadband infrastructure to enable universal digital services. Red tape across government spheres must be reduced to eliminate delays in granting approvals and minimise costs for the deployment of broadband infrastructure. The National Policy is one of the action lines under Operation Vulindlela (Phase 1).

**Legislative background**

4. Section 21 of the Act obliges the Authority to make regulations that "*provide procedures and processes for:*
   *(a) obtaining any necessary permit, authorisation, approval or other governmental authority including the criteria necessary to qualify for such permit, authorisation, approval or other governmental authority; and*
   *(b) resolving disputes that may arise between an electronic communications network service licensee and any landowner in order to satisfy the public interest in the rapid rollout of electronic communications networks and electronic communications facilities*".

5. The Authority published Facilities-Leasing Regulations in 2010. These Regulations have been helpful in facilitating network-sharing and network access to enable competitors to avoid duplicating infrastructure, reduce the strain on the environment, and reduce costs. However, since their introduction the impact of the Regulations on network deployment and affordable access has not been assessed.

6. The Authority has not yet published rapid deployment regulations as required by the Act or the National Policy.

**The current position**

7. The Competition Commission recommended a standard bylaw as one of the ways to reduce the cost of data for consumers.

8. A "standard draft bylaw" was published by the Minister of Cooperative Governance and Traditional Affairs in 2023 (Standard Draft By-Laws for Deployment of Electronic Communications Facilities (Government *Gazette* 48113, Government Notice No. 3087, 24 February 2023)). It is intended to assist in infrastructure rollout by creating a standard

approach to applications for and the processing of permits by municipalities. However, to date a fraction of the total number of municipalities have adopted this.

9. The ongoing delays and the disparity between procedures within each municipality increase costs to licensees which are ultimately passed on to consumers. Among other things, this increases the cost of data at a time when the Minister is focused on reducing this, and on expanding affordable access to high-speed broadband networks around the country.

**The policy direction**

10. The Authority requires the support of the Minister in establishing the necessary regulations. After discussion, the Minister has decided that revised policy directions will assist the Authority and ultimately licensees in fulfilling national policy goals. Issues such as the creation of a GIS database have long been discussed but not formalized. The draft policy direction seeks to do this, among other things.

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