



CRAN

Communications Regulatory Authority of Namibia



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CONDITIONS MADE IN TERMS OF SECTION 72(4) OF THE COMMUNICATIONS ACT

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COMMUNICATIONS ACT

- In terms of Section 70(1) the President of the Republic of Namibia is required to set up interception centres as are necessary for the combating of crime and national security.
- To make this happen, a collaboration between Telecommunications Service Providers, Law Enforcement and Security Agencies is required in terms of the Act, the Regulations made in terms of Chapter V, part 6 and the Conditions
- This collaboration will begin with registering all SIM cards as Service Providers are required in terms of Section 71(1) to provide a telecommunications service in such a manner that it is capable of being intercepted.
- The information to be collected by Service Providers for SIM registration purposes has to be sufficient to determine which telephone number or other identification has been issued to a specific customer.

COMMUNICATIONS ACT CONT.

- In case of commission of a crime or for the customer's safety, Law Enforcement or Security Agency will approach the **High Court**, obtain a **warrant to conduct lawful interception** and approach the Service Provider to assist them to conduct the lawful interception.
- The High Court **may refuse** the application if they are not satisfied with the reasons and evidence provided.
- Part 6 will come into operation on a date to be determined by the Minister.



COMMUNICATIONS ACT CONT.

- Steps that need to be taken in order to operationalise Part 6:
 - Establishment of interception centres by the President [Section 70(1)] - implementation date to be determined by the President.
 - Regulations by the Minister (MICT) made under Chapter V, Part 6- published on 15 March 2021;
 - Further Conditions for Licensees by CRAN in terms of the Regulations- envisaged date January 2022;
 - A Notice by the Minister for commencement of Chapter V, Part 6 of the Act - 01 March 2022.



REGULATIONS UNDER CHAPTER V, PART 6

- Published by the Minister on 15 March 2021.
- Apply to Service Providers;
- Persons operating a telecommunications network without CRAN License;
- The Regulations coordinate the activities between Service Providers, Law Enforcement and Security Agencies in getting information required to conduct lawful interception;
- The Regulations also provide the type of information that Service Providers should store in their systems and ***importantly how SIM cards should be registered.***

ENABLING PROVISIONS

- Drafted in terms of section 72(4) of the Communications Act;
- Regulation 3 of the Regulations made in terms of Part 6 of Chapter 5 of the Communications Act.



APPLICABILITY & EXTENT

- Imposed on Telecommunications Service Providers and persons operating a telecommunications network as contemplated in Section 37 of the Act.
- These are further license conditions as contemplated by the Regulations as prescribed by the Minister.
- The Conditions must be read with the Regulations and where the two are in conflict, the provisions of Regulations override the Conditions.
- Failure to adhere to the Regulations and Conditions bears the same consequences to the Service providers as failure to adhere to any other license conditions stipulated by or in terms of the Act.



CUSTOMER INFORMATION

- Service providers must store information related to telecommunications for a period of five (5) years.
- The information to be stored must include:
 - The telephone number or other identification of the customer concerned;
 - The internet protocol address allocated to a customer, in addition to any information that will link a specific packet to a specific customer;
 - The called number if the call is generated by the user of services by the service provider;
 - The calling number if the call is initiated by a party other than the user of the service by the service provider.



CUSTOMER INFORMATION Cont.

- The source and destination of any other telecommunications
- The date, time and duration of the telecommunications;
- Information relating to supplementary services or facilities used in association with the telecommunications such as multi-party, call diversion, abbreviated dialing and voice mail;
- Intermediate numbers where the customer establishes conference calling or calls to link through services;
- Identification of base station and cell site;
- Nature of the telecommunications i.e. voice, fax, a message service or form of data



SIM REGISTRATION

- 3 months from date of commencement of the Regulations, and before providing services to new customers, it will be mandatory for service providers to register the SIM cards.
- Information should be obtained prior to giving services to the customer (both Namibian nationals and foreigners);
- The following information will be obtained for natural persons:
 - the full name of the customer
 - Address
 - Identity number (copy of ID or passport or drivers licence)



SIM REGISTRATION Cont.

- The following information will be obtained for juristic persons:
 - Full name;
 - Registration number;
 - Business address;
 - Letter of authority to represent.
- Information requested will be for both existing and new customers.
- ***Service Providers have 12 months from the date of commence to obtain information of all customers (Services of unregistered customers will be cut off after due date).***



GENERAL CONDITIONS

- Service providers may accept any other address, including that of a school, church or retail store, or place where customer receives their post for customers in informal settlements who cannot provide an address as per regulation 7(5);
- Service providers must ensure that a customer is registered as the holder of such SIM Card;
- Service provider may not distribute or activate a customers SIM Card unless such customer is registered as the holder of such SIM Card;
- Service provider may not refuse to register a SIM card if the application meets requirements;
- Service provider may not register SIM card if applicant has no intention to use card personally.

MINORS AND PERSONS UNDER GUARDIANSHIP

- To be accompanied by their parent or legal guardian with authentic proof of such parenthood or guardianship, such as a certified copy of a full birth certificate or a court order to that effect.
- Such SIM cards to be registered in the name of the parent/guardian and the person using the SIM card.
- No person may have a SIM card intended for the use of a minor to be registered in his or her own name or the name of another person.



STOLEN, LOST AND SWOPPING SIM CARDS

- Customers must apply in writing for a SIM Card replacement, for a cancellation of the previous SIM Card and for the registration of the new SIM Card;
- Service providers must only make a SIM Card replacement upon receipt of a signed statement detailing the loss of the SIM Card;
- Upon receipt of a SIM Card replacement application, the service provider must immediately deactivate the stolen or lost SIM card, until such time the SIM Card replacement application has been approved.
- Customer may not exchange or swop any SIM Card without first applying in writing for the SIM Card to be delink and linked to a new customer.

NATURAL PERSONS

- A natural person may not be registered or remain registered as customer if:
 - is deceased;
 - is fictional;
 - does not intend to use telecommunications services;
 - did not consent to be registered as a customer;
 - is a minor or person under legal guardianship

FURTHER OBLIGATIONS FOR SERVICE PROVIDERS

- Ensure its equipment, facilities, or services that originate, terminate, or direct communications are capable of –
- Isolating and enabling a person to intercept, to the exclusion of any other communications, all telecommunications carried by the service provider;
- Isolating and enabling access to information that is reasonably available to the service provider-
 - before, during, or immediately after the transmission of telecommunications (or at such later time as may be acceptable to that person); and
 - in a manner that allows it to be associated with the telecommunications to which it pertains.



FURTHER OBLIGATIONS FOR SERVICE PROVIDERS CONT.

- Delivering intercepted telecommunications to a person, in a format that such telecommunications may be transmitted by means of equipment, facilities, or services to a location other than the premises of the service provider; and
- Facilitating authorised communications interceptions and access to telecommunications information unobtrusively and with a minimum of interference with any customer's telecommunications and in a manner that protects-
 - the privacy and security of telecommunications and call-identifying information not authorised to be intercepted; and
 - information regarding the State's interception of communications and access to call-identifying information.

REPORTING TO AUTHORITY

- Service providers must upon request by the Authority provide all policies and procedures adopted to comply with the requirements of the Regulations;
- Absence of technical requirements or standards for implementation of regulations 3 and 7 of the Regulations does not –
 - Preclude a service provider from deploying a technology or service; or
 - Relieve a service provider of the obligations imposed by those requirements.



QUESTIONS & ANSWERS



Thank you!

