



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Page

GENERAL NOTICE

No. 447	Regulations prescribing Functions of Carriers in respect of Installation and Maintenance of Telecommunications Facilities: Communications Act, 2009	1
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General Notice

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 447

2021

REGULATIONS PRESCRIBING FUNCTIONS OF CARRIERS IN RESPECT OF INSTALLATION AND MAINTANANCE OF TELECOMMUNICATIONS FACILITIES: COMMUNICATIONS ACT, 2009

The Communications Regulatory Authority of Namibia, under section 129 of the Communications Act, 2009 (Act No. 8 of 2009) read with section 68(2) of that Act and after having complied with regulation 4 of the Regulations Regarding Rule-Making Procedures published under General Notice No. 334 of 17 December 2010, has made the regulations set out in the Schedule.

H. M. GAOMAB II
CHAIRPERSON OF THE BOARD
COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

SCHEDULE

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act has that meaning, and unless the context otherwise indicates -

“landowner” means a person who owns or legally occupies a land, and includes the State, a local authority and a public body;

“party” means a carrier or landowner, and includes any affected person or public body that is joined as a party;

“telecommunications facilities” means telecommunications facilities relate to the wires, fibres, or any other form of telecommunications line as well as facilities used to protect or support such wires, fibres or lines (including poles, stays, ducts and pipes), and include masts, antennas, towers, pay telephones and other similar equipment; and

“the Act” means the Communications Act, 2009 (Act No. 8 of 2009).

Objects and application of regulations

2. (1) The objects of these Regulations are to -
 - (a) prescribe the functions of carriers in installing and maintaining telecommunications facilities;
 - (b) set out the procedure to be followed and consultations to be held between a carrier and the landowner; and
 - (c) to make the rights granted to the carriers by Part 5 of Chapter V of the Act to install certain telecommunications facilities applicable to other telecommunications facilities.
- (2) These regulations -
 - (a) apply to all carriers; and
 - (b) do not prevent the carriers and landowners from entering into agreements governing carriers’ access to land for purpose of installation and maintenance of telecommunications facilities.

Submission of documents to Authority

3. Whenever documents are required to be delivered to the Authority, such documents are delivered physically or electronically -

- (a) by hand to an employee of the Authority at its principal place of business, being Communication House, No. 56 Robert Mugabe Avenue, Windhoek;
- (b) by post mailed to Private Bag 13309, Windhoek;
- (c) by electronic mail sent to legal@cran.na;
- (d) by facsimile faxed to +264 61 222 790; or
- (e) in any other manner or to any other address specified by the Authority from time to time.

Application of Part 5 of Chapter V of Act to other telecommunications facilities

4. The rights granted to the carriers by Part 5 of Chapter V of the Act to install telecommunications facilities relate to wires, fibres, or any other form of telecommunications line as

well as facilities used to protect or support such wires, fibres or lines (including poles, stays, ducts and pipes) as referred to in section 59(3) of the Act apply to masts, antennas, towers, pay telephones and other similar equipment as contemplated in section 59(4) of the Act.

Service of correspondences between carriers and landowners

5. For the purpose of these regulations, a correspondence between a carrier and landowner should be effected -

- (a) by delivering a copy thereof personally to the person to be served;
- (b) by leaving a copy of the correspondence at the place of residence or place of business of the person to be served, where personal service is not reasonably possible;
- (c) by delivering or leaving a copy thereof at the *domicilium citandi* so chosen, if the person to be served has chosen a *domicilium citandi*;
- (d) by delivering a copy thereof to any agent duly authorised in writing to accept service on behalf of the person to be served; or
- (e) by handing a copy thereof to a responsible employee of the company or body corporate at its registered offices or its principal place of business, or if no such employee is willing to accept service, by affixing a copy of the correspondence to the main gate or door of such office or place of business.

Notice by carriers to access land

6. (1) A carrier must submit to the landowner a written notice to access the land in the form of Form A set out in the Annexure before accessing the land for the purpose of conducting -

- (a) inspection on the land or do anything on the land that is necessary or desirable to determine whether the land is suitable for its purpose;
- (b) installation of telecommunications facilities;
- (c) alteration, removal or replacement of telecommunications facilities; or
- (d) routine maintenance of telecommunications facilities.

(2) The notice must -

- (a) set out the reason of the carrier for accessing the land and outline the actions it intends to take as part of accessing the land;
- (b) specify the duration of the activities and the proposed start date for accessing the land which must be -
 - (i) at least five days for inspection on the land, installation, alteration, removal or replacement as referred to in subregulation (1); or
 - (ii) at least three days for routine maintenance,

from the date of receipt of the notice by the land owner; and

- (c) be copied to the Authority for noting.

Objection by landowner

7. (1) Subject to subregulation (5), upon receipt of a notice from the carrier in terms of regulation 6, the landowner may give the carrier a written objection to the notice in the form of Form B set out in the Annexure.

(2) The objection is given to the carrier at least five days before the proposed start date and must -

- (a) include grounds of the objection; and
- (b) indicate the date the parties must meet for consultation as required by regulation 8(2); and
- (c) be copied to the Authority for noting.

(3) The grounds of objection by the landowner include -

- (a) the location of the telecommunications facility proposed by the carrier;
- (b) the duration of the activities;
- (c) the date for accessing the land and start the activities;
- (d) consideration of health, safety and security; and
- (e) the likely effect that the proposed activities have on the land such as -
 - (i) servitude;
 - (ii) on going work or work about to commence; or
 - (iii) environmental degradation.

(4) If no objection is received from the landowner within five days from date of receipt of the notice, the carrier may proceed to access the land as outlined in the notice.

(5) An objection by a landowner to the notice by a carrier to access land does not apply to a notice to access land for routine maintenance of telecommunications facilities.

Consultation between carriers and landowners

8. (1) In case where the landowner objects to the notice of the carrier, the landowner and carrier have 10 days consultation period from the date of receipt of the objection to discuss and try to resolve the objection.

(2) The landowner must make reasonable efforts to start the consultation within the first five days of the consultation period.

(3) The landowner and carrier must participate in good faith to resolve the objection.

(4) If the landowner and the carrier cannot resolve the objection by agreement during the consultation period, either party by agreement must -

- (a) prepare the outcome of their consultation in the form of Form C set out in the Annexure; and
- (b) refer the dispute to the Authority for adjudication.

Emergency access to land

9. A carrier may access the land without notice for purpose of performing activities that need to be carried without delay in order to protect -

- (a) the health, safety or security of persons;
- (b) the environment;
- (c) the property of the carrier; or
- (d) the telecommunications facilities or to deal with its maintenance.

Notice by carrier-landowners to other carriers

10. (1) Where a carrier who is also a landowner (carrier-landowner) wishes -
- (a) to install telecommunications facilities; or
 - (b) to conduct alteration, removal or replacement of telecommunications facilities,

on its own land, the carrier-landowner must, for the purposes of coordination and noting by other carriers and the Authority, respectively, give a notice to other carriers and the Authority in the form of Form D set out in the Annexure before such installation, alteration, removal or replacement is conducted.

- (2) The notice must -
- (a) set out the nature of the telecommunications facilities to be installed, altered, removed or replaced; and
 - (b) specify -
 - (i) the duration of the activities; and
 - (ii) the proposed start date which should be at least seven days from the date of receipt of the notice by other carriers and the Authority.

ANNEXURE

FORM A

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

Communications Act, 2009 (Act No. 8 of 2009)

NOTICE BY CARRIER TO ACCESS LAND
(Regulation 6(1))

In terms of regulation 6(1) of the Regulations Prescribing Functions of Carriers in Respect of Installation and Maintenance of Telecommunications Facilities published under General Notice No. 447 of 30 August 2021, a carrier must submit to the landowner this Notice to access the land before engaging in activities set out in regulation 6(2).

A. CARRIER

Carrier	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

B. LANDOWNER

Landowner	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

C. REASON FOR ACCESS TO LAND

Provide a clear and concise reason for accessing land in terms of regulation 6(2). (May attach supporting documents)

D. ACTIVITIES CARRIER INTEND TO PERFORM

Provide an outline of activities the carrier intends to perform as part of accessing land. (May attach supporting documents)

E. DURATION OF ACTIVITIES

Provide duration of activities and proposed start date which should be at least 14 days from date of receipt of Notice by landowner.

F. ANY OTHER INFORMATION

Provide any other relevant information.

Signed by _____ at _____ in his/
her capacity as _____ duly authorized and
warranting such authority and warranting that the information provided herein is true and correct, on
the _____ day of _____ 20_____.

_____ Signature

ACKNOWLEDGEMENT OF RECEIPT BY LANDOWNER:

Name	
Date	
Place	
Signature	

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

(In terms of regulation 6(2)(c))

Name	
Date	
Place	
Signature	

ANNEXURE

FORM B

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

Communications Act, 2009 (Act No. 8 of 2009)

OBJECTION TO CARRIER'S NOTICE

(Regulation 7(1))

In terms of regulation 7(1) of the Regulations Prescribing Functions of Carriers in Respect of Installation and Maintenance of Telecommunications Facilities published under General Notice No. 447 of 30 August 2021, a landowner may upon receipt of Notice from the carrier object to the notice received in terms of regulation 6.

The objection should be served to carrier at least seven days before the proposed start date.

A. LANDOWNER

Landowner	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

B. CARRIER

Carrier	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

C. GROUNDS OF OBJECTION

Provide clear and concise ground of objection to carrier's notice in terms of regulation 7(2). (May attach supporting documents)

D. CONSULTATION BETWEEN PARTIES

Provide a proposed date on which parties may meet to consult in terms of regulation 8, and the venue for the meeting.

E. ANY OTHER INFORMATION

Provide any other relevant information.

Signed by _____ at _____ in his/
her capacity as _____ duly authorized and
warranting such authority and warranting that the information provided herein is true and correct, on
the _____ day of _____ 20 _____.

_____ Signature

ACKNOWLEDGEMENT OF RECEIPT BY LANDOWNER:

Name	
Date	
Place	
Signature	

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

(In terms of regulation 7(2)(c))

Name	
Date	
Place	
Signature	

ANNEXURE

FORM C

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

Communications Act, 2009 (Act No. 8 of 2009)

OUTCOME OF CONSULTATION BETWEEN PARTIES

(Regulation 8(4)(a))

In terms of regulation 8(4)(a) of the Regulations Prescribing Functions of Carriers in Respect of Installation and Maintenance of Telecommunications Facilities published under General Notice No. 447 of 30 August 2021, either party by agreement must prepare in writing the outcome of their consultation to the other party.

A. CARRIER

Carrier	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

B. LANDOWNER

Landowner	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

C. NOTICE BY CARRIER

Provide details of notice of request to access land by carrier. (May attach supporting documents)

ANNEXURE

FORM D

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

Communications Act, 2009 (Act No. 8 of 2009)

**NOTICE BY CARRIER-LANDOWNER TO INSTALL, ALTER, REMOVE OR REPLACE
TELECOMMUNICATIONS FACILITIES**

(Regulation 10)

In terms of regulation 10 of the Regulations Prescribing Functions of Carriers in Respect of Installation and Maintenance of Telecommunications Facilities published under General Notice No. 447 of 30 August 2021, a carrier-landowner must submit to other carriers and CRAN this notice to install, alter, remove or replace telecommunications facilities before engaging in such activities.

A. CARRIER-LANDOWNER

Carrier-Landowner	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

B. OTHER CARRIERS/CRAN

Carrier/CRAN	
Contact Person	
Physical Address	
Postal Address	
Telephone number(s)	
Facsimile number	
Electronic mail address (email address)	

C. NATURE OF ACTIVITIES

Provide a clear and concise nature of telecommunication facilities to be installed, altered, removed or replaced (May attach supporting documents)

D. ACTIVITIES CARRIER-LANDOWNER INTENDS TO PERFORM

Provide an outline of activities the carrier-landowner intends to perform on its land. (May attach supporting documents)

E. DURATION OF ACTIVITIES

Provide duration of activities and proposed start date which should be at least seven days from the date of receipt of notice by carrier and the Authority.

Duration:
Start Date:

F. ANY OTHER INFORMATION

Provide any other relevant information.

Signed by _____ at _____ in his/
her capacity as _____ duly authorized and
warranting such authority and warranting that the information provided herein is true and correct, on
the _____ day of _____ 20 _____.

_____ Signature

ACKNOWLEDGEMENT OF RECEIPT BY CARRIER:

Name	
Date	
Place	
Signature	

ACKNOWLEDGEMENT OF RECEIPT BY CRAN:

Name	
Date	
Place	
Signature	
