



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

Vol. 598

Pretoria, 30 April 2015

**No. 38754**

*N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes*



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

**IMPORTANT NOTICE**

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

**CONTENTS • INHOUD***No.**Page  
No.    Gazette  
          No.***GENERAL NOTICE****Independent Communications Authority of South Africa***General Notice*

386	Radio Frequency Spectrum Amendment Regulations, 2015: Regulations on Radio Frequency Spectrum in terms of the Electronic Communications Act (36/2005).....	3	38754
-----	--	---	-------

---

## GENERAL NOTICE

---

### NOTICE 386 OF 2015

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

#### REGULATIONS ON RADIO FREQUENCY SPECTRUM FEES IN TERMS OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (NO. 36 OF 2005)

The Independent Communications Authority of South Africa hereby amends the Radio Frequency Spectrum Regulations, 2015 (Notice No. 279 of 2015) to the extent reflected in the schedule.

The amendments are intended to correct numbering inconsistencies.

A handwritten signature in black ink, appearing to be 'SS Mncube', written over a horizontal line.

**Dr SS MNCUBE**  
**CHAIRPERSON**

**AMENDMENT OF THE RADIO FREQUENCY SPECTRUM REGULATIONS, 2015 IN  
TERMS OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF  
2005)**

The Independent Communications Authority of South Africa has, under sections 4(1) read with sections 31(4), 34(7) (c) (iii), 34(8) and 34(16) of the Electronic of the Electronic Communications Act, 2005 (Act No. 36 of 2005), made the regulations in the schedule.

**SCHEDULE**

**1. Definitions**

In these regulations “the Regulations” means the regulations published by Government Notice No. 279 of 2015.

**2. Substitution of regulation 15 of the Regulations**

The following regulation is hereby substituted for regulation 15 of the Regulations:

**“15. Permission to Assign, Cede or Transfer of Control of a Radio Frequency Spectrum Licence**

- (1) No licensee must assign, cede or transfer control of a radio frequency spectrum licence without the prior written approval of the Authority.
- (2) An application to assign, cede or transfer of control of a licence must be:
  - (a) in the format as set out in **Form B**;
  - (b) accompanied by the prescribed fee; and
  - (c) submitted by the prospective transferor.
- (3) The applicant for the assignment, ceding or transfer of control of a radio frequency spectrum licence that was or would have been subject to an extended application procedure in terms of Annexure E, must provide information as set out **Annexure E**.
- (4) The Authority will take the following steps with regard to an application for assignment, ceding or transfer of control of a radio frequency spectrum licence that was or would have been subject to an extended application procedure:

- (a) publish a notice in the *Gazette* of the application to assign, cede or transfer control of the licence;
  - (b) request any relevant information regarding the transaction to enable the consideration of the application;
  - (c) invite interested persons to submit written representations in relation to the application within the period specified in the notice;
  - (d) allow the applicant an opportunity to submit written responses to representations received in relation to the application within the period specified by the Authority; and
  - (e) may conduct a public hearing in relation to the application.
- (5) A radio frequency spectrum licence transfer application will be evaluated on the basis of the following criteria:
- (a) technical efficiency;
  - (b) functional efficiency;
  - (c) promotion of competition and interests of consumers;
  - (d) equity ownership and control by HDP's; and
  - (e) economic efficiency.
- (6) In the case where an extended application procedure is applicable, the applicant will receive a total score based upon the sum of the technical, functional and economic efficiencies as outlined in item 20 of the extended application procedure (**Annexure E**).
- (7) When applying for the assignment, ceding or transfer of control of a radio frequency spectrum licence, both the transferor and transferee must ensure that the following conditions are met:
- (a) except where the radio frequency spectrum licence was issued according to the Standard Procedure found in **Annexure D**, the radio frequency spectrum licence must have been held for at least one year before an application for a transfer can be made;
  - (b) the transferee is capable of complying with the terms and conditions contained in the radio frequency spectrum licence;
  - (c) a duly completed application form is submitted by the transferor, with proof of payment of the prescribed application fee at any office of the Authority;
  - (d) in the case of liquidation or insolvency of the transferor, the liquidator/curator must give written consent in respect of the transfer;
  - (e) in the case of a deceased estate, the executor of the deceased estate must give written consent in respect of the transfer; and
  - (f) the transferee for the assignment, ceding or transfer of control of the radio frequency spectrum licence that was subject to an extended application procedure, must have a score not less than that of the transferor.
- (8) The Authority will not approve the assignment, ceding or transfer of control of a radio frequency spectrum licence:
- (a) where a licensee has been found, by the Complaints and Compliance Committee ("the CCC"), to have contravened the provisions of the Act, the

ICASA Act, the Regulations, the Terms and Conditions of a radio frequency spectrum licence or a licence granted in terms of Chapter 3 of the Act, and has failed to comply with an order by the Authority in terms of section 17E(4) of the ICASA Act;

- (b) if such transaction will not promote competition; or
- (c) if such transfer will result in the reduction of equity ownership held by HDP to be less than 30% or the reduction of the BBBEE status of a licensee to below Level 4 contributor or below the level which the transferor is already at.”

### **3. Short Title and Commencement**

These Regulations are called the Radio Frequency Spectrum Amendment Regulations, 2015 and will come into force upon publication in the Government Gazette.

---



# IMPORTANT Reminder from Government Printing Works

Dear Valued Customers,

As part of our preparation for eGazette Go Live on 9 March 2015, we will be suspending the following existing email addresses and fax numbers from **Friday, 6 February**.

Discontinued Email addresses	Discontinued Fax numbers
<a href="mailto:GovGazette&amp;LiquorLicense@gpw.gov.za">GovGazette&amp;LiquorLicense@gpw.gov.za</a>	+27 12 334 5842
<a href="mailto:Estates@gpw.gov.za">Estates@gpw.gov.za</a>	+27 12 334 5840
<a href="mailto:LegalGazette@gpw.gov.za">LegalGazette@gpw.gov.za</a>	+27 12 334 5819
<a href="mailto:ProvincialGazetteGauteng@gpw.gov.za">ProvincialGazetteGauteng@gpw.gov.za</a>	+27 12 334 5841
<a href="mailto:ProvincialGazetteECLPMPNW@gpw.gov.za">ProvincialGazetteECLPMPNW@gpw.gov.za</a>	+27 12 334 5839
<a href="mailto:ProvincialGazetteNCKZN@gpw.gov.za">ProvincialGazetteNCKZN@gpw.gov.za</a>	+27 12 334 5837
<a href="mailto:TenderBulletin@gpw.gov.za">TenderBulletin@gpw.gov.za</a>	+27 12 334 5830

To submit your notice request, please send your email (with Adobe notice form and proof of payment to [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za) or fax +27 12-748 6030.

Notice requests not received in this mailbox, will **NOT** be processed.

Please **DO NOT** submit notice requests directly to your contact person's private email address at GPW – Notice requests received in this manner will also **NOT** be processed.

GPW does not accept responsibility for notice requests submitted through the discontinued channels as well as for the quality and accuracy of information, or incorrectly captured information and will not amend information supplied.

Thank you!

For any queries, please contact the eGazette Contact Centre.



[info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za) (only for queries).

Notice requests received in this mailbox will **NOT** be processed.



012-748 6200



eGazette

We are here  
for YOU!



Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
Publications: Tel: (012) 748 6052, 748 6053, 748 6058  
Advertisements: Tel: (012) 748 6205, 748 6208, 748 6209, 748 6210, 748 6211  
Subscriptions: Tel: (012) 748 6054, 748 6055, 748 6057