
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**NOTICE 584 OF 2016****Independent Communications Authority of South Africa**

Pinmill Farm, 164 Katherine Street, Sandton

Private Bag X10002, Sandton, 2146

**GENERAL NOTICE – COMPLIANCE: BROADCASTING SERVICE (“BS”),
ELECTRONIC COMMUNICATIONS SERVICES (“ECS”), ELECTRONIC
COMMUNICATIONS NETWORK SERVICES (“ECNS”) AND POSTAL
SERVICES LICENSEES**

1. The Independent Communication Authority of South Africa (“the Authority”) derives its mandate from the Independent Communications Authority of South Africa Act No. 13 of 2000 as amended (“ICASA Act”), the Electronic Communications Act No. 36 of 2005 as amended (“ECA”), the Postal Services Act No. 124 of 1998 as amended, the Regulations and the Licences to regulate Broadcasting Services (“BS”), Electronic Communications Services (“ECS”), Electronic Communications Network Services (“ECNS”) and Postal Services.
2. In terms of section 4(3)(b) of the ICASA Act as amended¹, the Authority is empowered to “*monitor the broadcasting, postal and electronic communications sector to ensure compliance with the ICASA Act and underlying statutes*”.
3. The general notice serves as a courtesy notice of reminder to all Licensees, to ensure that in making any (compliance) submissions, the Licensee remains aware of and complies in full, with the set requirements of the relevant regulations/legislation; and the terms and conditions of their respective Licences.
4. However, the general notice does not seek to be all encompassing or exhaustive, and reference to any legislation/regulation herein, is merely in brief, to guide and advice.

¹ Kindly refer to subsequent amendments of the ICASA Act in 2014 when referring to certain sections of the ICASA Act, 2000.

5. It remains the duty and responsibility of every Licensee to consult the relevant regulation/legislation for more accurate details as to the specific compliance requirements therein.
6. Importantly though, the Authority would like to emphasize that every Licensee must meet their regulatory and statutory obligations without exception, at all times. Failing which any application; request and or notification made by the Licensee to the Authority may not be considered. Further, any non-compliance may result in the Licensee being subject to some or other enforcement action.

Financial Compliance General Licence Fees Regulations

7. Schedule 3; Regulation 2, 4, 5, 6 and 7 of the General Licence Fees Regulations ("General Licence Fees Regulations") published in government gazette No. 36323, dated 28 March 2013, state that:

"(2) All licence holders must submit within six (6) months of their financial year end:

- (a) audited Annual Financial Statements; or*
- (b) financial statements signed by the accounting officer of the Licensee where the Licensee is not legally obliged to provide audited financial statements.*

(4) Community Broadcasters must submit the following within six (6) months of their financial year end:

- (a) annual financial statements signed off by the accounting officer; and*
- (b) provide a list of all donors and amounts donated and details of all financial and non-monetary donations.*

(5) Where a legal entity holds any combination of a BS Licence, ECS Licence and/or ECNS Licence, such entity may calculate the licence fee based on the information contained:

- (a) on the audited Annual Financial Statements of that Licensed Entity; or*
- (b) Annual Financial Statements signed by the accounting officer of the Licensee where the Licensee is not legally obliged to provide audited Annual Financial statements.*

(6) All payments in respect of Annual Licence Fees are due annually.

(7) *Annual payments*

- (a) *are due annually based on the licensee's financial year;*
- (b) *are due and payable within 6 months from end of the licensee's financial year".*

Universal Service and Access Fund ("USAF")

8. Regulation 4 of the Universal Service and Access Fund Regulations ("USAF Regulations") as published in the government gazette No. 34010, dated 10 February 2011, among others, states that:

- (1) *"Where a legal entity holds any combination of a BS licence, ECS licence and/or ECNS licence, such entity may calculate the USAF contribution based on the Annual Turnover from aggregate revenue generated from the combined licences.*
- (2) *payments in respect of contribution to the Fund:*
 - (a) *are due annually based on the licensee's financial year end;*
 - (b) *are payable within 6 months from end of the licensee's financial year;*
and
 - (d) *must be based on the:*
 - (i) *audited annual financial statement of the licensee; or*
 - (ii) *financial statements signed and sworn to by accounting officer of the Licensee where the Licensee is not legally obliged to provide audited financial statements."*

Contributions to the Media Development and Diversity Agency

9. Section 89 (3) of the ECA states that:

"Broadcasting service Licensees contributing to the Media Development and Diversity Agency ("MDDA") must have their annual MDDA contribution off set against their prescribed annual contribution to the Universal Service and Access Fund."

Interconnection Regulations

10. Section 39 (1) read with section 39 (4) of the ECA, requires that:

(1) *"An interconnection agreement, must be in writing and must be submitted to the Authority.*

(4) *The Authority must review an interconnection agreement submitted in terms of subsection (1) to determine whether the agreement is consistent with the regulations prescribed."*

11. Licensees are required to comply with the regulatory and statutory requirements with regards to filing of interconnection agreements as stipulated, above.

Facilities Leasing Regulations

12. Regulation 15 of the Electronic Communications Facilities Leasing Regulations, 2010 published in government gazette No. 33252, dated 31 May 2010, provides as follows:

"15 Submission and review of electronic communications facilities leasing agreements

An electronic communications facilities leasing agreement and electronic communications facilities leasing amendment agreement must be submitted to the Authority in terms of section 45 of the Act within five (5) days of the date of signature of the agreement."

Numbering Plan Regulations

13. Regulation 8 of the Numbering Plan Regulations, 2016 published in government gazette No.39861, dated 24 March 2016, among others states as follows:

"(1) Unless otherwise specified, every Licensee must submit its number audit data to the Authority, annually, on a date which must not be later than 31 March.

(2) The format in which the information set out in sub-regulation (1) must be supplied in conformance with the relevant 'Number Audit Format'.

(3) A Licensee may be required to submit further information needed by the Authority for the purposes of completing the number audit process."

14. Any Licensee who has been allocated numbers to provide the relevant electronic communications services and electronic communications network services, must as of 01 April 2016 make submission of their numbering compliance to ECS/ECNS Compliance via email: ecsecns.compliance@icasa.org.za.
15. The contact details for **Numbering Applications** and **enquiries** are: Numbering Department, email: NumberingApproval@icasa.org.za or bsethole@icasa.org.za, tel: 011 566 3000.

Standard Terms and Conditions Class Licences Request for Extensions and Commencement of operations

16. Schedule 1, 2, 3, and Regulation 4 of the Standard Terms and Conditions Regulations for Class Licences, 2010, as amended² among others, provides as follows:

"Class Broadcasting Licensee:

A Licensee must commence operation of the BS specified in the Licence within twelve (12) months from the date of issue, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the twelve (12) months period.

Class ECNS:

A Licensee must commence operation of the ECNS specified in the Licence within twenty-four (24) months from the date of issue, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the twenty-four (24) months period.

Class ECS:

A Licensee must commence operation of the ECS specified in the Licence within twelve (12) months from the date of issue, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the twelve (12) months period."

² Refer to the Standard Terms and Conditions Regulations for Class Licences Amendment, 2016 published in government gazette No. 39872, dated 30 March 2016.

17. Licensees seeking extension for submission of reports and information for compliance purposes, are required to make formal written requests for extension, before the expiry of the stipulated period and submit such requests to ECS/ECNS Compliance via email: ecsecns.compliance@icasa.org.za.

Individual Licensees Request for Extensions and Commencement of operations

18. Schedule 1, 2, 3 and Regulation 3 and 4 of the Standard Terms and Conditions Regulations for Individual Licences, 2010, as amended³ among others, provides as follows:

"Individual Broadcasting Service:

- (1) *A Licensee must commence operation of the BS specified in the Licence, within the periods mentioned in the paragraphs below, unless the Authority grants, on good cause shown, an extended commencement period:*
- (a) *twelve (12) months from the date of issue in respect of free to air sound BS;*
 - (b) *twenty-four (24) months from the date of issue in respect of free to air television BS; or*
 - (c) *twenty-four (24) months from the date of issue in respect of subscription BS.*
- (2) *A request for an extension of the commencement period, in terms of sub regulation (1), must be brought to the Authority six (6) months prior to the expiry of the commencement period.*
- (3) *An extension for the commencement of operations shall only be granted once for a period that does not exceed the period stipulated in sub regulation (1).*

³ Refer to the amendments of the Standard Terms and Conditions Regulations for Individual Licences Amendment, 2016 published in government gazette No. 39875, dated 30 March 2016.

Individual ECNS:

- (1) *A Licensee must commence operation of the ECNS specified in the Licence within twenty-four (24) months from the date of issue, unless the Authority grants, on good cause shown, an extended commencement period on written application.*
- (2) *A request for extension of the commencement period, in terms of sub regulation (1), must be brought to the Authority twelve (12) months prior to the expiry of the commencement of operations.*
- (3) *An extension for the commencement of operations shall only be granted once for a period that does not exceed the period stipulated in sub regulation (1)*

Individual ECS:

- (1) *A Licensee must commence operation of the ECS specified in the Licence within twelve (12) months from the date of issue, unless the Authority grants, on good cause shown, an extended commencement period on written application.*
- (2) *A request for extension of the commencement period, in terms of sub regulation (1), must be brought to the Authority twelve (12) months prior to the expiry of the commencement of operations.*
- (3) *An extension for the commencement of operations shall only be granted once for a period that does not exceed the period stipulated in sub regulation (1)."*

Commencement of Operations

19. Every Licensee that has not commenced its operations in terms of the licence and has not sought from the Authority and been granted an extension of commencement of operations, must submit a letter signed off by its Auditors or Accounting Officer stating that they have not generated any revenue for the applicable period.

Updating of contact details

20. Schedule 1, 2 and 3, and Regulation 2 of the Amendment Standard Terms and Conditions for Class and Individual Licences, 2016⁴, provides that: -

"(1) A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of the following changes:

- (a) the name of the licensee;*
- (b) contact details including the contact person;*
- (c) shareholding;*
- (d) Physical address; and*
- (e) Financial year end."*

Application for Exemption for Resellers

21. In terms of section 7 of the ECA *"no person may provide any services without a licence"* except for exempt services in terms of section 6 of the ECA. Regulation 13(1) of the Processes and Procedures for Class Licences regulations in respect of Registration, Amendment, Renewal, Surrender and Transfer of Class Licences, and Applicable to Licence Exemption, 2010, published in government gazette No. 33297 dated 14 June 2010, as amended⁵, among others states that:

"13. Licence exempt services and networks

(1) A person intending to provide a Licence exempt service must notify the Authority in the format as set out in Form M."

22. Any Licensees that intend to operate as reseller, is required to register for an exemption to provide services as a reseller with the Authority, to ensure compliance with the regulatory and statutory requirements.

23. Further, any Licensee that may be found to provide services without a Licence or an exemption from the Authority, will not be in compliance with the regulatory and statutory requirements and therefore, will be contravening section 7 of the ECA.

⁴ *Ibid* (See footnote no. 4 above).

⁵ Refer to Amendment Class Processes and Procedures Regulations, 2015, published in government gazette No.39874, dated 30 March 2016.

24. **Annexure 1** below, contains a list of currently exempt Licensees that have also applied for registration for exemption with the Authority.

Therefore, any licensee not listed therein, has not been approved by the Authority to be Licence exempt. All resellers are called upon to apply for Licence exemption as required.

25. **Applications for Exemption** must be forwarded to the Licensing Department by email: licensing@icasa.org.za or tel: 011 566 3000 (Licensing).

End User Regulations

26. The End User and Subscriber Service Charter Regulations, 2016, published in the government gazette No. 39898, dated 1 April 2016, came into effect on the date of publication.
27. Licensees are required to make their compliance submissions in terms of the published regulations for all their licensed service activities, with effect from 1 April 2016, based on the End User and Subscriber Service Charter Regulations. Submissions must be made to ECS/ECNS Compliance via email: ecsecns.compliance@icasa.org.za.

Compliance Procedure Manual Regulations (CPMR)

28. The CPMR, published in the government gazette No. 34863, dated 15 December 2011, comprises various Forms based on existing regulations in terms of which, Licensees must submit compliance information as stipulated in the CPMR.

Postal Services⁶**29. Prohibition on operating unreserved postal service without registration certificate. –**

Section 20 of the Postal Services Act No.124 of 1998 as amended states that: "*No person may operate an unreserved postal service contemplated in Schedule 2, unless such person is registered with the Regulator in terms of this Act and is in possession of a registration certificate issued by the Regulator.*"

30. Application for registration. –

Section 21 of the Postal Services Act No.124 of 1998 as amended states that: "*An application for registration with the Regulator to operate an unreserved postal service must be in the format and in accordance with the procedure prescribed by the Regulator and must be accompanied by the prescribed registration fee.*"

31. Operators regarded as having been registered. –

Section 22 of the Postal Services Act No.124 of 1998 as amended states that: "*(a) Any person who, immediately before the date of commencement of this section provided a postal service in respect of items contemplated in Schedule 2, including a courier service, must be regarded as being registered to provide an unreserved postal service or an unreserved courier service, as the case may be, subject to paragraph (b).*

(b) A person may not be regarded as being registered in terms of paragraph (a) if that person has failed to apply for registration to the Regulator within 90 days after the date of commencement of this section or within such extended period as the Regulator may allow.

⁶ Refer to the Postal Services Act 124 of 1998, copy of which may be obtained via link <https://www.icasa.org.za/LegislationRegulations/Acts/PostalAct/tabid/88/Default.aspx>

(c) *After receipt of an application in terms of paragraph (b) the Regulator must, subject to paragraph (d), register the applicant and issue a registration certificate."*

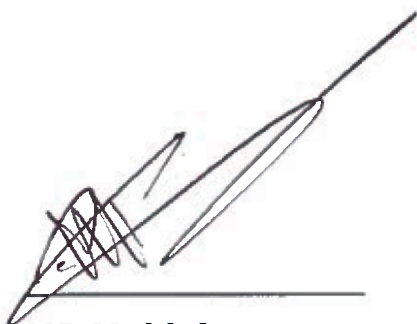
32. Any person who would like to provide unreserved postal services to the public, is required to register with the Authority. Any person who provides unreserved postal services without being registered, will be contravening section 7 of ECA.
33. **Annexure 2** below, sets out a list of all registered Licensees who provide unreserved postal services.

CONCLUSION

34. A Licensee who fails to submit the requisite compliance information within the timelines prescribed by the regulations, will not be deemed to be in compliance and may be referred to the Compliance and Complaints Committee ("CCC") of the Authority.
35. Any Licensee who may provide broadcasting services, electronic communications services, electronic communications network services and postal services without a licence or registration with the Authority **will be operating illegally and in contravention of section 7 of ECA**. The Authority may invoke the provisions of section 17H of the ICASA Act, 2000 as amended to deal with any contraventions.

Any enquiries or clarification pertaining to this general notice, may be directed to the following persons:

Broadcasting Compliance: Attention: Ms Fikile Hlongwane E-mail: fhlongwane@icasa.org.za Tel: 011 566 3000 (<i>ask for Broadcasting Compliance</i>)	ECS/ECNS Compliance: Attention: Godfree Maulana E-mail: ecsecns.compliance@icasa.org.za Tel: 011 566 3000 (<i>ask for ECS/ECNS Compliance</i>)
Postal Services: Attention: Charles Mabena E-mail: cmabena@icasa.org.za Tel: 011 566 3000 (<i>ask for dept Postal Services Compliance</i>)	Numbering Applications & Queries: Attention: Busang Sethole E-mail: NumberingApproval@icasa.org.za Tel: 011 566 3000 (<i>ask for Numbering dept</i>)
Applications for Postal Registration and ECS/ECNS Exemptions: Attention: Peter Mailula E-mail: licensing@icasa.org.za Tel: 011 566 3000 (<i>ask for Licensing division</i>)	



MR Mohlaloga
Acting Chairperson

Annexure 1**A list of resellers approved as exempt**

No.	Reseller name	Exemption details
1.	Active 8 Communicate (Pty) Ltd	ECS exempt
2.	Amakhosi Satellite Corporation (Pty) Ltd	ECS Licence exempt
3.	Applied Satellite Technology (Pty) Ltd	ECS Licence exempt
4.	Bell Equipment Company SA (Pty) Ltd	ECS Licence exempt
5.	China Telecom South Africa	ECN exempt
6.	Clarotech Consulting (Pty) Ltd	ECS Licence exempt
7.	CM Value Added Services (Pty) Ltd	ECS Licence exempt
8.	Cutman Bush Net	ECS Licence exempt
9.	Donsa Technologies (Pty) Ltd	ECS Licence exempt
10.	Gigital Village	ECS Licence exempt
11.	Enth Degree Consulting (Pty) Ltd	ECS exempt
12.	E-Tiki (Pty) Ltd	ECS Licence exempt
13.	Firstvoice (Pty) Ltd	ECS Exempt
14.	Fluxcon (Pty) Ltd	ECS Licence exempt
15.	Free Wifi for Africa NPC	ECS Licence exempt
16.	Hokanya Technologies	ECS Licence exempt
17.	Hymax SA (Pty) Ltd	ECS Licence exempt
18.	Ingululu Communications cc	ECS Licence exempt
19.	K2015213410 South Africa/Oneclick Internet	ECS Licence exempt
20.	New Age Communications cc t/a Samsung NAC	ECS Licence exempt
21.	SA Gateway Internet Service Provider (Pty) Ltd	ECS exempt
22.	Shycom (Pty) Ltd	ECS exempt
23.	Skyrove (Pty) Ltd	ECS exempt
24.	The DG Murray Trust	ECS exempt
25.	Zenzeleni Telecommunications Network	ECS exempt
26.	SAGATEWAY Internet Service Provider	ECS Licence exempt

Annexure 2**A list of approved registered Unreserved Postal Service licensees as at:**

No.	Licensee name	Date registered
1.	Airfreight Africa	14-Mar-2014
2.	3G Relocations and Transport cc	24-Dec-2015
3.	4 Seasons Logistics	12-Feb-2015
4.	ACT Logistics	18-May-2015
5.	Aerospeed Couriers	18-Mar-2014
6.	African Distributions Network (Pty) Ltd	10-Oct-2014
7.	Aramex South Africa (Pty) Ltd	12-Dec-2014
8.	BothoBatho Courier and Transport	15-May-2015
9.	Brima Logistics (Pty) Ltd	21-Jul-2014
10.	CCD Couriers	14-Mar-2014
11.	CFR Freight	15-Feb-2016
12.	Churchill International Express	08-May-2014
13.	Citisprint	27-Mar-2015
14.	Courierit SA (Pty) Ltd	13-May-2014
15.	Dawn Wing (DPD Laser)	03-Oct-2014
16.	Delivery Ability Courier (Pty) Ltd	16-Feb-2016
17.	DHL International (Pty) Ltd	11-Sep-2014
18.	Dlondlobala Couriers Services cc	01-Dec-2014
19.	DPD Laser Express	30-Sep-2014
20.	Fedex Express South Africa	05-Mar-2014
21.	Freight care logistics (Pty) Ltd	30-Apr-2015
22.	Geeage Delivery (Pty) Ltd	09-Dec-2015
23.	GMR Freights	13-Dec-2013
24.	Golden Rewards	20-Aug-2015
25.	Hloni MS Trading	13-Jun-2013
26.	Inkaba Courier	6-May-2013
27.	Internet Express (Pty) Ltd	18-Aug-2015
28.	Iyeza Health (Pty) Ltd	17-Aug-2015
29.	JKJ Express cc	09-Oct-2014
30.	Kamohelo Logistics	24-Apr-2013
31.	Lesedi Logistics	22-Apr-2015
32.	Linex Air Services (Pty) Ltd	13-May-2014
33.	Little Chores Messengers	30-Sep-2014
34.	LittleVenice Trading 584 cc	27-Nov-2015
35.	Mailwise International (Pty)Ltd	31-Jan-2014
36.	May Cargo and courier cc	21-Feb-2014

37.	MDS Collivery (Pty) Ltd	08-May-2014
38.	Mmine Nare Pty Ltd	09-Apr-2014
39.	Musa Trucking Service	22-Apr-2015
40.	Netco Pty Ltd	28-Jan-2016
41.	Nogubo Trading cc	06-May-2013
42.	Nonoma Consolidated (Pty) Ltd	10-Oct-2014
43.	Pathteq	14-Mar-2014
44.	PCG Courier	06-May-2013
45.	Peloquin Investments (Pty) Ltd	21-Jul-2014
46.	Petty Errands cc	26-Aug-2013
47.	Picup	17-Dec-2014
48.	Positive Express	10-Oct-2014
49.	Postnet Southern Africa (Pty) LTD	20-Apr-2015
50.	PTE Logistics	30-Sep-2014
51.	Ram hand to hand	16-May-2014
52.	RTT Group	18-Mar-2014
53.	Sala cc	03-Oct-2014
54.	Schenker South Africa (Pty) Ltd	05-Mar-2014
55.	Scm Distributors	08-Sep-2014
56.	Seabourne Express	21-Feb-2014
57.	Sekgwari Courier Services	27-Jan-2015
58.	Siyanqoba Worldwide Express (Pty) Ltd	30-Jun-2015
59.	Skynet Worldwide	12-Dec-2014
60.	Snea-Services	30-Sep-2013
61.	South African Courier Systems	31-Jan-2014
62.	Southern Right Couriers	07-Apr-2016
63.	Supaswift (Pty) Ltd/Fedex	05-Dec-2013
64.	The Courier Guy	20-Jun-2014
65.	The Courier Junxion	30-Sep-2014
66.	The Document Exchange	08-Apr-2015
67.	The South African Post Office (Speed Services Couriers)	10-Jun-2015
68.	TNT Express Worldwide SA (Pty) Ltd	10-Oct-2014
69.	Triton Express (Pty) Ltd	12-Sep-2014
70.	UPS-SCS Pty Ltd	08-Mar-2016
71.	UTI South Africa / Sun Courier	13-May-2014
72.	Value Logistics Ltd	18-Dec-2015
73.	World Courier South Africa (Pty) Ltd	25-Feb-2014