

Government Gazette

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 520

Pretoria, 10 October 2008
Oktober 2008

No. 31499

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GENERAL NOTICE

NOTICE 1270 OF 2008



Independent Communications Authority of South Africa
Pinmill Farm, 164 Katherine Street, Sandton
Private Bag X10002, Sandton, 2146

REGULATIONS IN RESPECT OF PRESCRIBED ANNUAL CONTRIBUTIONS OF LICENSEES TO THE UNIVERSAL SERVICE AND ACCESS FUND

I, Mr, Paris Mashile, the Chairperson of the Independent Communications Authority of South Africa (the Authority) hereby publish regulations in the attached Schedule, made and approved by the Authority under section 4 read with section 89(1) of the Electronic Communications Act 2005 (Act No. 36 of 2005)


PARIS MASHILE
CHAIRPERSON

SCHEDULE

1. Definitions

In these regulations, any word or expression has the meaning assigned in the Electronic Communications Act, 2005 (No. 36 of 2005) unless the context indicates otherwise:

"Act" means the Electronic Communications Act, 2005 (Act No.36 of 2005)

"Adjusted gross revenue" means gross annual revenues from licensed activities less service provider discounts, agency fees, interconnection and facilities leasing charges, government grants and subsidies;

"Applicable interest rate" means the prime interest rate adopted by the main commercial banks;

"Fund" means the Universal Service and Access Fund established in terms of section 87(1) of the Act;

"the MDDA" means the Agency established in terms of the Media Development and Diversity Agency Act No.14 of 2002;

"Licence activity" means activities that require an individual and class licence in terms of section 5 of the Act;

"Service provider discounts" means financial incentives offered to service providers by licensees for the purpose of subscriber base improvement.

2. Object of the regulations

- (1) The object of these regulations is to:
 - (a) repeal the "Regulations in Respect of the Annual Contributions to the Universal Service Fund by Holders of Telecommunication Service Licences, 2003" ;
 - (b) prescribe the annual contributions to be paid to the Universal Service and Access Fund ("the Fund") by persons issued with licences in terms of chapter 3 of the Act;
 - (c) specify the date when such contributions to the fund become payable and the manner in which they must be paid.

3. Contributions to the Universal Service and Access Fund

- (1) Every holder of a licence granted in terms of Chapter 3 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of the annual turnover, derived from the licensee's licence activity, to the Fund.
- (2) The private electronic communications networks ("PECN") reselling additional capacity in terms of section 6(2) (c) of the Act, must contribute 0.2% based on the annual revenue derived from reselling additional capacity to the Fund.

- (3) A broadcasting service licensee who has paid an annual contribution to the MDDA must set off that contribution against its prescribed annual contribution to the Fund.

4. Payments

- (1) Contributions to the Fund in terms of these regulations will be due and payable in full within three months from the licensees' financial year-end.
- (2) The first contribution to the Fund will be payable from financial year ending 2009/2010 of the licensee.
- (3) A licensee must notify the Authority of its financial year end within three months of the publication of these regulations.
- (4) Calculations for payments will be based on the licensee's audited financial statements for the preceding financial year.
- (5) A licensee that is not required by law to provide audited financial statements must submit financial statements signed by the accounting officer to the Authority.
- (6) Payments to the Fund must be made by electronic fund transfer or bank guaranteed cheque into the Authority's bank account and proof of payments to the Fund and MDDA must be sent to the Authority, within two (2) months from the date of payment.
- (7) Interest on all late payments in respect of contributions to the fund is to be levied where payment is overdue by:

- (a) Seven (7) days or less, at the applicable interest rate;
 - (b) more than seven (7) days but not more than fourteen (14) days, at the applicable interest rate plus 3%;
 - (c) more than fourteen (14) days, at the applicable interest rate plus 5%;
- (8) Where payment in respect of the contributions to the fund is overdue by more than twenty one (21) days, a late payment penalty of 25% of the capital amount due is payable in addition to the overdue amount.

5. Amendment or Repeal

Government Notice 1241 of Government Gazette No. 25408 dated 28 August 2003 prescribing regulations relating to the contributions to the Fund and the apportionment thereof, is hereby repealed.

6. Short title and commencement

- (1) These regulations will be effective from 01 April 2009.
 - (2) These regulations are called the Universal Service and Access Fund Regulations, 2008.
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