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LEGAL NOTICE NO. 141 OF 2021

The Communications (Subscriber Identity Module Registration) Regulations, 2021

Pursuant to section 55 of the Communications Act, 2012¹, I

TŠOINYANA RAPAPA

Minister responsible for communications, science and technology make the following regulations -

PART I - PRELIMINARY**Citation and commencement**

1. These Regulations may be cited as the Communications (Subscriber Identity Module Registration) Regulations, 2021 and shall come into operation six(6) months from the date of publication in the Gazette or such date as may be published by the Minister by Notice in the Gazette.

Interpretation

2. In these Regulations unless the context otherwise requires -

“Act” means the Communications Act, 2012;

“Authority” means the Lesotho Communications Authority established under section 3 of the Act;

“activate” means causing a SIM to function on a mobile network by allowing full access, including the ability to make and receive calls, to send and receive short message services and other range of services usually provided by a licensed communication service provider and the words “activated”, “activation”, “deactivate” and “deactivation” shall be read and construed accordingly;

“activation window” means the period of seven days from the date a subscriber acquires a new line on the network of a licensee, within which a new subscriber is required to register with the relevant licensee and

during which, the new subscriber will be granted limited access;

“active SIM” means a SIM that is functioning on a mobile network;

“authorised agent” means any party, duly engaged by the licensee to register the SIM of its subscribers;

“batch of SIM” means a group of SIMs registered at the same time for electronic communications and requiring a single representative’s identity with a single verification;

“categories of SIM registration” includes a company, an individual, institution, foreigner, minor, refugees, visitor or any other category as may be determined by the Authority;

“child” means a person below the age of eighteen years;

“child SIM registration category” means registration of a SIM to be used by a child;

“company SIM registration category” means registration of SIM to be used solely by a company;

“Constitution” means the Constitution of the Kingdom of Lesotho, 1993;

“customer” means any person who obtains or seeks to obtain services of any kind from a person undertaking activities pursuant to these Regulations and includes subscribers;

“contract of services” means an agreement entered into between a licensee and a customer for the provision of the licensed services to the customer;

“diplomat” means a person who is in a diplomatic mission to Lesotho as recognised under the Diplomatic Privileges Act, 1969;

“diplomat SIM registration category” means registration of SIM to be used solely by a diplomat;

“electronic communication equipment” means a machine or other elec-

tronic equipment that uses a SIM to communicate and function;

“existing subscriber” means a person who is a subscriber prior to the commencement of these Regulations;

“foreigner” means a non-citizen who is not a diplomat, residing in Lesotho for period of more than six months;

“foreigner SIM registration category” means registration of SIM to be used solely by a foreigner;

“foreign licensee” refers to a network service provider licensed by a telecommunications regulator other than the Authority, to provide telecommunication services in a country other than Lesotho;

“Global System for Mobile Communications Association” (GSMA) means an international association of service providers of Global Mobile Communication Systems devoted to supporting, standardising, deployment and promotion of these communications systems;

“guardian” means a person who is in charge or has control over a child or a person appointed by customary rights, deed, will or order of the court, vested with a duty of taking care and managing the property and rights of the child;

“individual SIM registration category” means registration of SIM to be used solely by a customer for personal use;

“institution” means a government or non-government institution which is registered and operates within Lesotho and uses a SIM;

“institution SIM registration category” means registration of SIM to be used solely by an institution;

“Integrated Circuit Card Identifier” means a unique serial number that is printed and stored in the SIM of a subscriber, and is an internationally standardised way of identifying a SIM;

“International Mobile Subscriber Identity” which is also known by its acronym as “IMSI”, means a unique code used to identify a subscriber

on Global System for Mobile Communication network;

“licensee” means an entity licensed by the Authority to provide and facilitate provision of communications services, also known as a network operator or service provider;

“limited access” means the limitation by a licensee of services which are available to a subscriber to make calls to emergency centre numbers and the licensee’s call centre only;

“Mobile Subscriber Integrated Services Digital Network” which is also known by its acronym as “MSISDN”, means a number or telephone number that uniquely identifies a subscription in the licensee’s network;

“new subscriber” means a person who becomes a subscriber after the commencement of these Regulations;

“NICR” is an acronym of the National Identity and Civil Registry;

“ID” means the National Identity Card issued in terms of the National Identity Cards Act, 2011;

“personal information” refers to the full names, gender, date of birth, nationality and an ID number and such other personal information of subscribers specified in the registration specifications;

“PIN” is an acronym of Personal Identification Number;

“proxy” means a person authorised to register a SIM on behalf of persons identified in regulation 11;

“refugee SIM registration category” means registration of SIM to be used solely by a refugee;

“registration specifications” means the Data Dictionary, XML Schema, Transmission protocol and the Technical Interface specifications and such other specifications and amendments that may be made or issued by the Authority, in consultation with the licensees, to guide the registration of subscribers;

“subscriber” includes a customer or a person who subscribes to mobile telecommunication services by purchasing a SIM or entering into a subscription contract with a licensee;

“SIM” means a subscriber identity module which is an independent electronically activated device designed for use in conjunction with a mobile device to enable the user of the mobile device to transmit and receive indirect communications by providing access to telecommunications systems and enabling such telecommunications system to identify a particular subscriber identity module and its installed information;

“security agency” or “security agencies” refers to any or all of the following law enforcement and security agencies: (a) Lesotho Mounted Police Service (b) the Directorate on Corruption & Economic Offences (c) the National Security Service and (d) any other law enforcement or Security Agency established by the government of Lesotho;

“subscriber information” refers to personal information of a subscriber recorded and stored by a licensee;

“subscriber registration period” means the twelve months period from the commencement of these regulations and any extensions that may be announced by the Authority, within which subscribers are required to register their SIM pursuant to these Regulations;

“visitor” means a non-citizen who is not a diplomat and intends to stay in Lesotho for period of not more than six months; and

“visitor SIM registration category” means Registration of SIM to be used solely by a visitor;

Application

3. (1) These Regulations shall apply to a licensee and subscriber of a SIM in Lesotho.

(2) Without derogating from the generality of the foregoing, these Regulations shall not apply to a subscriber of a SIM issued by a foreign mobile network service provider roaming on the licensee’s network.

Objective

4. The objective of these Regulations is to provide a regulatory framework for the registration of a subscriber's SIM in Lesotho.

PART II - DATA PROTECTION AND REGISTRATION**Data protection and confidentiality**

5. (1) A licensee shall retain the subscriber information obtained during registration and such information shall be held on a strictly confidential basis and no person or entity shall be allowed access to any subscriber information, except by an order of court.

(2) A licensee shall not under any circumstances retain, duplicate, deal in or make copies of any subscriber information or store in whatever form any copies of the subscriber information for any purpose other than as stipulated in these Regulations or in any other law.

(3) A licensee shall take -

- (a) all reasonable precautions in accordance with international best practice to preserve the integrity and prevent any corruption, loss or unauthorised disclosure of subscriber information obtained pursuant to these Regulations;
- (b) steps to restrict unauthorised use of the subscriber information by its employees or persons sub-contracted by the licensee who may be involved in the capturing of such subscriber information.

(4) A licensee shall utilise personal information retained pursuant to these Regulations, solely for their operations and in accordance with the provisions of the Act or any other law regulating the specific purposes for which the personal information may be used.

Release of personal information of a subscriber

6. (1) A licensee shall not release personal information of a subscriber

to any third party without obtaining the prior written consent of the subscriber or pursuant to an order of court.

(2) A subscriber information shall not be transferred outside Lesotho without the prior written consent of the Authority.

Registration of new subscribers

7. (1) A licensee shall register subscriber information as specified under subregulation (2).

(2) A licensee shall in accordance with registration specifications and at no cost to the subscriber, capture, register and retain the -

- (a) personal information of subscribers who request for registration and the activation of a SIM; and
- (b) in the case of an institution, corporate or other juristic person, the personal information of the authorised representative of the institution, corporate or other juristic person and the name, address and where applicable, the registration number of the juristic person issued by the relevant authority.

Activation of new subscriptions

8. (1) A licensee shall provide new subscribers with a SIM enabled for limited access to their network services and such limited access shall last for the duration of the activation window.

(2) A new subscriber shall, at any time within the activation window, present personal information to the licensee from whom the SIM is obtained for registration in accordance with the requirements of these Regulations.

(3) Upon the capturing and registration of the personal information of a new subscriber, the licensee shall activate the SIM on its network service.

Registration of existing subscribers

9. (1) A licensee shall carry out the capturing and registration of the

personal information of existing subscribers within the subscribers' registration period in accordance with the provisions of regulation 7 (2).

(2) A licensee shall support and promote the registration of existing subscribers and shall promptly deactivate any subscription where the personal information of the subscriber has not been captured and registered.

(3) A deactivated subscription shall be reactivated upon the registration of the personal information of the relevant subscriber in accordance with the relevant provisions of these Regulations.

Deactivation and deregistration of a SIM

10. (1) A licensee may deactivate and deregister a SIM upon request by a subscriber after verification and confirmation of the subscriber information on the SIM.

(2) A licensee shall retain the records of any deactivation or deregistration in accordance with specifications issued by the Authority.

Proxy registration

11. (1) A proxy registration of a SIM shall be allowed for the following categories of people and under the following circumstances -

- (a) minors, subject to Regulation 15 (1) (e);
- (b) people with disabilities; or
- (c) people aged 70 and above.

(2) For purposes of regulation 11 (1)(b) and (c), the following conditions shall apply, a proxy shall -

- (a) be a registered subscriber and shall provide the following -
 - (i) his or her full name;
 - (ii) national identity card; and

- (iii) chief's letter or power of attorney or an affidavit confirming his or her appointment as proxy and the circumstances justifying the need for a proxy; and
- (b) present an ID document of the subscriber for whom they stand proxy or chief's letter for subscribers without IDs for purposes of registering such a subscriber.

Number of registrable SIMs

12. A subscriber may register any number of SIMs with any licensee.

Liability for activities using a SIM

13. A subscriber shall be liable for activities carried out using SIM registered with that subscriber's personal information unless the subscriber reported loss of SIM under regulation 21.

PART III - REQUIREMENTS FOR REGISTRATION OF SIM

Obligation to register SIM

14. (1) A person who owns, controls or intends to use, a SIM shall -
- (a) register his personal information with the respective licensee or authorised agent in a manner set out under regulation 7;
 - (b) ensure that the PIN of the SIM is not shared with any other person; and
 - (c) notify the licensee of the change of user or usage for each SIM under his possession.
- (2) A licensee shall -
- (a) register subscribers using procedures as prescribed under regulation 15;

- (b) keep a record of the subscribers' details as verified electronically from NICR.
- (c) ensure that connectivity to NICR is available; and
- (d) ensure replacement of a damaged SIM upon verification of original registration and ownership through existing registration information.

(3) A subscriber shall not register personal information using the ID of another person, except as provided for under regulations 11 and 15.

Procedure for registration of personal information

15. (1) The procedure for registration of personal information in order to acquire a SIM to different categories shall be as follows -

- (a) where a subscriber is an individual, the SIM shall be registered under an individual SIM registration category in the following manner -
 - (i) an individual shall present to the licensee a valid NICR identity document or chief's letter for customers who do not own an ID;
 - (ii) the registered SIM shall correspond to the name of the individual;
- (b) where a subscriber is a company, the SIM shall be registered under company SIM registration category as follows -
 - (i) an authorised company representative shall present a valid business identity and incorporation certificate of a company and his NICR identity to the licensee;
 - (ii) a licensee shall keep the details of the company and the company's authorised representative;

- (iii) the registered SIM shall correspond with the name of the company;
 - (iv) a company shall notify the licensee upon change of authorised company representative for the licensee to register a new representative in accordance with these regulations;
- (c) where a subscriber is a company employee and the company is under contract with the licensee, the SIM shall be registered under company SIM registration category as follows -
 - (i) a company shall be required to present valid business identity and incorporation certificate;
 - (ii) a company employee who is authorised to use the SIM shall be required to present to the licensee his NICR identity;
 - (iii) a licensee shall keep the details of the company and the employee;
 - (iv) registered SIM shall correspond with the name of the employee; and
 - (v) a company shall notify the licensee upon change of ownership of SIM for the licensee to register a new authorised employee in accordance with these Regulations;
- (d) where a subscriber is an institution, the SIM shall be registered under institution SIM registration category as follows -
 - (i) the institution representative shall be required to present an authorisation letter of the respective institution;
 - (ii) the institution representative shall be required to

- present to the licensee his NICR identity;
 - (iii) a licensee shall conduct a verification of the institution representative with NICR for a batch of SIMs for registration once;
 - (iv) the licensee shall keep details of the institution and of the representative; and
 - (v) the registered SIM or batch of SIMs shall be in the name of the institution.
- (e) where a subscriber is a child, the SIM shall be registered under child SIM registration category as follows -
- (i) a parent or guardian shall be required to present the original birth certificate of the child or adoption document, including a chiefs' letter where formal adoption papers do not exist or valid passport of an adopting parent with valid visa or residence permit and portrait photo;
 - (ii) where a child is either a national or foreigner, his parent or guardian shall be a registered subscriber of the licensee with which they are seeking to register the child with;
 - (iii) in the case of a child who is a visitor, his parent or guardian shall be required to present a valid passport with a valid visa;
 - (iv) in the case of a child who is a refugee, his parent or guardian shall be required to present refugee identity document issued by NICR;
 - (v) a licensee shall keep the details of the child and parent or guardian;
 - (vi) the registered SIM shall correspond with the name of the child; and

- (vii) after attaining the age of majority, the child shall be required to re-register using his NICR identity;
- (f) where a subscriber is a visitor, his SIM shall be registered under visitor SIM registration category as follows -
- (i) the visitor shall be required to present a valid passport with a valid visa where applicable;
 - (ii) a licensee shall keep the personal details of the visitor; and
 - (iii) the registered SIM shall correspond with the name of the visitor;
- (g) where a subscriber is a foreigner, his SIM shall be registered under foreigner SIM registration category as follows -
- (i) the foreigner shall be required to present a valid passport and a valid residence permit;
 - (ii) a licensee shall keep the personal details of the foreigner; and
 - (iii) the registered SIM shall correspond with the name of the foreigner;
- (h) where a subscriber is a refugee, his SIM shall be registered under refugee SIM registration category as follows -
- (i) the refugee shall be required to present the refugee NICR identity;
 - (ii) a licensee shall conduct verification of a refugee

with NICR for SIM registration;

- (iii) a licensee shall keep details of the refugee; and
 - (iv) the registered SIM shall correspond with the name of the refugee; and
- (i) where a subscriber is a diplomat, his SIM shall be registered under diplomat SIM registration category as follows -
- (i) the diplomat shall be required to present copy of his diplomatic passport or diplomatic identity;
 - (ii) a licensee shall keep the personal details of the diplomat; and
 - (iii) a licensee shall not conduct a verification of a diplomat.

(2) Where a SIM is used or intended to be used by machines and other electronic communication equipment, the SIM shall be registered under company SIM registration category.

(3) The procedures for registration under sub-regulation (2) shall be as prescribed under sub-regulation (1)(b).

(4) In circumstances where electronic appliances and other electronic communication equipment is owned by an individual, registration of SIM shall be under individual SIM registration category as prescribed under sub-regulation (1) (a).

(5) In the case of a batch of SIMs under sub-regulation (3), verification shall be conducted once by a licensee regarding such a batch.

Submission of information

16. A licensee who registers personal information for acquisition of a SIM by a subscriber may obtain such personal information from the subscriber and

any information related to SIM registration.

PART IV - ACTIVATION AND DEACTIVATION OF A SIM

Active SIM

17. (1) A licensee shall not activate a SIM, on its network, unless the licensee has registered a subscriber's personal details pursuant to these Regulations.

(2) The details of a registered SIM shall be kept active in the licensee database after registration has been verified through NICR database or as stipulated in these Regulations.

(3) An active SIM, that is not verified through NICR database or as stipulated in these Regulations, shall be considered as unregistered and shall be deactivated by the licensee.

(4) Where a SIM is not used for communication for more than ninety days consecutively, the SIM shall be deactivated.

(5) A licensee shall not deactivate a registered SIM, where a subscriber has notified the licensee in writing that such SIM will remain idle for more than ninety days consecutively, but not exceeding a period of twelve months from the date of notification.

(6) A subscriber whose SIM has been deactivated shall re-submit a fresh request for registration of the same number subject to availability.

(7) A licensee shall establish a mechanism for handling, safekeeping and refunding subscriber monetary balances of SIM which is deactivated in accordance with the Payment Systems Act, 2014.

(8) A licensee shall submit, to the Authority, quarterly reports on deactivated and de-registered SIMs in a format to be set out in the guidelines by the Authority.

**PART V - REGISTRATION OF PERSONAL INFORMATION BY
AUTHORISED AGENT FOR ACQUISITION OF A SIM**

Use of authorised agent

18. A licensee may use an authorised agent to register personal information of a subscriber to acquire a SIM, or an authorised agent who registers a SIM shall have a written evidence of authorisation from the respective licensee.

Requirements for authorised agent

19. A licensee shall ensure that an authorized agent referred to under sub-regulation 18 (2) provides the following information -

- (a) a physical location;
- (b) a mobile phone number, email address and any other means of contact; and
- (c) an NICR identity.

PART VI - CHANGE OF INFORMATION OR OWNERSHIP

Change of information and ownership to be reported

20. (1) A subscriber shall register a change of personal information registered with the licensee for the purposes of acquiring a SIM within fifteen days of occurrence of such change.

(2) A subscriber shall report any change of ownership or possession of a SIM, to a licensee.

(3) The owner of a SIM which was previously owned by another person shall register the SIM within fifteen days of owning the SIM.

(4) In the event of death of a customer, the next of kin shall present the original death certificate to a licensee or authorised agent within thirty days of death to report change of ownership of the SIM.

Duty to report loss of SIM

21. The owner of a registered SIM, shall be obliged to -
- (a) report loss, theft or destruction of a SIM to the police station and obtain a loss report within seven days from the date of loss, theft or destruction; and
 - (b) present the loss report to a licensee when requesting re-registration of an alternative or replacement of a SIM.

Replacement of a SIM

22. A licensee shall replace a lost, stolen or damaged SIM upon verification of the original registration and ownership of the SIM or presentation of loss report from the police station.

SIM swap information

23. A licensee shall -
- (a) file with the Authority its SIM swap procedure;
 - (b) retain SIM swap information;
 - (c) capture and retain credentials and logs of swapping agents and of any person accessing the SIM swap database;
 - (d) keep information captured under this subregulation in a traceable database for such period as may be prescribed by the Authority.

PART VII - GENERAL PROVISIONS**Requirement on inspection of Authorised Agent**

24. A licensee shall inspect its authorised agent to ensure compliance with SIM registration requirements and shall submit quarterly reports to the Authority.

Fraud prevention

25. In the case of fraudulent and misrepresentation of personal information during registration, a licensee shall be required to -

- (a) cooperate in good faith to prevent, whenever possible, instances of fraudulent or unauthorized activities during SIM registration;
- (b) cooperate to identify and pursue action against the perpetrators of fraud;
- (c) ensure prevailing data protection and privacy laws are complied with;
- (d) compensate a victim of any material loss excluding consequential loss suffered from a fraudulent activity associated with SIM registration where the loss is attributed to the licensee's fault or negligence;
- (e) where the national identity document is identified to be involved in fraudulent activities, the licensee shall notify the law enforcement agencies; and
- (f) upon notification under paragraph (e) the identified national identity document shall be flagged by NICR for ninety days to prevent its further use in fraudulent activities.

PART VIII - ADMINISTRATIVE PENALTIES AND OFFENCES**Penalties**

26. (1) A licensee who fails to capture, register, deregister, deactivate or keep the details of any subscriber as specified in these Regulations or as may be stipulated by the Authority commits an offence and is liable on conviction to a penalty of Five Thousand Maloti for each SIM.

(2) A licensee who activates any SIM without capturing, registering

and keeping the personal information of a subscriber commits an offence and is liable on conviction to a penalty of Five Thousand Maloti for each unregistered activated SIM.

(3) A licensee who fails to deactivate a SIM in contravention of any provision of these Regulations commits an offence and is liable on conviction to a penalty of Five Thousand Maloti for each unregistered, but activated SIM.

(4) A licensee who fails to comply with the provisions of regulations 5 and 6 commits an offence and is liable on conviction to a penalty of One Hundred Thousand Maloti.

Dealing with subscriber information in a manner inconsistent with the Regulations

27. (1) A person or entity including a licensee who retains, duplicates or deals with subscriber information in contravention of any of the provisions of these Regulations commits an offence and is liable to a penalty of Five Thousand Maloti per SIM.

(2) Where a person, entity, including a licensee, is found to have utilised subscriber information in any business, commercial or other transaction, in contravention of any of the provisions of these Regulations commits an offence and is liable on conviction to a penalty of Fifty Thousand Maloti per SIM.

Misuse of information

28. A licensee that misuses information of a customer for SIM registration commits an offence and is liable on conviction to a penalty of not more than Two Hundred and Fifty Thousand Maloti per subscriber.

General Offences

29. A person who contravenes any provision of these Regulations for which no specific penalty is provided, commits an offence and is liable on conviction to a fine prescribed under the Act.

Repeal

30. The Communications (Subscriber Identity Module and Mobile Device

Registration) Regulations, 2021⁴ are repealed.

DATED: 15TH DECEMBER, 2021

**TŠOINYANA RAPAPA
MINISTER OF COMMUNICATIONS, SCIENCE AND TECHNOLOGY**

NOTE

1. Act No. 4 of 2012
2. Act No. 32 of 1969
3. Act No. 4 of 2012
4. L.N. No. 56 of 2021

