South Africa

Independent Communications Authority of South Africa Act, 2000

The ICT COVID-19 National Disaster Regulations

General Notice 238 of 2020

Legislation as at 11 September 2020

FRBR URI: /akn/za/act/genn/2020/238/eng@2020-09-11

There may have been updates since this file was created.

PDF created on 25 April 2024 at 05:47.

Check for updates

About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from LawLibrary and is presented in collaboration with the African Legal Information Institute, the Judicial Institute for Africa and the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.lawlibrary.org.za | info@lawlibrary.org.za

www.laws.africa | info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

The ICT COVID-19 National Disaster Regulations
Contents

1. Definitions 1
2. Purpose 2
3. Scope 2
4. Minimum standards 2
5. Type Approval 4
6. Access to radio frequency spectrum 5
7. Postal services 7
8. Conflicts 7
9. Contravention and penalties 7
10. Short title and commencement 7
Annexure A 8

South Africa

Independent Communications Authority of South Africa Act, 2000

The ICT COVID-19 National Disaster Regulations

General Notice 238 of 2020

Published in Government Gazette 43207 on 6 April 2020

Assented to on 3 April 2020

Commenced on 6 April 2020

[This is the version of this document as it was from 11 September 2020 to 26 November 2020.]

[Amended by ICT COVID-19 National Disaster Amendment Regulations (General Notice 252 of 2020) on 5 May 2020]
[Amended by ICT COVID-19 National Disaster Second Amendment Regulations (General Notice 500 of 2020) on 11 September 2020]

[Repealed by ICT COVID-19 National State of Disaster Regulations, 2021 (General Notice 661 of 2021) on 11 November 2021]

The Independent Communications Authority of South Africa ("the Authority"), hereby publishes the Regulations in terms of section 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) and sections 4(1) and (7)(b) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended and having given consideration to the Electronic Communications, Postal and Broadcasting Directions issued by the Minister of Communications and Digital Technologies in terms of Regulation 10(8) of the Disaster Management Act, No. 57 of 2002, in Notice No. 417, Government Gazette No. 43164 dated 26 March 2020.

Dr Keabetswe Modimoeng

Acting Chairperson

1. Definitions

In these Regulations, unless the context otherwise indicates, a word or expression to which meaning has been assigned in the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), underlying statutes, the Disaster Management Act, 2002 (Act No. 57 of 2002) and the regulations made by ICASA has the meaning so assigned.

The following words shall have the meanings assigned to them below:

"**the Act**" means the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended;

"**Disaster Management Act**" means the Disaster Management Act, No. 57 2002;

"**National Disaster**" means the COVID-19 pandemic in the Republic of South Africa, as declared as such by the Head: National Disaster Management Centre, Department of Cooperative Governance and Traditional Affairs in terms of Notice No. 312, Government Gazette No. 43096 dated 15 March 2020, pursuant to the provisions of section 23(1)(b) of the Disaster Management Act;

"**National State of Disaster**" means the national state of disaster as declared by the Minister of Cooperative Governance and Traditional Affairs in terms of Notice No. 313, Government Gazette No. 43096 dated 15 March 2020, pursuant to the provisions of 27 of the Disaster Management Act; and

"**Regulations**" means all or any regulations, determinations and guidelines issued by the Authority in terms of the Act.

2. Purpose

The purpose of these Regulations is to prescribe minimum standards that licensees must adhere to only during the subsistence of the National State Disaster in order to -

(a) facilitate the dissemination of information required for dealing with the National Disaster;

(b) enable the facilitation of the national response to the National Disaster and post-disaster recovery and rehabilitation;

(c) enable implementation of measures that may be necessary to prevent an escalation of the National Disaster or to alleviate, contain and minimise the effects of the National Disaster; and

(d) ensure that there is continuation of the provision of services in the Republic.

3. Scope

The Regulations apply to all authorisations, certificates, applications and registrations made and /or issued in terms of the Act, Broadcasting Act and the Postal Services Act.

4. Minimum standards

Notwithstanding the provisions of the Regulations and any licences issued, the following minimum standards shall apply during the subsistence of the National State of Disaster:

Complaints resolution:

(1) Licensees are exempt from the responsibility to resolve complaints received within the time frames prescribed by the Authority in its Regulations.

(2) Notwithstanding the provisions of sub regulation (1), licensees shall ensure that all complaints received by them are resolved within a reasonable period from the date of notification thereof.

Tariffs and fees:

(3) Any tariffs, subject to approval or notification in terms of the applicable Regulations, may be lodged with the Authority one (1) day prior to the launch or commencement.

(4) Any reduced prices, associated with a service in terms of the Act, which are intended to be applicable only during the National State of Disaster, may be lodged with the Authority within one (1) day prior their operation/commencement.

(5) All lodgements made in terms of sub-regulation (3) and (4) shall be deemed to constitute adequate notification in terms of these Regulations.

(6) Any Radio Frequency Spectrum licence renewal fees which became due and payable on 31 March 2020, shall only become due and payable on 30 June 2020.

South African sound and television broadcasting services performance period:

(7) The performance period for both sound and television broadcasting shall run from 07h00 to 21h00.

(8) The adjustment in sub regulation (7) shall automatically cease upon expiry of seventy-two (72) hours after the termination of the National State of Disaster.

(8A) Television broadcasting service Licensees are exempted from compliance with the local television content quotas and specific advertising and programming requirements in terms of licence conditions during the National State of Disaster.

[sub regulation (8A) inserted by section 2(a) of General Notice 252 of 2020]

(8B) Sound broadcasting service Licensees are exempted from compliance with specific programming requirements and promises of performance in terms of licence conditions during the National State of Disaster.

[sub regulation (8B) inserted by section 2(a) of General Notice 252 of 2020]

(8C) Sound broadcasting service Licensees shall comply with the local content music quotas.

[sub regulation (8C) inserted by section 2(a) of General Notice 252 of 2020]

(8D) The exemptions indicated in sub regulations (8A) and (8B) shall automatically cease upon expiry of three (3) months of termination of the National State of Disaster.

[sub regulation (8D) inserted by section 2(a) of General Notice 252 of 2020]

Programme syndication:

(9) Programme syndication must not exceed forty five percent (45%) per week of a broadcasting service licensee's programming.

(10) The adjustment in sub regulation (9) shall automatically cease upon expiry of a period of seven (7) days after the termination of the National State of Disaster.

Quarterly submission of programming logs and recordings to the authority:

(11) The requirement for licensees to submit programming logs and recordings to the Authority quarterly is suspended. Licensees are however still required to keep the requisite programming logs for submission at the Authority's request.

(12) The suspension in sub regulation (11) shall automatically cease upon expiry of a period fourteen (14) days after the termination of the National State of Disaster.

Requirement to convene community meetings including any Annual General Meetings (AGMs):

(12A) The requirement for community broadcasting service licensees to hold any community meetings or AGMs and be required to submit proof of holding the meetings is suspended.

[sub regulation (12A) inserted by section 2 of General Notice 500 of 2020]

(12B) The suspension in sub regulation (12A) will automatically cease upon the expiry of the National State of Disaster.

[sub regulation (12B) inserted by section 2 of General Notice 500 of 2020]

(12C) Community broadcasting service licensees that were due to hold any meetings or AGMs with their respective communities during the period of the National State of Disaster, must hold such community meetings or AGMs within three (3) months after the expiry of the National State of Disaster.

[sub regulation (12C) inserted by section 2 of General Notice 500 of 2020]

Submission of applications

(13) The requirement for licensees and/or applicants to submit hardcopies of applications for licences, authorisations and/or certificates is suspended.

(14) The suspension in sub regulation (13) shall automatically cease upon expiry of a period of fourteen (14) days after the termination of the National State of Disaster.

(15) Subscription Broadcasting Licensees that need to apply for authorisation of channels may submit their requests for such authorisation not later than four (4) days prior to the intended date of launch.

(15A) For the duration of the alert levels, published in terms of the Regulations issued in terms of section 27(2) of the Disaster Management Act, 2002, the Authority shall only consider Special Event applications intended for COVID-19 related programming.

[sub regulation (15A) inserted by section 2(b) of General Notice 252 of 2020]

(15B) A Special Event Community Broadcasting Service and Radio Frequency Spectrum licence, issued for the purpose of providing COVID-19 programming, shall terminate one (1) month after the termination of the National State of Disaster.

[sub regulation (15B) inserted by section 2(b) of General Notice 252 of 2020]

Television broadcasting services to persons with disabilities

(16) Television broadcasting service licensees, excluding community television broadcasting service licensees, must ensure that they use sign language interpretation in at least fifty percent (50%) of news broadcasts between 07h00 and 10h00 and 18h00 and 21h00 on a weekly basis.

(17) For the entire duration of the National State of Disaster, television broadcasting service licensees, excluding community television broadcasting service licensees, shall ensure that broadcast coverage of all media briefings by the National Command Council include a sign language interpreter.

(18) The obligations in sub regulations (16) and (17) must be implemented within three (3) days after the publication of these Regulations and shall automatically cease three (3) days after the termination of the National State of Disaster.

Deployment of electronic communications facilities

(19) Insofar as they are required to give notice thereof to the Authority, licensees shall notify the Authority regarding new installations of electronic communications facilities on their networks within seven (7) days of the occurrence thereof.

(20) The Authority shall maintain a register of all new electronic communications facilities deployed during the period of the National State of Disaster. The notification shall include the following information:

(a) a high-level network topology depicting the location of the new electronic communications facilities;

(b) services intended to be provided on the newly deployed electronic communications facilities;

(c) a list of sites where the electronic communications facilities are deployed, including applicable technical parameters such as site GPS coordinates, radio frequency channels and technology deployed;

(d) capacity constraints of the current electronic communications facilities;

(e) the coverage footprint of the current and new electronic communications facilities;

(f) interference mitigation measures where applicable; and

(g) infrastructure sharing and capacity sharing plans.

5. Type Approval

(1) A Type Approval Application for any electronic communications service facilities and Equipment that is intended to be used for the purposes of bringing relief or assistance with respect to the National State of Disaster, shall be accompanied by the following documentation:

(a) a detailed submission as to how the equipment sought to be type-approved will be utilised for purposes of bringing assistance or relief;

(b) declaration of conformity from an Accredited Test Laboratory confirming compliance with the applicable standards in the Technical Regulations;

(c) documentary proof of compliance from a Notified Body or Certification Body within ITU Region 1;

(d) photographs of the Equipment, installation and user manual;

(e) a functional description of the Equipment; and

(f) schematic diagram and printed circuit board layout.

(2) There shall be no fees payable in relation to a Type Approval application contemplated in sub regulation (1).

(3) If the Equipment for which Type Approval is sought already appears on the Authority's existing Type Approval register, the applicant shall submit the following documentation to confirm that the equipment applied for is identical to the equipment that is already type approved:

(a) a letter confirming that the Equipment is identical to equipment that has already been Type Approved by the Authority and appears on the Authority's existing Type Approval register;

(b) photographs of the Equipment, installation and user manual;

(c) a functional description of the equipment; and

(d) a schematic diagram and printed circuit board layout.

(4) The Authority may, whenever it deems it necessary, request the applicant to submit additional supporting documents.

(5) Applications lodged in terms of sub regulation (1) shall be submitted to the following e-mail address: COVIDATA@icasa.org.za

(6) Applications submitted in terms of sub-regulations (1) and (5) shall be processed by the Authority within four (4) days of receipt of a complete application.

(7) A successful outcome of the assessment shall result in the Authority registering the device in the automatic type approval register.

(8) An unsuccessful outcome will result in the Authority issuing a written correspondence containing reasons for rejection.

(9) The Applicant may, subsequent to addressing issues stipulated in the rejection letter, re-apply for Type Approval.

(10) Type Approvals made in line with these Regulations shall be valid for a period of four (4) months from the date of approval after which time the equipment must be decommissioned.

(11) Wherein a Supplier would like to continue using Equipment that has been Type Approved in line with these Regulations beyond the four (4) months validity period, they are required to apply for Type Approval in line with the applicable Type Approval Regulations.

6. Access to radio frequency spectrum

Temporary assignment of Radio Frequency Spectrum

(1) During the National State of Disaster, any licensee may apply to the Authority to dispense with the prescribed licensing procedures for the licensing of the Radio Frequency Spectrum, including high demand spectrum, in order to enable it to deal with the anticipated rise in demand for network capacity or data services.

(2) In order to enable the Authority to temporarily assign Radio Frequency Spectrum in the furtherance of the objectives in sub regulation (1) the Authority may, whenever it considers necessary, deviate from the Radio Frequency Spectrum Assignment Plans published by the Authority.

(3) The following International Mobile Telecommunications (IMT) spectrum bands shall be made available for temporary assignment: 700MHz, 800MHz, 2300MHz, 2600MHz, and 3500MHz and shall be assigned in accordance with the criteria and conditions stipulated in Annexure A.

(4) The Authority shall from time to time publish details of further bands that are available for temporary assignment.

(5) Any prescribed fee, that would have been applicable to the bands identified in sub regulations (3) and (4), is waived.

(6) Subject to sub-regulation (7), any radio frequency spectrum assigned temporarily to licensees in terms of sub regulations (3) and (4) shall be revoked upon the expiry of three (3) months of termination of the National State of Disaster.

(7) No radio frequency spectrum licence assigned pursuant to sub-regulations (3) and (4) shall be valid after 30 November 2020.

(8) Applications contemplated in terms of sub-regulations (3) and (4) shall be submitted to the Authority by no later than 16h00 on 09 April 2020 to the following e-mail address: COVIDATA@icasa.org.za

(9) The Authority shall process applications submitted in terms of sub-regulations (3) and (4) within four (4) days of receipt of a complete application.

(10) Two or more licensees may share radio frequency spectrum assigned to alleviate the challenges of network capacity.

(11) The licensees shall ensure that radio frequency spectrum sharing is implemented efficiently and in a manner that does not compromise the quality of the electronic communications services provided by licensees and the functioning of the electronic communications networks of other licensees.

(12) All spectrum sharing agreements shall be submitted to the Authority for approval in accordance with regulation 18 (4) of the Radio Frequency Spectrum Regulations, 2015. The Authority shall process such agreements within four (4) days of receipt thereof.

Obligations relating to IMT Radio Frequency Spectrum licensees

(13) Licensees with both Electronic Communications Services and Electronic Communications Network Services licensees, and have access to IMT Radio Frequency Spectrum assignment, must send to their subscribers by SMS, free of charge:

(a) at least two public announcements per day regarding the prevention and management of COVID-19; and

(b) notifications of all announcements by the Minister of Health or the Presidency.

(14) The Authority shall determine, after consultation with the relevant Departments responsible for education and communications, the number of district virtual classroom platforms to support virtual teaching during the COVID-19 national disaster, which shall be connected by the Individual Electronic Communications Network Service licensees with access to IMT Radio Frequency Spectrum assignment.

(14A) All Electronic Communications Service and Electronic Communications Network Service licensees must zero rate access to all educational sites upon approval by the Department of Basic Education and the Department of Higher Education and Training.

[sub regulation (14A) inserted by section 3.1 of General Notice 500 of 2020]

(15) All Electronic Communications Service and Electronic Communications Network Service licensees must zero rate all COVID-19 sites upon approval by the Department of health.

[sub regulation (15) substituted by section 3.2 of General Notice 500 of 2020]

7. Postal services

The South African Post Office shall, upon written on request by relevant officials of the Department of Health, law enforcement agency or any other organ of state involved with management and control of the spread of the COVID-19 pandemic, make available its national address system, including any relevant database, to such official, agency or organ of state, as the case may be, for the purposes of tracking and tracing persons that are infected with COVID-19, and/or persons that may have been in direct physical contact with such infected persons.

8. Conflicts

In the event of conflict between the provisions of these Regulations and other Regulations of the Authority, the provisions of these Regulations shall prevail.

9. Contravention and penalties

Any person who contravenes regulation 4 (9), (16), (17) and (18) and regulation 6 (6) and (12) of the Regulations, is liable to a fine not less than R100 000.00 (one hundred thousand Rand) for each day that the contravention occurs.

10. Short title and commencement

These Regulations are called "The ICT COVID-19 National Disaster Regulations" and will come into force on the date of publication in the government gazette, and only endure until termination of the National State of Disaster.

Annexure A

COVID-19 Temporal spectrum access framework				
Bands under consideration	**Condition**	**Incumbents in the band**	**Available bandwidth**	**Criteria**
IMT2600	The channel arrangement of the IMT2600 (2500 - 2690 MHz) in TDD across the available 170 MHz The channel arrangement of the IMT2600 is two folds, 2*70MHz FDD and l*40MHz TDD. FDD portion: 2500 - 2570 MHz//2620-2690 MHz TDD portion: 2575 -2615 MHz	**RAIN** is assigned 1*20MHz on the TDD portion from 2575 MHz to 2595 MHz	170 MHz TDD Portion 70 MHz FDD Portion; and 20 MHz TDD portion (2595 - 2615 MHz)	The I-ECS and I-ECNS who needs access to this band need to demonstrate the impact on network performance will be with additional spectrum. The following method can be followed: 1. Provide the network performance report before the COVID-19 outbreak with the currently assigned spectrum holding; 2. Provide the current network performance; 3. Indicate the Areas that are highly constrained; 4. Provide the network projections during the national lockdown; 5. Indicate the band you require access to and the bandwidth required (For the immediate use only); 6. Provide the modelled network performance with the additional
IMT2300	The channel arrangement of the IMT2300 is in TDD mode.	**Telkom** is assigned 1*60MHz from 2300-2360 MHz	1*40 MHz (2360-2400 MHz)	
IMT3500	The channel arrangement of the IMT3500 is in TDD mode.	**Telkom** is assigned 1*28 MHz from 3400 - 3428 MHz in the band; and **Liquid Telecom** is assigned 1*56 MHz from 3544 MHz to 3600 MHz in the band.	1*116 MHz (3428 MHz to 3544 MHz)	
IMT700 and IMT800	The channel arrangement is on the FDD mode.	**Broadcasting services**. There are a few analogue transmitters switched off.	Not entirely available. The Authority should verify any proposed use of	

	IMT700: 703 - 733 MHz/758-788 MHz		these bands to ensure that the broadcasting services are not affected. Otherwise, the TVWS technology can be deployed temporarily in conjunction with CSIR.	spectrum you require; and 7. Provide benefits to be realized by the consumers (i.e. reduced data prices, free daily bundle to all the customers, wi-fi connectivity etc.)