

NOTICE 119 OF 2009**NOTICE TO MAKE REGULATIONS REGARDING THE MANAGEMENT
AUTHORITY ASSIGNED TO THE ASTRONOMY ADVANTAGE AREAS**

The Minister of Science and Technology, hereby in terms of section 50 read with sections 15, 16, 17, 18 and 19 of the Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007) make the regulations in the schedule. Interested persons are hereby invited to submit written comments with regard to the proposed regulations not later than 16h30 on the 6th March 2009. For the attention of:

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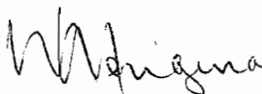
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M MANGENA

MINISTER OF SCIENCE AND TECHNOLOGY

SCHEDULE

ARRANGEMENT OF REGULATIONS

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Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates

"Act" means the Astronomy Geographic Advantage Act 21, 2007.

"Contact details" means the postal address, telephone number, email address, facsimile number and any other detail where a natural and juristic person can be contacted.

"Core competencies" means capabilities that enable the proper management of the astronomy advantage areas in terms of the Act and skills that enable the management authority to deliver on its mandate in terms of the Act.

"Detrimental optical interference" means disturbance caused by undesired signals which endanger or obstruct the functioning of the astronomy devices in the astronomy advantage areas.

"Detrimental radio interference" means a radio frequency interference which endangers or obstructs the functioning of the radio astronomy devices in the astronomy advantage areas.

"Laws" means legislative framework applicable to astronomy.

Scope of the regulation

1.

These regulations apply to the management authority.

Management Authority

2.

- (1) Upon assigning the management of the astronomy advantage areas in terms of section 15(1) of the Act to the management authority, the management authority shall assume the overall management of the astronomy advantage areas.
- (2) The management authority must possess the core competencies required in regulation 4.
- (3) The management authority must ensure that the astronomy advantage areas are protected from detrimental optical interference and detrimental radio interference exceeding the prescribed levels.
- (4) In performing its functions the management authority must act in a manner consistent with the Act and the Regulations.

Appointment of management authority

3.

For the purpose of achieving the objects of the Act, there shall be a single management authority assigned to all the astronomy advantage areas.

Core competencies**4.**

- (1) The management authority shall possess the following core competencies including but not limited to -
- (a) Financial, administrative and human resource management skills.
 - (b) Ability to understand the requirements for optical astronomy and to advise on electrical lighting fixtures, light emission processes and illumination levels.
 - (c) Ability to understand the requirements of radio astronomy and to consider, assess and make rulings on radio frequency interference.
 - (d) Knowledge of local development and planning procedures.
 - (e) Legal expertise.
 - (f) Capability to implement and enforce the laws relating to astronomy.
 - (g) Understanding the dynamics of the astronomy advantage areas.
 - (h) Communications skills.
 - (i) Radio frequency spectrum management skills.
 - (j) Knowledge of technologies used in the telecommunications industry, including but not limited to:
 - I. Wireless technologies.
 - II. Broadcast signal distribution technologies
 - III. Aeronautical navigation and communication technologies.
 - (k) Radio frequency propagation modelling.

Functions

5.

- (1) Develop, manage and maintain the permanent register of interested and affected parties for the astronomy advantage areas
- (2) The register to be developed must be in a form of an electronic database.
- (3) The register contemplated in subsection 1 must contain the following information –
 - (a) If the interested or affected party is the natural person, the name of the interested or affected party.
 - (b) The contact details of the natural person who is interested or affected.
 - (c) If the interested or affected party is a juristic person, the name of the company.
 - (d) The contact details of the juristic person who is interested or affected.
 - (e) The nature of the interest in respect of optical or radio astronomy and if the latter, then the portions of the radio frequency spectrum involved.
- (4) Ensure that the astronomy advantage areas are protected from detrimental optical interference and detrimental radio interference
- (5) Give advice and make rulings on any matter pertaining to protection of astronomy advantage areas.
- (6) Develop methods of coordination with all the affected parties within the astronomy advantage area
- (7) Develop standards to which all industrial, domestic, commercial, sporting, cultural and tourism activities shall be subject to, in order to assess potential impact on observing conditions in core optical astronomy advantage areas.

- (8) Undertake all assessments, authorisations and prohibitions as provided for in the Act and the Regulations in relation to optical astronomy. This includes, but is not limited to -
- (a) Authorisation of activities that will result in the introduction of sources of optical interference within core optical astronomy advantage areas, in coordination with the relevant operating institution
 - (b) Authorisation of additional outdoor lighting in core optical astronomy advantage areas, in coordination with the relevant operating institution
 - (c) Assessment of all developments and activities above in terms of developed standards.
 - (d) Prohibit all developments and activities above that do not meet prescribed levels of protection for optical interference .
 - (e) Cooperate with all Municipalities in the development and implementation of plans and municipal regulations as provided for in the Act and the Regulations.
 - (f) Authorise access to core optical astronomy advantage areas, in coordination with the relevant operating institution, as prescribed in section 17 of the Regulations of astronomy advantage areas.
- (9) Undertake all assessments, authorisations and prohibitions as provided for in the Act and the Regulations in relation to radio astronomy. This includes, but is not limited to -
- (a) Authorisation of all mobile or portable transmitting devices to be brought into core radio astronomy advantage areas, in coordination with the relevant radio astronomy observatory operating institution.
 - (b) Authorisation, on an individual basis, of all transmissions in the central radio astronomy advantage areas in accordance with

considerations outlined in Section 11(2) of the astronomy advantage areas regulations

(c) Authorisation, in concurrence with ICASA where required by the Act, of all existing and potential radio transmissions on an individual basis within the central radio astronomy advantage areas in accordance with the process described in Section 12(1)-(3) of the astronomy advantage areas regulations

(d) Assessment of all potential and existing radio transmissions in the central radio astronomy advantage areas on an individual basis, in accordance with the process described in section 12(4) of the astronomy advantage areas regulations.

(e) Authorisation of frequency bands to be used for radio communication in the central radio astronomy advantage areas as prescribed in section 13 of the astronomy advantage areas regulations.

(f) Coordinate all existing and potential radio transmissions in the coordinated radio astronomy advantage areas on an individual basis, in accordance with the process prescribed in section 16 of the astronomy advantage areas regulations.

(g) Authorise access to core radio astronomy advantage areas, in coordination with the relevant radio astronomy observatory operating institution, as prescribed in Section 17 of the astronomy advantage areas regulations.

(10) Determine essential and safety-of-life radio communication services in the central radio astronomy advantage areas, as prescribed in section 14 of the astronomy advantage areas regulations.

(11) Ensure compliance with the legislative framework that governs astronomy advantage areas.

(12) The management authority shall monitor compliance, and apply the enforcement provisions in the Act and the Regulations.

- (13) The management authority must:
 - (a) Submit monthly reports of any incidents of non compliance.
 - (b) The report must include-
 - I. The nature and reason of non compliance.
 - II. The effect the non compliance has on astronomy activities within the astronomy advantage areas.
 - III. The enforcement mechanism imposed.
 - IV. The proposed plan of action to prevent the non compliance from re-occurring.
 - V. The management may be requested to submit a report on the progress of implementing the plan of action referred to in subsection (5) above.
- (14) Develop mechanisms to enforce all assessments, authorisations and prohibitions as detailed in subsections (8) and (9) above.
- (15) Develop management plans for the protection of astronomy advantage areas.
- (16) Develop rules for proper administration and protection of the astronomy advantage areas.
- (17) Develop strategic partnerships with relevant stakeholders.
- (18) Promote and apply a risk management approach that seeks to protect the astronomy advantage areas.
- (19) Continuously conduct reviews and develop innovative methods of managing the astronomy advantage areas.
- (20) In performing its functions the management authority shall –
 - (a) Ensure that the management of astronomy advantage areas is in an integrated manner.
 - (b) Recognise the importance of protecting the astronomy advantage areas.
 - (c) Use the best available technology that will assist in the proper management of the astronomy advantage area.

- (d) Provide opportunities for community engagement in the integrated management of the astronomy advantage areas.
- (21) Promote the importance of protection of astronomy advantage areas.
- (22) The management authority shall advise on appropriate opportunities to communicate issues and outcomes relating to astronomy activities within the astronomy advantage areas.
- (23) Ensure that adequate and appropriate skills and resources are available, internally or externally, to execute the functions of the management authority as described in this section.
- (24) Ensure effective communications with the various communities residing and working within the astronomy advantage areas.

Funding

6.

- (1) The Department will fund the management authority.
- (2) The management authority will be responsible for making triennial budget proposals for approval to the Department.
- (3) Once the budget has been approved, the funds required shall be transferred to the management authority.

Governance

7.

- (1) The management authority shall –
 - (a) Submit information on matters relating to its functions and business when requested to do so.
 - (b) Operate within the relevant legislative framework

- (c) Review its performance quarterly and report to the Department as directed.
- (d) Develop and implement plans in accordance with the relevant legislative framework.
- (e) Develop annual reports detailing the following-
 - I. Activities
 - II. Financial position
 - III. Conditions and management of the astronomy advantage areas.
 - IV. The carrying out of its functions in accordance with the relevant legislative framework.
- (f) Ensure that appropriate and effective processes and systems are in place to monitor its performance.
- (g) Conduct audit or any review of any matter in relation to the performance of its functions, and the exercise of its powers.
- (h) Manage the funds in its disposal in the manner consistent with the management of public funds as outlined in Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (i) Manage its operations in compliance with the relevant legislative framework.
- (j) Develop risk management systems and processes to effectively manage strategic, operational and financial risks to the protection of astronomy advantage areas in accordance with relevant legislative framework.
- (k) Develop and implement systems to manage and maintain its assets in a sustainable manner.
- (l) Develop and maintain a comprehensive register of relevant assets in accordance with the relevant legislative framework.

Management Plan

9.

- (1) The management authority must submit the management plan for approval when requested to do so.
- (2) The management plan shall include but not be limited –
 - (a) Financial and legal management.
 - (b) Coordination of the work so as to meet the objectives of the Act.
 - (c) Description of mechanisms to be used for prioritising capabilities and new initiatives.
 - (d) The determination of the skills and resources required to execute the functions of the management authority as described in section 5.
 - (e) The acquisition, maintenance and development of the skills and resources required.
 - (f) The effective and efficient location and distribution of the skills and resources.
 - (g) The implementation plan for the determination of safety-of-life and essential radio communication services and the radio frequency bands to be used in the central radio astronomy advantage areas, and the authorisation on an individual basis of each transmission.
 - (h) The implementation plan for the coordination of radio communication services transmissions in the coordinated radio astronomy advantage areas on an individual basis.
 - (i) The establishment of arrangements with the astronomy observatories to conduct ongoing monitoring of possible detrimental interference and to report on the findings.
 - (j) The establishment of procedures to deal with detrimental interference and to enforce the prescribed standards.

Review of the regulations

10.

These regulations may from time to time be reviewed.

Short title

11.

These regulations are called the Management Authority Regulations
