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Communications Regulatory Authority of Namibia



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Regulations prescribing Procedures regarding Application for and Amendment, Renewal or Transfer of Spectrum Licences

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Spectrum Assignment Strategy

To facilitate the implementation of the Authority's Spectrum Assignment Strategy as published in Government Gazette 6776, date 26 November 2018 the Authority is reviewing its spectrum regulatory framework

Purpose of the Regulations

- ❑ Establish the framework through which the Authority allocates radio frequency spectrum under the Frequency Band Plan published under General Notice 424 of 28 October 2016.
- ❑ Provide a long-term framework for conferring a licensee the right-to-use any radio frequency or group of radio frequencies or radio receiver under the aforesaid Frequency Band Plan
- ❑ Determine fair, efficient and transparent licensing procedures which an applicant must follow in applying for a spectrum licence in terms of section 101 (5) of the Communications Act, 2009 (Act No. 8 of 2009).
- ❑ Set up a formalized process for the amendment, renewal, transfer and withdrawal of spectrum licences in terms of section 101(14) of the aforesaid Communications Act, 2009.
- ❑ Provide for circumstances in which the use and possession of radio apparatus does not require a spectrum licence and the categories of radio apparatus in respect of which a spectrum licences is not required in terms of section 101(16) of the aforesaid Communications Act, 2009

Impact of new Framework

- ❑ Amend the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences published under General Notice No. 272 of 29 August 2011
- ❑ Repeals the Regulations regarding Licence Exempt Spectrum published under General Notice No. 395 of 25 November 2011
- ❑ Repeals the Regulations Setting Out Licence Conditions for Spectrum Use Licences published in General Notice No. 469 of 2 December 2013

Administrative Spectrum Licences

□ Regulation 4(1)

“The Authority may from time to time in its sole discretion publish a notice in the Gazette notifying that a radio frequency band under the Frequency Band Plan as specified in the notice is open for application to be conferred on a first-come-first service based”

□ Typically spectrum for the following services will be considered on a first-come-first-service basis-

- Amateur Radio
- Aeronautical
- Maritime
- Satellite
- Fixed links

□ Application procedure and requirements are set out in regulation 4 and 5

Spectrum Licences awarded on a Competitive Basis

❑ Regulation 6(1)

“The Authority may from time to time in its sole discretion publish by notice in the Gazette a notification that a radio frequency spectrum band under the Frequency Band Plan, as specified in the notice is to be conferred on a competitive basis by means of a spectrum auction..”

❑ Typically spectrum for the following services will be considered on a competitive basis-

- Broadcasting
- Mobile telecommunications services
- IMT services (FDD and TDD)

Spectrum Auctions

- **Part 3 of the proposed regulations sets out various provisions for conducting a spectrum auction such as-**
 - **The Request to Bid**
 - **Bidder Qualification**
 - **Disqualification of a Bidder**
 - **Notice of Bids received**
 - **Award of Bids**

Duration of Spectrum Licences

- ❑ **Regulation 11(1) of the proposed regulations sets out the duration of spectrum licences as follows-**
 - **Licences issued under Part 2 (first-come-first-serve) is valid for 1 year**
 - **Licences issued under Part 3 (Spectrum Auctions) is valid for the time period stipulated in the Request to Bid**

Spectrum Licence Conditions (1)

- ❑ All spectrum licences will be subject to conditions as set out by the Authority and attached to the spectrum licence-
- ❑ Conditions may include-
 - The efficient use of spectrum
 - Shared utilization of spectrum
 - Roll-out obligations which the licensee must meet
 - Prohibition of trading or sub-leasing of spectrum licences
 - Prohibition of hoarding of spectrum
 - Reporting, monitoring and compliance matters in respect of the spectrum licence awarded

Spectrum Licence Conditions (2)

- **Without limiting any other conditions the Authority may impose in terms of the provisions of the Act-**
 - **Guidelines, in accordance with applicable standards and requirements of the ITU and its Radio Regulations, as agreed or adopted by Namibia in terms of section 99(2) of the Act, to be adopted by the licensee**
 - **Universal access and service obligations to be undertaken by the licensee**
 - **Performance specification to which the licensee must conform**

Non-renewal/ lapsing of spectrum licences

A spectrum licence issued to an entity

- ❑ Who does not hold a telecommunications or broadcasting service licensee lapses on 31 December every calendar year**
- ❑ Who holds a telecommunications or broadcasting service licence lapses automatically if that telecommunications or broadcasting service licence lapses**
- ❑ In terms of these Regulations lapses automatically if the spectrum licensee fails to pay the applicable fees by the due date indicated on the invoice the Authority issued to the spectrum licensee**

Transitional Arrangements

Transitional arrangements are set out in Regulation 26 as follows-

- ❑ Any spectrum licence issued to a licensee in terms of the Regulations prior to the commencement of these Regulations is deemed to be issued in terms of these Regulations, subject to all conditions attached to such licence
- ❑ Any proceedings in connection with an application for a licence still pending at the date of commencement of these Regulations must, with effect from that date, be deemed as an application in terms of these Regulations and must further administered, considered and completed by the Authority hereunder
- ❑ A licensee to whom a spectrum licence has been issued in terms of the Regulations is deemed to have been issued such licence in terms of these Regulations

Procedures when spectrum licences lapse or are not renewed

Before the Authority seize or seal the apparatus due to the continued use of the spectrum licence after expiry of the validity period, the Authority will issue a notice notifying the person-

- ❑ That the continued use of the spectrum is unlawful
- ❑ To desist use of any radio frequency within 10 days of the notice
- ❑ To inform the person's end-users, customers or subscribers, if any, within 7 days of receipt of the notice of the date on which the person will stop using the frequency spectrum
- ❑ To make a written presentation to the Authority regarding the notice within 5 days of receipt thereof

Failure by the affected person to comply will cause the Authority to seize and seal any radio apparatus or equipment used by such person and institute enforcement proceedings

Material Breach of Spectrum Licences

- ❑ The following events constitute a material breach of a spectrum licence and justifies the cancellation or suspension of the licence concerned-
 - ❑ Failure by the licensee to-
 - Offer services within 6 months of the issue of the licence
 - Meet any quality of service targets as may be determined by the licence conditions applicable to the licence
 - Comply with any roll-out obligations imposed by the Authority upon the licensee
 - Pay any penalty imposed by the Authority in terms of the Act or these regulations
 - Failure to comply with licence conditions
 - Comply with obligations relating to power output or location of frequency transmitters
 - ❑ Insolvency of a licensee or its liquidation in terms of any laws in force in Namibia or any other country
 - ❑ Submission of false or deliberately misleading information to the Authority

Licence Exempt Spectrum

- ❑ The use of spectrum in conjunction with the use of radio apparatus set out in Annexure A of these regulations must adhere to the frequencies, technical limitations, specifications and standards set out columns A, C, D and E of the table.
- ❑ Annexure A will be review after WRC-19 as indicated in the Spectrum Assignment Strategy gazette on 26 November 2018 based on the outcomes of WRC-19.

Thank you!