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GENERAL NOTICE

NOTICE 658 OF 2015



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005), AS AMENDED:

REGULATIONS

The Independent Communications Authority of South Africa ("the Authority") hereby intends to amend the regulations in the schedule as follows:

Processes and Procedures Regulations – Class Licences, Government Gazette No. 33297 of 14 June 2010.

A copy of the proposed regulations is available on the Authority's website (www.icasa.org.za) and in the ICASA Library at 164 Katherine Street, Pin Mill Farm, Sandton, Block D, Ground floor during the Authority's business day office hours.

Interested persons are hereby invited to submit written representations with regard to the proposed regulations. Written representations must be submitted to the Authority within thirty (30) working days from the date of the publication of this notice by post or hand delivery or email or facsimile transmission as follows:

Independent Communications Authority of South Africa

FOR ATTENTION: Peter Mailula

Private Bag X10002

SANDTON

2146

OR

Block C, PinMill Farm

164 Katherine Street

SANDTON

2146

Fax: (011) 566-3658

E-mail: pmailula@icasa.org.za



DR SS MNCUBE

CHAIRPERSON

ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)
REGULATIONS

The Independent Communications Authority of South Africa has, under section 5(7) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended, made the regulations in the schedule.

SCHEDULE

1. Definitions

In these regulations “the Regulations” means the regulations published by Government Notice No. 33297 of 2010, as amended by Government Notice No. R. 526 of 14 June 2010.

2. Amendment of regulation 4 of the Regulations

Regulation 4 of the Regulations is hereby amended by the substitution for paragraph (b) of subregulation (1) of the following paragraph:

“(b) **Form B:** Registration of a class licence to provide a Community Broadcasting Service and (Regulation 7(2) and to provide a Special Event and Temporary Community Television Broadcasting Services (Regulation 13A)”

3. Amendment of regulation 5 of the Regulations

3.1 Regulation 5 of the Regulations is hereby amended by the substitution for subregulation (1A) of the following subregulation:

“(1A) registrants must submit at least five (5) hard copies when filing/submitting a registration notice (including amendment, renewal, licence transfer and surrender) and must further provide one (1) electronic copy of the documents submitted.”

3.2 Regulation 5 of the Regulations is hereby amended by the substitution for subregulation (4) of the following subregulation:

“(4) Any fee in respect of an application, transfer, renewal, registration or notice:

- (a) may be paid by way of an electronic transfer or via a direct deposit into the Authority's bank account;

- (b) must be paid on or before the day when the application, notice or registration is submitted to the Authority and proof of payment must accompany such submission;
- (c) the applicable fees are prescribed in terms of the General Licence Fees Regulations as amended; and
- (d) is non- refundable,."

3.3 Regulation 5 of the Regulations is hereby amended by the substitution for subregulation (6) of the following subregulation:

"(6) The Authority will not consider an application or registration if the licensee or registrant is in arrears with respect to any fees prescribed by the Authority or legislated in terms of the Act."

4. Substitution of regulation 7 of the Regulations

The following regulation is hereby substituted for regulation 7 of the Regulations:

"7. Registration for a class licence (section 16 and 17 of the Act)

- (1) The registration for the class community sound broadcast licence may only be lodged with the Authority during the months February and October.
- (2) Notice of a registration for a licence in terms of sections 16(2) and 17(1) of the Act, must be in the format as set out in **Form A** Community broadcasting service registrant must not complete **Form A**.
- (3) Notice of registration for a licence to provide a community broadcasting service in terms of sections 16(2) and 17(1) of the Act, must be in the format as set out in **Form B**.
- (4) Programme syndication/network and programme sharing shall not exceed 20% of the community sound licensees' programming.
- (5) The registration notice must be accompanied by the founding documents of the applicant, the certificate, including the Constitution and Memorandum of Incorporation (MOI) and any other related information.
- (6) The Authority will make a determination and publish a notice on the provinces/areas in which it invites registrations for class community sound broadcast licence.

- (7) The Authority will exercise its discretion of holding public hearings in instances where there are competing registrations or issues of concern.”

5. Substitution of regulation 8 of the Regulations

The following regulation is hereby substituted for regulation 8 of the Regulations:

“8. Application to Amend a Class Licence

- (1) An application to amend a licence must be in the format as set out in **Form D** and must be accompanied by the applicable fee.
- (2) An application to amend a licence will not be required in relation to the matters referred to in section 17(6)(b), read with sections 16(5)(a) and (b) of the Act, provided that, such services are authorised by the licence.
- (3) Where a licensee submits a notice to the Authority in terms of section 17(6) (b) of the Act and where, in the opinion of the Authority, the nature of the services described in that notice are not authorised in terms of the licence, the Authority will direct the licensee to submit an application to amend its licence in terms of this regulation.
- (4) Where a direction is made to a licensee in terms of regulation 7 (3), the licensee will not commence with the provision of the relevant services for which an amendment to the class licence is required unless and until the Authority grants the licensee's application to amend its class licence in the manner proposed.
- (5) The Authority will not consider an application or registration if the licensee or registrant is in arrears with respect to any fees prescribed by the Authority or legislated in terms of the Act.”

6. Amendment of regulation 9 of the Regulations

Regulation 9 of the Regulations is hereby amended by the addition of the following subregulation:

- “(4) The Authority will not consider any application if the licensee or registrant is in arrears with respect to any fees prescribed by the Authority or legislated in terms of the Act.”

7. Amendment of regulation 10 of the Regulations

Regulation 10 of the Regulations is hereby amended by the addition of the following paragraph:

“(d) The Authority will not consider any application if the licensee or registrant is in arrears with respect to any fees prescribed by the Authority or legislated in terms of the Act.”

8. Insertion of regulation 14A in the Regulations

The following regulation is hereby inserted in the Regulations, after regulation 14:

“14A. Contraventions

Failure to comply with the Regulations, will amongst others result in the Authority not considering the registration notice or application until the registrant or applicant remedies the contravention.”

8.1 The Authority may by mean of a Notice in the Government Gazette issue notice for applicants to submit applications by means of post to relevant regions.

9. The Regulations are amended by the inclusion of regulation 15

The Authority may by mean of a Notice in the Government Gazette issue notice for applicants to lodge applications by means of post to relevant regions.

10. Short Title and Commencement

These regulations are called the Amendment Class Processes and Procedures Regulations 2015 and will come into operation upon publication in the Government Gazette.

SCHEDULE 1

11. Substitution of Form B of the Regulations

The following Form of Schedule 1 is hereby substituted for Form B of the Regulations:

"FORM B

REGISTRATION FOR A CLASS LICENCE TO PROVIDE A COMMUNITY BROADCASTING SERVICE
(Regulation 7 (2))

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

- Note: (a) Registrants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under that Act with regard to the requirements to be fulfilled by registrants. Registrants are referred, in particular, to the Community Sound Broadcasting Regulations, 2006 (published under GN755 in Government Gazette 28919 of 6 June 2006) and the Community Sound Broadcasting Licence: Criteria to Measure Community Support Regulations, 1997 (published under GN R1388 in Government Gazette 18380 of 17 October 1997).*
- (b) Information required in terms of this Form which does not fit into the space provided may be included in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information is not applicable.*

1. PARTICULARS OF REGISTRANT	
1.1 Full name of registrant:	
1.2 Designated contact person:	
1.3 Registrant's street address:	
1.4 Registrant's principal place of business (if different from street address):	

1.5	Registrant's postal address:	
1.6	Registrant's telephone number/s:	
1.7	Registrant's telefax number/s:	
1.8	Registrant's mobile number/s:	
1.9	E-mail address of designated contact person:	

2. LEGAL FORM OF REGISTRANT	
2.1	Indicate if the registrant is :
	(i) natural person
	(ii) partnership
	(iii) juristic person
	(iv) other (specify)
2.2	If the registrant is a natural person or a partnership:
2.2.1	Provide the identity number of the registrant or each partner in the registrant:
2.2.2.	Attach a certified copy of the identity document of the registrant or certified copies of the identity document of each partner in the registrant marked clearly as Appendix 2.2.2 of FORM B , indicating that he or she is a citizen of the Republic, as required by section 5(8) (a) of the Act.
2.3	If the registrant is a juristic person:
2.3.1	Indicate the legal form of the registrant (e.g. private company incorporated in terms of the Companies Act, 1973):
2.3.2	Registration number of the registrant:
2.3.3	Attach certified copies of the registrant's certificate of registration and memorandum and articles of association together with constitutive documents of the registrant (e.g. memorandum of incorporation, association agreement, constitution) marked clearly as Appendix 2.3.3 of FORM B , indicating the applicant's compliance with the requirements of section 5(8) (b) of the Act.
2.4	If the registrant is not a juristic person but intends to operate as one if the licence that is the subject of this registration is granted:
2.4.1	Provide a written undertaking that the registrant will comply with section 5(8) (b) of the Act marked clearly as Appendix 2.4.1 of FORM B .

2.4.2 Indicate when and how the registrant will comply with section 5(8) (b) of the Act.

--

3. NON-PROFIT STATUS OF REGISTRANT

Provide details of the registrant's non-profit status and confirmation that the registration is sought for a non-profit purpose. The following documents must be submitted upon registration, the certificate of registration accompanied by either an approved memorandum of incorporation, a constitution etc. from the relevant department/s. The founding documents must have provision for the following, 51% quorum for the annual general meeting, provision for membership and an appeals mechanism in case of rejection upon application and clear separation of powers between management and board of directors. Should the registrant fail to submit these documents, the registration will not be considered.

--

4. COMMUNITY

4.1 Indicate whether the community to be served by the proposed broadcasting service is:

4.1.1 geographically founded community; or

4.1.2 group of persons or sector of the public with a specific, ascertainable common interest.

4.2 Where the community to be served by the registrant is a geographically founded community, provide details of the community to be served, including:

- (i) whether the community is urban, peri-urban or rural
 - (ii) the number of people in the community
 - (iii) gender, language, income and demographic statistics in relation to the community.
- (Attach as Appendix 4.2)

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<p>4.3 Where the community to be served by the registrant is a community of common interest, provide details of the community to be served, including:</p> <ul style="list-style-type: none"> (i) the nature of the common interest; (ii) the size of the community in the geographic area in which the service is proposed to be provided; and (iii) gender, language, income and demographic statistics in relation to the community. (Attach as appendix 4.3)

5. NATURE OF SERVICES TO BE LICENSED

5.1 Provide a description of the service to be provided: Attach as Appendix 5.1
5.2 Indicate the geographic area in which the service is to be provided:
5.3 Provide details of the languages in which the broadcasting service is to be provided. Where it is proposed that the service will be provided in more than one language, provide a breakdown of the number of hours of programming which will be broadcast in each

language.

- 5.4 Provide the registrant's proposed programming schedule.. Further provide the proposed programming format and content to be provided, and also indicate when your peak time will be, the extent to which output would be locally originated and extent to which it will be externally sourced. Further indicate the proposed minutes of news to be broadcast on a daily basis and provide a percentage split in terms of local, national and international news content. Indicate the duration and scheduling of current affairs programme/s and provide the percentage split in terms of local, national and international content and indicate source as well. The Authority's South African music regulations on local content require class community sound broadcast licenses to broadcast 40% local music. Indicate your proposed percentage of local music to be broadcast. Appendix 5.4 of FORM B.

6. SERVING THE COMMUNITY'S INTERESTS

- 6.1 Provide proof of how the registrant proposes to serve the community's interests:

- 6.2 Provide proof of how the registrant proposes to encourage members of the community it serves, or persons associated with the promotion of the community's interests, to participate in the selection and production of programming to be provided by the registrant:

7. SUPPORT

Provide proof of support by members of the registrant's community or of persons associated with the registrant's community or of persons who promote the interests of the registrant's community. Kindly submit letters of support from NGO, business and so forth and signatures of support from members of the community/prospective listeners etc. Attach

as Appendix 7

8. FINANCES

8.1 Indicate commitment of funding from financial institutions and provide details of the manner in which the proposed service is to be funded (e.g. sponsorship, donations etc.) ATTACH AS APPENDIX 8.1

8.2 Provide details of the registrant's anticipated:

- (i) capital expenditure necessary for the commencement of the provision of services; and
- (ii) operating expenditure during the registrant's first year of operation. Attach as Appendix 8.2

8.3 Provide details of the registrant's business plan: ATTACH AS APPENDIX 8.3

9. CONTROL AND MANAGEMENT

9.1	Provide details (including name, nationality, identification or passport number, position and address) of each member of the registrant's. Confirm if the individuals below reside within the proposed coverage area Attach as Appendix 9.1 (i) board of directors or similar body (ii) senior management (iii) Attach the proposed organogram
9.2	Indicate whether there is anyone in the position of control in the registrant is a foreign citizen or an entity registered or incorporated in any country other than South Africa:
9.3	Indicate whether any person in the position of control in another licensee issued in terms of the Act or active or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this notice relates:

RADIO FREQUENCY SPECTRUM

Indicate if the registrant has submitted or intends to submit an application for a radio frequency spectrum licence for the provision of the services to which this registration relates. The registrant must indicate, from the frequencies provided by the Authority, which frequency band it seeks to utilise to provide the service

GENERAL

11.3	Indicate whether the registrant is a member of the Advertising Standards Authority or intends to become a member:	
11.4	Indicate whether the registrant is a member of a body contemplated in section 54(3) of the Act or intends to become a member:	
11.5	Where the registrant proposes to provide a subscription community broadcasting service, indicate the percentage of its annual revenue which is proposed to be drawn from:	
11.5.1	Advertising	
	Sponsorships	
	Subscriptions	
	Donations	

Grants	
membership fees	
11.6 Indicate whether the registrant is a party, movement, organisation, body or alliance which is of a party-political nature.	
11.7 Indicate whether the registrant has ever been convicted of an offence in terms of the Act or the related legislation, as defined in the Act. If so, provide details of such conviction.	

11.8 Provide details of other matters or undertakings which, in the registrant's view, the Authority should be consider:	
11.9 Attach a resolution authorising the person (s) not more than two signing this registration and liaising with the Authority during the registration process. The resolution must be marked clearly as Appendix 11.9 of FORM B.	

The person signing the registration on behalf of the registrant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence issued pursuant to this registration set aside should any material statement made herein, at any time, be found to be false.

Signed

(REGISTRANT)

I certify that this declaration was signed and sworn to before me aton the day of 20..., by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

(...end of substitution)"

12. Substitution of Form D of the Regulations

The following Form of Schedule 1 is hereby substituted for Form D of the Regulations:

"FORM D**APPLICATION TO AMEND A CLASS LICENCE****(Regulation 8 (1))****INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

- Note: (a) Applicants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under that Act with regard to the requirements to be fulfilled by applicants.*
- (b) Information required in terms of this Form which does not fit into the space provided may be contained in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) Where any information in this Form does not apply to the applicant, the applicant must indicate that the relevant information in the Form is not applicable.*

1. PARTICULARS OF LICENCE	
1.1. Licence number:	
1.2. Nature of services authorised to be provided in terms of the licence:	
1.3. Attach a copy of the licence that is the subject of this application marked clearly as Appendix 1.3. of FORM D.	

2. PARTICULARS OF APPLICANT (LICENSEE)	
2.1. Full name of applicant:	
2.2. Designated contact person:	
2.3. Applicant's street address:	

2.4. Applicant's principal place of business (if different from street address):	
2.5. Applicant's postal address:	
2.6. Applicant's telephone number/s:	
2.7. Applicant's telefax number/s:	
2.8. Applicants mobile number/s:	
2.9. E-mail address of designated contact person:	

3. PROPOSED AMENDMENT TO THE LICENCE
3.1. Set out the amendment/s (with reference to existing clauses in the licence) to the licence which is/are the subject of this application:
3.2. Set out the applicant's motivation for the proposed amendment/s to the licence indicating the reasons for the amendment/s. If the amendments is in relation to programming matters attach a research report that informs the amendment. Indicate what has since changed from the original offering. Attach as appendix 3.2 of Form D
3.3. Explain the potential implications of the proposed amendment/s:

4. RADIO FREQUENCY SPECTRUM
4.1. Indicate whether the applicant holds a radio frequency spectrum licence. If so, provide details thereof and attach a copy of the radio frequency spectrum licence marked clearly as Appendix 4.1 of FORM D.

4.2. To the extent that an amendment to the applicant's radio frequency spectrum licence would be necessitated if the amendment in respect of the licence that is the subject of this application is approved, provide details of such an amendment. A separate application to amend the applicant's radio frequency spectrum licence must be submitted to the Authority in this regard at the same time as this application.

5. GENERAL
5.1. Provide details of any other matter and undertaking which, in the applicant's view, the Authority should consider:
5.2. Attach a resolution authorising the person signing this application marked clearly as Appendix 5.2 of FORM D.

The person signing the application on behalf of the applicant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence amended pursuant to this application set aside should any material statement made herein, at any time, be found to be false .

Signed
(APPLICANT)

I certify that this declaration was signed and sworn to before me at on the day of 20..., by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS
Name:
Address:
Capacity:

(...end of substitution)”

13. Substitution of Form F of the Regulations

The following Form of Schedule 1 is hereby substituted for Form F of the Regulations:

**“FORM F
NOTICE TO RENEW A CLASS LICENCE
(Regulation 9 (1))**

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

- Note: (a) Applicants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) (“the Act”) and any regulations published under the Act with regard to the requirements to be fulfilled by applicants.*
- (b) Information required in terms of this Form which does not fit into the space provided may be contained in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) Where any information in this Form does not apply to the applicant, the applicant must indicate that the relevant information in the Form is not applicable.*

1 PARTICULARS OF LICENCE	
1.1 Licence number:	
1.2 Nature of services authorised to be provided in terms of the licence:	
1.3 Expiration date of licence:	
1.4 Attach a copy of the licence that is the subject of this application marked clearly as Appendix 1.4 of FORM F.	

2 PARTICULARS OF APPLICANT (LICENSEE)	
2.1 Full name of applicant:	
2.2 Designated contact person:	
2.3 Applicant's street address:	

2.4	Applicant's principal place of business (if different from street address):	
2.5	Applicant's postal address:	
2.6	Applicant's telephone number/s:	
2.7	Applicant's telefax number/s:	
2.8	Applicants mobile number/s:	
2.9	E-mail address of designated contact person:	

3	OWNERSHIP OR CONTROL AND MANAGEMENT
3.1	Provide details of all ownership interests/control in the applicant and the identity and address of each holder of an ownership interest in the applicant. Where an applicant is a juristic person only shareholdings (or equivalent) of 5% or more of the total issued shares (or equivalent) in the applicant are relevant. Not applicable to class community sound and class television
3.2	Indicate whether the applicant is listed on any stock exchange, and provide details of any such listing: Not applicable to class community sound and class television
3.3	In respect of each holder of any ownership interest/person in the position of control in any person holding an ownership interest in the applicant, provide the details required in 3.1 in respect of each such holder
3.4	Indicate the extent to which any ownership interest referred to above is held by a historically disadvantaged person or group.

<p>3.5 Indicate whether the holder of any ownership interest/person in the position of control in the applicant is a foreign citizen or an entity registered or incorporated in any country other than South Africa. : For class community sound and television if there is individual in the controlling structure is a foreign citizen please indicate.</p>
<p>3.6 Indicate whether any person holding an ownership interest/control in the applicant holds a licence issued in terms of the Act or holds an ownership interest/control in any other licensee licensed to provide a service similar to that to which this application relates: For class community sound and television if there is individual in the controlling structure holds a position of control in another licensed entity licensed by ICASA please indicate.</p>
<p>3.7 Provide particulars of any interest held by the applicant in another licensee licensed in terms of the Act:</p>
<p>3.8 Provide details (including name, nationality, identification or passport number, position and address) of each member of the applicant's. Confirm if individuals below reside within the coverage area:</p> <ul style="list-style-type: none"> (i) board of directors or similar body; (ii) senior management.

<p>4. RADIO FREQUENCY SPECTRUM</p>
<p>4.1. Indicate if the applicant holds a radio frequency spectrum licence. If so, provide details thereof and attach a copy of the radio frequency spectrum licence marked clearly as Appendix 5.1 of FORM F.</p>

4.2. Indicate the date on which the applicant's radio frequency spectrum licence expires. A separate application to renew the applicant's radio frequency spectrum licence must be submitted to the Authority prior to the expiry of that licence in terms of the applicable regulations.

5. AMENDMENT TO THE LICENCE

Indicate whether the applicant seeks any amendment to the licence if this application to renew the licence is granted. If so, a separate application for the amendment of the licence in terms of the ICASA Licensing Processes and Procedures Amendment Registrations Regulations, 2010 must be submitted in this regard.

6. FAILURE TO COMPLY WITH REQUIREMENTS

6.1. Provide details of any action taken in relation to the applicant by the Authority or any other person due to a breach or alleged breach by the licensee of the Act and related legislation.

6.2. Provide details of any finding by the Complaints and Compliance Committee against the applicant, as well as details of the sanction imposed by the Authority, if any.

6.3. Provide details of any finding by a body recognised in terms of section 54 or 55 of the Act.

7. LATE FILING OF APPLICATION

7.1. Indicate if this application is filed with the Authority within the time period specified in the ICASA Licensing Processes and Procedures

Registrations, Amendment, Renewal, Transfer and Surrender of CLASS LICENCES Regulations, 2008:	
7.2. Where this application is filed outside of this time period, set out the reasons for the late filing:	

8. GENERAL
8.1. Provide details of any matter and undertakings which, in the applicant's view, the Authority should consider:
8.2. Attach a resolution authorising the person signing this application. The resolution must be marked clearly as Appendix 8.2. of FORM F.

The person signing the registration on behalf of the applicant must acknowledge as follows:

I acknowledge that the Authority reserves the right, to have any licence renewed pursuant to this application set aside should any material statement made herein, at any time.

Signed

(APPLICANT)

I certify that this declaration was signed and sworn to before me aton
the day of 20..., by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

(...end of substitution)"

14. Substitution of Form H of the Regulations

FORM H

APPLICATION TO TRANSFER A CLASS LICENCE

APPLICATION TO SUB-LET, CEDE, ASSIGN, TRANSFER AND TRANSFER OF CONTROL OF AN INDIVIDUAL LICENCE

(Regulation 10)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

- Note: (a) Applicants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under that Act with regard to the requirements to be fulfilled by applicants.*
- (b) Information required in terms of this Form which does not fit into the space provided may be contained in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) Where any information in this Form does not apply to the applicant, the applicant must indicate that the relevant information in the Form is not applicable.*

15. Definitions

In these regulations “the Regulations” means the regulations published by Government Notice No. 33293, as amended by Government Notice No R. 522 of 14 June 2010.

“**Transferee**” means a person who, as a result of the transaction, would directly or indirectly acquire or establish direct or indirect control or increased control over all or the greater part of a licensee or company, or all or the greater part of the assets or undertaking of a licensee or company;

“**Control**” is as contemplated in the Companies Act, Act No.71 of 2008, as amended;

“**Transfer of Control**” means transfer of shareholding in the issued licence to a new shareholder;

1 PARTICULARS OF LICENCE	
1.1 Licence number/ s:	
1.2 Nature of services authorised to be provided in terms of the licence:	
1.3 Geographic area covered by the licence	
1.4 Attach a or copies of the Licence/s that is the subject of this application marked clearly as Appendix 1.3.of FORM H.	

2 PARTICULARS OF THE APPLICANT (LICENSEE)	
2.1 Full name of the applicant:	
2.2 Designated contact person:	
2.3 Applicant's street address:	
2.4 Applicant's principal place of business (if different from street address):	
2.5 Applicant's postal address:	
2.6 Designated contact person's telephone number/s:	
2.7 Designated contact person's telefax number/s:	

2.8 E-mail address of designated contact person:	
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3. STEPS TO INFORM SUBSCRIBERS AND END-USERS
Provide details of the steps the licensee proposes to take to inform end-users of the cessation of the services in respect of which the licence was granted.

4. PARTICULARS OF TRANSFEREE	
4.1 Full name of transferee:	
4.2 Transferee's street address:	
4.3 Transferee's principal place of business (if different from street address):	
4.4 Transferee's postal address:	
4.5 Telephone number/s:	
:	
4.6 E-mail address of designated contact person:	
4.7 Geographic area to be covered by the licence	

5. LEGAL FORM OF APPLICANT (LICENSEE)	
5.1 Indicate if the applicant is:	
(i) natural person	

5. LEGAL FORM OF APPLICANT (LICENSEE)	
(ii) partnership	
(iii) juristic person	
(iv) other (specify)	
5.2 If the applicant is a natural person or a partnership:	
5.2.1 Provide the identity number of the applicant or each partner in the applicant:	
5.2.2 Attach certified copy/s of the identity document of the applicant/s or certified copies of the identity document of each partner in the applicant marked clearly as Appendix 4.2.2 of FORM H , indicating that he or she is a citizen of the Republic, as required by section 5(8)(a) of the Act.	
5.3. If the applicant is a juristic person:	
5.3.1 Indicate the legal form of the applicant (e.g. private company incorporated in terms of the Companies Act, 1973):	
5.3.2 Registration number of applicant:	
5.3.3 Attach certified copies of the applicant's certificate of incorporation and memorandum and articles of association or other constitutive documents of the applicant (e.g. memorandum and articles of association, association agreement, constitution) marked clearly as Appendix 4.3.3 of FORM H , indicating the applicant's compliance with the requirements of section 5(8)(b) of the Act.	
5.4 Where the applicant has been liquidated or sequestrated, provide:	
5.4.1 Liquidator/ Executor's postal address:	

5. LEGAL FORM OF APPLICANT (LICENSEE)	
5.4.2 Liquidator/Executor's telephone number/s:	
5.4.3 Liquidator/Executor's telefax number/s:	
5.4.4 Liquidator/Executor's E-mail address:	
5.4.5 Attach an affidavit deposed to by the liquidator, indicating the liquidator's consent to the transfer of the licence, marked clearly as Appendix 4.4.5 of FORM H ,	

6. LEGAL FORM OF TRANSFEREE	
6.1 Indicate if the transferee is:	
(i) a natural person	
(ii) a partnership	
(iii) a juristic person	
(iv) other (specify)	
6.2 If the transferee is a natural person or a partnership:	
6.2.1 Provide the identity number of the transferee or each partner in the transferee:	

6. LEGAL FORM OF TRANSFEREE	
6.2.2 Attach a certified copy of the identity document of the transferee or certified copies of the identity document of each partner in the transferee marked clearly as Appendix 6.2.2 of FORM H , indicating that he or she is a citizen of the Republic, as required by section 5(8)(a) of the Act.	
6.3 If the transferee is a juristic person:	
6.3.1 Indicate the legal form of the transferee (e.g. private company incorporated in terms of the Companies Act, 1973):	
6.3.2 Registration number of the transferee:	
6.3.3 Attach certified copies of the transferee's certificate of incorporation and memorandum and articles of association or other constitutive documents of the transferee (e.g. memorandum and articles of association, association agreement, constitution) marked clearly as Appendix 6.3.3 of FORM H , indicating the transferee's compliance with the requirements of section 5(8)(b) of the Act.	
6.4 If the transferee is not a juristic person but intends to operate as one if this application is granted:	
6.4.1 Provide a written undertaking that the transferee will comply with section 5(8)(b) of the Act marked clearly as Appendix 6.4.1 of FORM H .	

7. OWNERSHIP AND MANAGEMENT OF APPLICANT	
7.1. Provide details of all ownership interests in the applicant and the identity and address of each holder of an ownership interest in the applicant if natural person. Where the applicant is a juristic person, indicate all the shareholders and the percentage shares held by each shareholder.	
7.2. Provide a written undertaking indicating the stated in 7.1 signed off by Accounting Officer clearly marked Appendix 7.1 of FORM H .	
7.3. Indicate whether the applicant is listed on any stock exchange, and provide details of any such listing:	
7.4. Provide a written undertaking indicating the stated in 7.3 signed off by Accounting Officer clearly marked Appendix 7.3 of FORM H .	
7.5. In respect of each holder of any ownership interest in any person holding an ownership interest in the applicant, provide the details required in 6.1 in respect of each such holder:	

7.4	Indicate the extent to which any ownership interest referred to above is held by historically disadvantaged person or group.
7.5	Provide a written undertaking indicating the stated in 7.4 signed off by Accounting Officer clearly marked Appendix 7.4 of FORM H
7.6	Indicate whether the holder of any ownership interest in the applicant is a foreign citizen or an entity registered or incorporated in any country other than South Africa:
7.7	Provide a written undertaking indicating the stated in 7.6 signed off by Accounting Officer clearly marked Appendix 7.6 of FORM H
7.8	Indicate whether any person holding an ownership interest in the applicant holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this application relates:
7.9	Provide a written undertaking indicating the stated in 7.8 signed off by Accounting Officer clearly marked Appendix 7.8 of FORM H
7.10	Provide particulars of any interest held by the applicant in another licensee licensed in terms of the Act:
7.11	Provide a written undertaking indicating the stated in 7.10 signed off by Accounting Officer clearly marked Appendix 7.10 of FORM H
7.8	Provide details (including name, nationality, identification or passport number, position and address) of each member of the applicant's: <ul style="list-style-type: none"> (i) board of directors or similar body; (ii) senior management.

8.	OWNERSHIP AND MANAGEMENT OF TRANSFEREE
8.1	Provide details of all ownership interests in the transferee and the identity and address of each holder of an ownership interest in the transferee if a natural person. Where a transferee is a juristic person, indicate all the shareholders and the percentage shares held by each shareholder.
8.2	Provide a written undertaking indicating the stated in 8.1 signed off by Accounting Officer clearly marked Appendix 8.1 of FORM H .
8.3	Indicate whether the transferee is listed on any stock exchange, and provide details of any such listing:

8. OWNERSHIP AND MANAGEMENT OF TRANSFEREE
8.4 Provide a written undertaking indicating the stated in 8.3 signed off by Accounting Officer clearly marked Appendix 8.3 of FORM H.
8.5 In respect of each holder of any ownership interest in any person holding an ownership interest in the transferee, provide the details required in 7.1 in respect of each such holder:
8.6 Indicate the extent to which any ownership interest referred to above is held by a historically disadvantaged group
8.7 Provide a written undertaking indicating the stated in 8.6 signed off by Accounting Officer clearly marked Appendix 8.6 of FORM H.
8.8 Indicate whether the holder of any ownership interest in the transferee is a foreign citizen or an entity registered or incorporated in any country other than South Africa:
8.9 Provide a written undertaking indicating the stated in 8.8 signed off by Accounting Officer clearly marked Appendix 8.8 of FORM H.
8.10 Indicate whether any person holding an ownership interest in the transferee holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this application relates:
8.11 Provide a written undertaking indicating the stated in 8.10 signed off by Accounting Officer clearly marked Appendix 8.10 of FORM H.
8.12 Provide particulars of any interest held by the transferee in another licensee licensed in terms of the Act:
8.13 Provide a written undertaking indicating the stated in 8.12 signed off by Accounting Officer clearly marked Appendix 8.12 of FORM H.
8.14 Provide details (including name, nationality, identification or passport number, position and address) of each member of the transferee's: <ul style="list-style-type: none"> (i) board of directors or similar body; (ii) senior management.

9. SUITABILITY OF TRANSFEREE
9.1 Provide particulars of any licence held by the transferee in terms of the Act which has been revoked:
9.2 Provide particulars of any application or registration submitted by the transferee for a licence in terms of the Act, which was rejected:

9.3	Provide particulars of any application or registration submitted by the transferee for a licence in terms of the Act which is pending before the Authority:
9.4	Provide details of any action taken in relation to the transferee by the Authority or any other person due to a breach of the Act, any regulations published under the Act or any terms and conditions applicable to any licence issued in terms of the Act:
9.5	Provide a written undertaking indicating the stated in 8.1, 8.2, 8.3 and 8.4 signed off by Accounting Officer clearly marked Appendix 8.5 of FORM H .
9.6	Provide details of the transferee's 5 year business plan in respect of the application.
9.7	Attach a comprehensive business plan stated in 9.6 clearly marked Appendix 9.6 of Form H .
9.8	Provide separately and mark clearly as Appendix 8.6 of FORM H , copies of the transferee's audited annual financial statements for the last three years:
9.9	Provide detailed network architecture layout plan and roll-out plans should this application be granted indicating timeframes and roll-out targets clearly marked Appendix 9.9 of FORM H .
9.10	Applicable to Individual ECS/ECNS only: provide detailed proposed commercial agreements to be made available in terms of roaming, interconnection, facilities leasing clearly marked Appendix 9.10 of FORM H

10. OWNERSHIP AND CONTROL BY HISTORICALLY DISADVANTAGED PERSONS

Indicate details of ownership and control by historically disadvantaged persons.

11. MOTIVATION FOR PROPOSED TRANSFER

Provide the motivation for the proposed transfer indicating the reasons for the transfer:

12. APPLICANT'S LICENCE OBLIGATIONS

12.1 Indicate those obligations of the applicant in terms of the licence which have been discharged and those which will assumed by the transferee, should this application be granted:

12.2 Provide marked clearly as **Appendix 11.2 of FORM H**, a written undertaking given by the

transferee, through its duly authorised representative, that it will comply with the applicant's licence obligations in the event of the transfer application being approved by the Authority.

12.3 UNDERTAKINGS

Specify any undertakings which the transferee is prepared to make in order to promote the objects of the Act, should this application be approved by the Authority. Clearly marked **Appendix 12.3**

13. COMPLIANCE WITH CHAPTER 9 OF THE ACT

This section is only applicable where the licence to be transferred is in respect a broadcasting service.

13.1 Indicate whether the transferee is a member of the Advertising Standards Authority or intends to become a member:

13.2 Indicate whether the transferee is a member of a body contemplated in section 54(3) of the Act or intends to become a member:

13.3 Indicate whether the transferee is a party, movement, organisation, body or alliance which is of a party-political nature.

14. GENERAL

14.1 Provide details of any matter or undertaking which, in the applicants' view, the Authority should consider:

14.2 Attach a resolution authorising the persons signing this application. The resolution must be marked clearly as **Appendix 13.2. of FORM H.**

The persons signing the application on behalf of the applicant and the transferee must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence transferred pursuant to this application set aside should any material statement made herein, at any time, be found to be false.

Signed

(APPLICANT)

I certify that this declaration was signed and sworn to before me aton
the day of 20..., by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

Signed

(TRANSFEREE)

I certify that this declaration was signed and sworn to before me aton
the day of 20..., by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

Capacity

(...end of substitution)"

16. Substitution of Form L of the Regulations

The following Form of Schedule 1 is hereby substituted for Form L of the Regulations:

"FORM L
NOTICE OF CHANGE OF INFORMATION IN RESPECT OF A CLASS LICENCE
(Regulation 12)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

- Note: (a) Licensees must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act"?) and any regulations published under that Act with regard to the requirements to be fulfilled by licensees.*
- (b) Information required in terms of this Form which does not fit into the space provided may be included in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) Where any information in this Form does not apply to the licensee, the licensee must indicate that the relevant information is not applicable.*

1. PARTICULARS OF LICENCE
1.1 Licence number:
1.2 Attach a copy of the licence that is the subject of this notice, marked clearly as Appendix 1.5 of FORM L .

2.CHANGE TO INFORMATION PROVIDED IN THE REGISTER	
2.1 Indicate whether the updated information relates to:	
2.1.1. name and contact details of the licensee; and/or	

2.1.2 nature of the service provided by the licensee.	
---	--

3. PARTICULARS OF LICENSEE		
<i>Licensee must provide the information requested in this section even where no change has occurred in relation to the licensee's particulars.</i>		
		<i>Indicate with X where the information in question has changed.</i>

3.1	Full name of licensee:
3.2	Designated contact person: (1)
3.3	Designated contact person: (2)
3.4	Licensee's street address:
3.5	Licensee's principal place of business (if different from street address):
3.6	Licensee's postal address:
3.7	Licensee's telephone number/s:
3.8	Licensee's mobile number/s:
3.9	Licensee's Fax number/s:
3.10	Licensee's email address: (1)
3.11	Licensee's email address: (2)
3.12	<u>Shareholding (A signed letter with the breakdown of the shareholding structure to be change as Appendix 3.12)</u>

1. NATURE OF THE SERVICES PROVIDED BY THE LICENSEE

Where the nature of the services provided by the licensee in terms of the licence has changed, provide updated information on the nature of the service:

5. GENERAL

5.1. Provide details of any matter which, in the licensee's view, the Authority should consider (e.g shareholding by HDI/HDG/HDP; women; youth; people with disabilities).

5.2. Attach a resolution authorising the person signing this notice. **The resolution must be signed off by the contact person as per the licence.** The resolution must be clearly as Appendix 5.2. of FORM L

5.3. **The notification for change of name must be accompanied by CIPC Registration Documents**

The person signing the application on behalf of the licensee must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence amended pursuant to this notice set aside should any material statement made herein, at any time, be found to be false.

Signed..... (LICENSEE)

I certify that this declaration was signed and sworn to before me at on the day of 20..., by the deponent who acknowledged that he/she:

- 1. knows and understands the contents hereof;
- 2. has no objection to taking the prescribed oath or affirmation; and
- 3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

(...end of substitution)"

17. Insertion of Form P of Schedule 1 of the Regulations:

Schedule 1 of the regulations is hereby amended by insertion of the following Form:

“FORM P”

**BROADCASTING SPECTRUM LICENCE APPLICATION
(Regulation 15)**

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

- Note: (a) Application must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) (“the Act”) and any regulations published under that Act with regard to the requirements to be fulfilled by the applicant. Applications are referred, in particular, to the Community Sound Broadcasting Regulations, 2006 (published under GN755 in Government Gazette 28919 of 6 June 2006) and the Community Sound Broadcasting Licence: Criteria to Measure Community Support Regulations, 1997 (published under GN R1388 in Government Gazette 18380 of 17 October 1997).*
- (b) Information required in terms of this Form which does not fit into the space provided may be included in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information is not applicable.*

1. PARTICULARS OF APPLICANT	
1.1 Application/Radio Station Name:	
1.2 Designated contact person:	
1.3 Applicant’s street address:	
1.4 Applicant’s principal place of business (if different from street address):	
1.5 Applicant’s postal address:	

1.6 Applicant's telephone number/s:	
1.7 Applicant's telefax number/s:	
1.8 E-mail address of designated contact person:	
1.9 Applicant's Service Licence No:	

2. TECHNICAL INFORMATION	
2.1 Transmitter Site*	
2.2 Signal Distributor*	
2.3 Frequency Applied For*	MHz
2.4 Geographic Co-Ordinates*	
2.5 Physical Address	
2.6 Site Height*	m above sea level
2.7 Mid-Antenna Height*	m above site
2.8 Maximum Effective Antenna Height*	m above terrain
2.9 Designation of Emission*	
2.10 Frequency Stability*	kHz
2.11 Spurious Emission Level*	dB/1mW
2.12 Maximum Deviation*	kHz
2.13 Maximum Effective Radiated Power (ERP)*	kW
2.14 Antenna Horizontal Radiated Pattern*	
2.15 Antenna Polarisation*	
2.16 Programme Source*	
2.17 RDS Service	
2.18 SST Service	
2.19 Period**	

(*) mandatory fields

(**) applies to short term licence applications

Signature

*(Designated person)**(...end of substitution)*

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