
GENERAL NOTICES

NOTICE 184 OF 2011

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

HEREBY PUBLISHES THE FINAL RADIO FREQUENCY SPECTRUM REGULATIONS.

The Independent Communications Authority of South Africa (the Authority) hereby prescribes the following regulations in terms of Sections 4(1)(b), 4(1)(d), 4(2)(b), 31(3), 31(6), 33(3) of the Electronic Communications Act 2005. Act 36 of 2005.



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Dr SS Mncube
CHAIRPERSON of ICASA

Radio Frequency Spectrum Regulations

SCHEDULE

PART I - Preliminary

1. Definition
2. Purpose

PART II – Radio Frequency Spectrum Planning

3. Radio Frequency Assignment Plan

PART III – Radio Frequency Spectrum Licence Exemptions

4. Radio Frequency Spectrum Licence Exemptions

PART IV – Procedure for Radio Frequency Spectrum Licensing and Assignment

5. Standard Application for Spectrum licences
6. Extended Application Procedures
7. Procedure in Respect Section 31(3) or an Invitation to Apply
8. Procedure in Respect of amendments
9. Procedure in Respect of renewals
10. Procedure in Respect of transfers
11. Procedure in Respect of a spectrum licence surrender
12. Procedure in Respect of a spectrum licence withdrawal
13. Procedures for co-ordination within shared frequencies

PART V– Standard Terms and Conditions for Radio Frequency Spectrum

14. Standard Terms and Conditions for a spectrum license
15. Duration of a Radio Frequency Spectrum Licence
16. Standard Terms and Conditions for Spectrum Sharing
17. Standard Terms and Conditions for Spectrum Co-ordination.
18. Standard Terms and Conditions for Spectrum Dispute Resolution
19. Application Fee for a Spectrum Licence

PART VI – Specific Services

20. Services in Respect of Radio apparatus
21. Amateur Radio Communications
22. Communal Repeater Services
23. Burglar Alarm Services
24. Simplex Radio Rental Services
25. Citizen Band Services

PART VII – General Provisions

26. Allocation and display of call sign.

27. Modification to a station.
28. Interference, condition of a station and compliance with requirements of the Authority and local municipality.
29. Indecent language and fraudulent transmission over stations prohibited
30. Distress signal
31. Change of address
32. Radio receiving apparatus with continuous tuning.
33. Operation of radio apparatus on board ship while it is in harbour.
34. Recognition of licence issued by other countries.
35. Permit or possession of radio apparatus without a license.

PART VIII -Other

36. Rights
37. Offences and penalty
38. Short Title and commencement.
39. Repealed Regulations and notices.

ANNEXURES

40. Annexure A – Application forms (A-E)
41. Annexure B - Apparatus exempt from radio frequency spectrum licenses
42. Annexure C - Categories subject to standard application procedure.
43. Annexure D - Standard application procedures.
44. Annexure E - Extended application procedures.
45. Annexure F - Radio frequency spectrum application and permit fees.
46. Annexure G - Radio frequency spectrum certificates fees
47. Annexure H -Table of amateur modes of emission.
48. Annexure I - Amateur radio frequency bands
49. Annexure J - Call sign zones.

PART I - Preliminary

1. Definitions

In these Regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned:-

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

"Amateur" means a person who is interested in the radio technique solely for a private reason and not for financial gain and to whom the Authority has granted an amateur radio station licence and shall mean a natural person and shall not include a juristic person or an association: provided that an amateur radio station licence may be issued to a licensed radio amateur acting on behalf of a duly founded amateur radio association;

"Amateur radio licence" means a legal document or permit giving official permission to the licence holder to operate an amateur radio station;

"Amateur station" means a radio station for a service of self-tuition, intercommunication and technical investigation that is operated by an amateur;

"Assignment" means the authorization given by the authority to use a radio frequency or radio frequency channel under specified conditions;

"Base station" means a land radio station in the land mobile service for a service with land mobile stations;

"BS" means Broadcasting Service;

"Burglar alarm service" means a land mobile service installed, maintained and operated to monitor burglar alarm signals of clients by means of a signal forwarded from a radio transmitter to a central position;

"Burglar alarm transmitter" means a transmission radio station in the land mobile service that is intended to transmit automatic alarm signals to a central position;

"Carrier wave power" means the average power that is supplied by the transmitter to the antenna transmission line and is measured during one radio-frequency cycle in conditions of no modulation;

"CEPT" means Conference of European Posts and Telecommunications Authorities;

"CEPT/ERC/REC 70-03" means ERC Recommendation 70-03 relating to the use of short range devices (SRD);

"Citizen-band radio service" means a private, two-way, limited coverage speech communication service in the land mobile service to personal and business operations, which may also be used as a paging system;

"Communal radio repeater station service" means a land mobile service installed, maintained and operated via repeater stations that are available for communal use;

"Continuous tone coded squelch system (CTCSS)" means a circuit that is used to reduce cross talk interference on a shared two-way radio communication channel;

"Cordless Phone" means a portable telephone with a wireless handset that communicates via radio waves with a base station connected to a fixed telephone line, within a limited range of its base station;

CT2 – means second generation cordless telephone 864.1 - 868.1 MHz;

CTO – means low power cordless telephone 46 - 49MHz;

DECT – means digitally enhanced cordless telephone 1880 - 1900MHz;

"Direct Sequence Spread Spectrum" ("DSSS") means a modulation scheme whereby radio signals are passed through and distributed over the entire band at once.;

"Due date" means 31 December of each year;

"Duty Cycle" means the ratio, expressed as a percentage, of the maximum transmitter "on" time on one carrier frequency, relative to a one-hour period unless otherwise mentioned in the relevant specifications under columns D & E;

"Dynamic Frequency Selection" ("DFS") means the mechanism that allows the coexistence of wireless networks with weather radar systems in the 5GHz band;

"ECNS" means Electronic Communications Network Services;

"ECS" means Electronic Communications Services;

"e.i.r.p" means effective isotropically radiated power;

"EMC" means Electromagnetic compatibility;

"e.r.p" means effective radiated power, the product of the power supplied to an antenna and its gain relative to a half wave dipole in a given direction;

"Experimental station" means a station that uses radio waves in experiments for the purpose of developing the science or technique of communication but which is not an amateur radio station;

"Extended applications" means a procedure used where frequency is scarce and applicants are required to submit commercial and technical information;

"Field Disturbance and Doppler Apparatus" ("FDDA") means radio apparatus which operates by producing a radiated field and responding to any disturbance of that field caused by an intrusion or movement within the field by other devices, objects or persons;

"Frequency Hopping Spread Spectrum" ("FHSS") means a modulation scheme that rapidly switches a carrier among many given frequency channels, using a pseudorandom sequence known to both the transmitter and receiver;

"GHz" means Gigahertz of Radio Frequency Spectrum;

"HAREC" means Harmonized Amateur Radio Examination Certificate issued in terms of CEPT recommendation TR61-02E;

"HF" means High Frequency;

"Inductive Loop Systems" means radio apparatus which operates by producing a controlled magnetic field within which a predetermined recognisable signal is formed;

"ISM" means Industrial, Scientific and Medical;

"ITA" means Invitation to Apply;

"KHz" means Kilohertz of Radio Frequency Spectrum;

"Land mobile service" means a mobile radio-communication service between fixed stations and mobile land stations, or between land mobile stations;

"LBT" means Listen before Talk which is a mechanism, used for continuously searching for a free open channel to initiate communication, used extensively for coexistence without causing harmful interference between SRD and RFID systems;

"Licence year" in relation to a licence or certificate, means the period of 12 months of each year from 1 April to 31 March, both dates inclusive;

"Licensee" means a person to whom a radio frequency spectrum licence has been issued in terms of the Act;

"Lock-on faulty signals" means a continuous signal transmitted by a transmitter station due to faulty equipment;

"Low Power Radio" means radio apparatus, normally hand-held radios used for short range two-way voice communications;

"MHz" means Megahertz of Radio Frequency Spectrum;

"Mobile station" means a radio station that is intended to be operated while it is in motion or while it is stationary at an unspecified place;

"Model Control apparatus" means radio apparatus used to control the movement of the model in the air, on land or over or under the water surface;

"National radio frequency plan" means a plan that sets out specific frequency bands designated for use by particular types of services and takes into account bands that are allocated to the security sector;

"Non specific Short Range Devices" means radio apparatus used for general telemetry, telecommand, alarms and data applications with a preset duty cycle ($0.1\% \leq \text{duty cycle} < 100\%$);

"Paging station" means a receiving radio station in the land mobile service that is intended to receive selective signals from a central position;

"Parrot repeater station" means a fixed station in the land mobile service used by a burglar alarm service licensee to store and forward burglar alarm signals over mountainous terrain;

"Public Mobile Radio" (PMR) means radio apparatus used for short range two-way voice communications;

"Q-Code" means a standardized collection of three-letter message encodings, all commencing with the letter "Q";

"Radio-beacon station" means a radio station whose radiation is intended to enable a mobile station to fix its position or obtain its bearing with regard to the radio beacon;

"Radio-communication" means all electronic communication by means of radio waves;

"Radio Local Access Network" ("RLAN") means the high data rate two way (duplex) wireless data communications network;

"Radio Telecommand" means the use of radio apparatus for the transmission of signals to initiate, modify or terminate functions of equipment at a distance;

"Radio trunking" means a technique by means of which free channels out of a group of radio frequency channels allocated to a base station are automatically made available for the establishment of a connection between the stations of a user;

"Relay or repeater station" means a land station in the land mobile service;

"RFID System" ("Radio Frequency Identification") means a wireless system that uses radio frequency communication to automatically identify, track and manage objects, people or animals. It consist of two main components viz, tag and a reader which are tuned to the same frequency;

"Road Transport and Traffic Telematics" ("RTTT") means radio apparatus used for road traffic management. Applications include automatic road toll collection, route guidance systems, vehicle or container identification, instant traffic information, parking management, advance incident warning and on-vehicle anti-collision radar;

"SATFA" means South African Table of Frequency Allocations;

"Service licence" means a BS, ECS or ECNS licence;

"Ship station" means a mobile station in the maritime mobile service that has been erected

"Short Range Device" ("SRD") means a piece of apparatus which includes a transmitter, and/or a receiver and or parts thereof, used in alarm, telecommand telemetry applications, etc, operating with analogue speech/music or data (analogue and/or digital) or with combined analogue speech/music and data, using any modulation type intended to operate over short distances;

"Simplex radio rental system" means a land mobile service provided by a person and is available for communal use;

"Special radio service" means a radio-communication service that is not otherwise defined in these regulations and is operated solely for specified purposes of general benefit;

"Spectrum Leasing" means to give access to spectrum to a third party;

"Spread spectrum" means a form of wireless communications in which the frequency of the transmitted signal is deliberately varied, resulting in a much greater bandwidth than the signal would have if its frequency were not varied;

"Standard application" means a procedure where applicants are allowed to submit simple application forms;

"Telemetry" means the transmission of remotely measured data;

"The Authority TE - Specifications" means specifications that the Authority published, with a certain number prefixed by "TE" and which is obligatory for the device or application in question;

"The same area 1" means a radius of 20 km around the coordinates of the repeater station;

"The same area 2" means a radius of 20 km around the coordinates of the repeater station in relation to a communal repeater station service;

"Transmitter Power Control" ("TPC") means a technical mechanism used within some networking devices in order to prevent unwanted interference between wireless networks;

"Transfer" means to assign, cede or transfer a licence from one person to another;

"UHF" means Ultra High Frequency;

"VHF" means Very High Frequency;

"Video Surveillance Equipment" means radio apparatus used for security camera purposes to replace the cable between a camera and a monitor;

"Wideband Wireless Systems" means radio apparatus that uses spread spectrum techniques and has high bit rate;

"Wireless Access Systems" ("WAS") means end-user radio connections to public or private core networks;

"Wireless Audio Systems" means radio apparatus used to replace the wired headphones or speakers in hi-fi systems.

2. Purpose

2.1 The purpose of these regulations is:

- (1) To establish the framework through which the Authority may allocate and assign radio frequency spectrum under the South African Table of Frequency Allocations.
- (2) To establish standard terms and conditions which will be applicable to all frequency bands and applications as well as Radio Frequency Spectrum Licences.
- (3) To establish transparent, fair and efficient procedures and processes for Radio Frequency Spectrum Licence applications.
- (4) To allow for greater flexibility such that special conditions and procedures for specific frequency bands can be applied.
- (5) To provide for circumstances in which the use or possession of radio apparatus, does not require a radio frequency spectrum licence.
- (6) To provide for procedure and criteria for awarding radio frequency spectrum licences for competing applications or instances where there is insufficient spectrum available to accommodate demand.
- (7) To set out the principles and procedures for frequency coordination where spectrum is assigned on a shared basis.
- (8) To provide dispute resolution mechanisms with regard to shared spectrum
- (9) To provide a framework for the Radio Frequency Application Fees, Radio Frequency Examination and Certificate Fees
- (10) To prescribe relevant application forms

2.2 The prescribed Forms in these Regulations are as follows:

- (a) FORM A: Application to Amend a Radio Frequency Spectrum licence (Reg 8);
- (b) FORM B: Application to Renew a Radio Frequency Spectrum licence (Reg 9);
- (c) FORM C: Application to Transfer a Radio Frequency Spectrum licence (Reg 10);
- (d) FORM D: Notice of Surrender of a Radio Frequency Spectrum licence (Reg 11); and
- (e) FORM E: Request for intervention by the Authority for purposes of coordinating radio frequency spectrum use or resolving disputes (Reg 13 &14).

2.3 Forms referred to in the regulation 2 (2) above must be used for any application or

notice and may be:

- (a) downloaded from the Authority's website; or
- (b) obtained from the Authority at its offices;

2.4 Liability for cost of applications and notices:

The Authority is not liable for any costs incurred by an applicant or person (submitting a notice where applicable) in compliance with these Regulations. Any costs must be borne by the applicant or person (submitting a notice where applicable).

2.5 Amendment of applications

- (1) Where information included in an application changes at any time after submission thereof but before the Authority makes a decision thereon, the applicant must notify the Authority and request to amend the application in writing within fourteen (14) days of such change.
- (2) Where a request referred to in regulation 4 (1) is made, the Authority may grant the request to amend the application where this will not:
 - (a) unfairly prejudice other interested parties;
 - (b) impede the expeditious and proper consideration of the application; or
 - (c) materially change the application.
- (3) The Authority may, in the event that it grants the request for amendment, referred to in regulation 4 (1), publish a notice in the Gazette regarding the amendment and invite interested parties to submit written representations in relation to the amended application within the period mentioned in the notice;

PART II – Radio Frequency Spectrum Planning

3. Radio Frequency Spectrum Assignment Plans

- (1) A Radio Frequency Spectrum Assignment Plan may consist of:
 - (a) the types of services to be provided;
 - (b) specific terms and conditions for the use of the frequency bands;
 - (c) specific qualification criteria to be met by applicants;
 - (d) the procedures and timetable to be followed for assignment and licensing, if applicable;

- (e) the apportionment of the relevant frequency bands in the Radio Frequency Plan for exclusive or shared assignments;
 - (f) detailed frequency channelling arrangements.
 - (g) any other matter as the Authority may deem necessary.
- (2) A Radio Frequency Spectrum Assignment Plan may not necessarily require assignments to be issued for the whole of the radio frequency spectrum or the geographic area to which the Radio Frequency Spectrum Assignment Plan applies.
 - (3) A Radio Frequency Spectrum Assignment Plan must indicate whether it is intended that licences for the assignments will be issued on a first-come-first-served basis or on a competitive basis where there is deemed to be insufficient spectrum to accommodate demand.
 - (4) The Authority may grant a radio frequency spectrum assignment to a person either on an exclusive usage basis or on a shared basis.

PART III – Radio Frequency Spectrum Licence Exemptions

4. Radio Frequency Spectrum Licence Exemptions

- (1) The radio apparatus and related radio frequency spectrum for which a Radio Frequency Spectrum Licence is not required under section 31(6) of the Act are stated in Annexure B to these Regulations.
- (2) Users of radio apparatus and related radio frequency spectrum that are Licence Exempt shall comply with the relevant operational rules that are stated in Annexure B to these regulations.

PART IV – Procedures for Radio Frequency Spectrum Licensing and Assignment

5. Standard Application Procedures for a Radio Frequency Spectrum Licence.

- (1) Standard Application procedures are applicable to the categories listed in Annexure C to these regulations.
- (2) The standard application procedures for a Radio Frequency Spectrum Licence are as specified in Annexure D to these regulations. All required details must be provided and the prescribed application fee prescribed in Annexure F be paid to the Authority.
- (3) The Authority may at its discretion require an applicant to provide further information or to comply with the extended application procedures.
- (4) No application will be considered if there is any outstanding licence fee owed by the applicant to the Authority.

- (5) The spectrum assignment guidelines are contained in Annexure A (1) to these regulations.

6. Extended Application Procedures

- (1) Extended Application Procedures are applicable to the following:
- (a) for Services or frequency bands that are not covered under these regulations and for which a Radio Frequency Spectrum Licence is required,
 - (b) for frequency bands where an Invitation to Apply (ITA) has been issued,
- (2) The Extended Application Procedures for a Radio Frequency Spectrum Licence are as specified in **Annexure E** to these regulations. All required details must be provided and the prescribed application fee paid to the Authority.
- (3) The extended procedures may be applied at the discretion of the Authority.

7. Procedure in Respect of Section 31 (3) or an Invitation to Apply

- (1) The Authority may, upon completion of the Radio Frequency Spectrum Assignment Plan, publish an Invitation to Apply (ITA) in the Gazette for Radio Frequency Spectrum Licences for assignments in specific bands of radio frequency spectrum.
- (2) The Authority must at all times prepare an ITA when the Radio Frequency Spectrum licences will be awarded/granted on a competitive basis and where there is deemed to be insufficient spectrum to accommodate demand (section 31(3) of the Act) ;
- (3) An ITA must set out the following:
- (a) the subject of the ITA;
 - (b) the place for the submission of the application;
 - (c) the application fee,
 - (d) any qualification criteria that are applicable;
 - (e) the terms and conditions relating to the application;
 - (f) the proposed licence terms and conditions;
 - (g) the procedures for submission of the application;
 - (h) the deadline for the submission of the application;
 - (i) conditions and procedures for the amendment of an application;
 - (j) conditions and procedures for the submission of supplementary information;
 - (k) conditions for the disqualification of an applicant from the application process;
 - (l) the selection process;
 - (m) the evaluation criteria;
 - (n) the allocation method the Authority will use, including any of the following;

- i. auction rules or
 - ii. Beauty Contest Rules or
 - iii. Any other allocation mechanism deemed appropriate by the Authority.
- (o) any other information or requirements as the Authority may deem necessary.

(4) An applicant shall be disqualified from the application process where such applicant:

- i. Has submitted an application and is an affiliate of another applicant, or possesses an ownership or financial interest in another applicant within the same application process; or
- ii. Has been granted a radio frequency spectrum licence by the Authority within the designated range unless the licensee has less than the maximum bandwidth made available in line with these regulations in which case they will only be allowed to apply for additional spectrum which results in total assignment not exceeding the maximum bandwidth made available or
- iii. Has submitted more than 1 (one) application to the Authority for the grant of a radio spectrum licence within the designated range; or
- iv. Has less than 30% (thirty percent) direct ownership by Historically Disadvantaged Persons (HDP); or
- v. Has submitted an application which contains false or misleading information; or
- vi. Is colluding or has attempted to collude, with another applicant with the intention to distort or manipulate information; or
- vii. Has obtained or acquired confidential information relating to another applicant; or
- viii. Has failed to notify the authority of the changes referred to in the application forms; or
- ix. Has failed to comply with the terms and conditions of the application as set out in the ITA; or
- x. Has failed to comply with a request in terms of these regulations.

8. Procedures in Respect of Amendments

- (1) An application made by a licensee for an amendment must be in terms of Section 31(4), in writing and include the following:
- (a) the information required in the Amendment Application in the format outlined in **Form A of Annexure A** of these regulations.;
 - (b) a copy of the Radio Frequency Spectrum Licence and information on conditions imposed on the licence;
 - (c) the proposed dates after which the proposed amendment shall become valid;
 - (d) details of all proposed amendments and the reasons for the proposed amendments;
 - (e) proof of payment of the prescribed application fee;

- (f) any other information the Authority may require.
- (2) If the Authority approves the application, the Authority shall
 - a. if the amendment relates to the spectrum assigned and the approval will cause changes to the fees which are payable, amend the fees;
- (3) The amendment made to the licence shall continue to have effect until its expiry.
- (4) For Radio Frequency Spectrum Licences and assignments that would be subject to an Extended Procedure for Application, the Authority shall conduct a public consultation.

9. Procedures in Respect of Renewals

- (1) Renewal of a Radio Frequency Spectrum Licence is performed on an annual basis by payment of the prescribed annual licence fees, except in the case of multi-year licences where the renewal is carried out upon completion of the multi-year licence period.
- (2) The licensee must pay the renewal fee within forty (40) working days before the due date.
- (3) If the annual Radio Frequency Spectrum Licence fees are not paid by the due date then the Radio Frequency Spectrum Licence will be deemed to have expired on the due date.
- (4) An application for renewal of a licence must be -
 - (a) in the format as set out in **Form B of Annexure A**; and
 - (b) accompanied by the applicable fee.

10. Procedures in Respect of Transfers

- (1) (a) Except with the approval of the Authority, no licensee must transfer a Radio Frequency Spectrum Licence.
 - (b) An application to transfer a licence must be -
 - (i) in the format as set out in **Form C of Annexure A**;
 - (ii) accompanied by the applicable fee; and
 - (iii) submitted by the prospective transferor.
- (2) For Radio Frequency Spectrum Licences and assignments that would have been subject to an extended procedure for application, the transferee must submit the same information as for an extended application.
- (3) For Radio Frequency Spectrum Licences that would have been subject to an extended procedure for application, the Authority shall take the following steps -
 - I. publish a notice in the *Gazette* of the application to transfer the licence;
 - II. invite interested persons to submit written representations in relation to the application within the period specified in the notice;

- III. 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
 - IV. may conduct a public hearing in relation to the application.
- (2) Where the Radio Frequency Spectrum Licence has been granted for a frequency as envisaged in section 31(3) of the Act, any amount paid by the transferee to the transferor must not exceed the value of the bid or auction price paid by the original licence holder adjusted on a pro-rata basis to the remaining duration of the licence/ assignment.
 - (3) The radio frequency spectrum licence transfer application will be evaluated on the basis of the following parameters:
 - (a) Technical efficiency
 - (b) Functional efficiency
 - (c) Economic efficiency
 - (4) The application will receive a total score based upon the sum of the technical, functional and economic efficiencies as outlined in section 20 of the extended application form.
 - (5) Before initiating the radio frequency spectrum licence transfer process both the transferor and transferee shall ensure that the following conditions have been met:
 - (a) Except when the Radio Frequency Spectrum Licence would have been issued according to the Standard Procedure, the Radio Frequency Spectrum Licence shall have been held for at least one year before the application for the transfer can be made;
 - (b) That the terms and conditions applicable to the radio frequency spectrum licence can be met by the transferee.
 - (c) A duly completed application form must be submitted by the transferor or transferee, with proof of payment of the prescribed application fee at any office of the authority.
 - (d) Written consent of the transferor must accompany the application.
 - (e) When the transferee is a juristic person or an association, a certified copy of the registration certificate or constitution of the association must accompany the application.
 - (f) In the case of liquidation or insolvency of the transferor, the liquidator/curator must give written consent to the transfer.
 - (g) In the case of a deceased estate, the executor of the deceased estate must give written consent to the transfer;
 - (h) The transferee should have a score no less than that of the transferor.
 - (6) Licensees who fail to meet any criteria will be required to resubmit the application within 14 days.
 - (7) The Authority will not approve the transfer of a spectrum licence
 - a) Where the Licensee has been found to have contravened provisions of the Act, legislation, regulations or terms and conditions of the licence by the Complaints

and Compliance Committee ("the CCC") of the Authority and has not complied with the order by the Authority in terms of section 17 of the ICASA Act, or

- b) If such transfer will reduce or limit competition or
- c) If such transfer will result in the reduction of direct ownership by HDIs.

11. Procedures in Respect Spectrum Licence Surrender

- (1) A licensee seeking to surrender his licence must, in writing, submit the following to the Authority:
 - (a) A completed application form in the format outlined in **Form D of Annexure A**.
 - (b) An original copy of the Radio Frequency Spectrum Licence and information on any other conditions imposed on the licence;
 - (c) the proposed date from which the Radio Frequency Spectrum Licence shall become void, which will in any case not be any earlier than thirty (30) days from the receipt of the application for surrender;
 - (d) where the licensee does not hold a service licence, he must provide information on how any third party users or end users on his network will be informed and affected.
- (2) The Authority may:
 - (a) request further information from the applicant;
 - (b) conduct a public consultation;
 - (c) impose conditions on the licensee with respect to the provisions for end users before the licence can be surrendered.
- (3) If the licensee has a service licence, surrender of the Radio Frequency Spectrum Licence does not absolve the licensee from any obligations he may have under the service licence.
- (4) The licensee is liable for any outstanding licence fee owed by him to the Authority up to the time of termination/surrender.

12. Procedures in Respect of Spectrum Licence Withdrawal.

- (1) The authority will proceed with the withdrawal of a Radio Frequency Spectrum Licence as outlined in section 31 (7 -10) of the Act.
- (2) The withdrawal must not prejudice or affect the rights of the Authority to recover any money or obtain any remedy arising from or in relation to any breach of any condition of the assignment or the failure to implement or comply with the Act or any subsidiary legislation made under the Act by the licensee.
- (3) The Authority may suspend a Radio Frequency Spectrum Licence and assignment for no more than twenty four (24) months, whereafter the license may be withdrawn, in any of the following circumstances:
 - a. upon request of the licensee;

- b. where the licensee is placed in liquidation, whether voluntary or compulsory or is placed under judicial management, either provisionally or finally;
- c. where the licensee's service licence has been suspended or cancelled;
- d. where the licensee has breached the conditions of a Radio Frequency Spectrum Licence or regulations;
- e. upon non-payment of the annual Radio Frequency Spectrum Licence fees by the due date;
- f. upon repeated interference as recorded by the spectrum monitoring department;
- g. upon failure to use the assigned radio frequencies within two (2) years of granting of the Radio Frequency Spectrum Licence; or
- h. upon need for re-use during an emergency including both man-made and natural disasters.

13. Procedures for co-ordination with shared frequencies.

- 1) At the time of radio frequency spectrum assignment, the Authority must provide the licensee with information on spectrum use both within the coverage area (in shared cases) as well as on the boundaries (for cases concerning both shared and exclusive usage).
- 2) The information must be part of the licensee information packet which must include but will not be limited to the following:
 - a. Operator sites (coordinates)
 - b. Frequencies in use
 - c. Technology in use
 - d. Power (EIRP),
 - e. Antenna gain
 - f. Height of antennas
- 3) The Authority must simultaneously request details from licensees on any existing inter-operator agreement which may be applicable including co-ordination agreements

Self-coordination

- 4) The licensees must make all attempts in good faith to mutually agree upon frequency coordination among themselves following:
 - a. Technical discussions on matters of coordination
 - b. Attempts to agree on technical and operational matters
- 5) If agreed upon, the licensee and any other affected party should provide the Authority with the new coordination plan, including adjustments to parameters such as site location and antenna height.

- 6) The Authority may at its discretion, refuse to entertain any request for intervention, where there is no documented proof of an attempt for mutual coordination between
- 7) In case of no mutual compromise despite best effort and supported documented evidence from one or both players, the licensee shall refer the case to the Authority for intervention

Intervention by the Authority

- 8) The party seeking intervention from the Authority for the resolution of the coordination request shall submit to the Authority a request for coordination.
- 9) The coordination request shall be in the format set out in **Form E of Annexure A**.
- 10) The Authority shall, within thirty (30) days from the date of receipt of the coordination request, conduct an enquiry on the matter. It may, at its discretion
 - a. Request additional information from the concerned parties
 - b. Request for joint hearings between all parties
- 11) Upon the conclusion of the Preliminary Inquiry, the Authority shall then inform the parties in writing of its plans for coordination of radio frequency spectrum between the concerned parties.
- 12) The notification from the Authority shall include the following particulars:
 - a. The names and addresses of the parties;
 - b. A statement of the facts supporting the claim;
 - c. The point(s) at issue;
 - d. The decision on the best solution to resolve the coordination issue;
 - e. The supporting written statements by relevant persons, if any.
- 13) The licensees and other parties may contest the decision of the Authority within fourteen (14) days from the date as notified by the Authority, and such decision must then be referred to the dispute resolution process.

PART V – Standard Terms and Conditions of Radio Frequency Spectrum Licences

14. Standard conditions for a Radio Frequency Spectrum Licence and Assignment:

- (1) the licensee must use or operate only type approved radio apparatus in the spectrum specified in the Radio Frequency Spectrum Licence;
- (2) the licensee must pay the renewal fee for the Radio Frequency Spectrum Licence by no later than the due date.
- (3) the licensee, must, on good cause shown and subject to sub-regulation (2), be granted an additional twenty (20) working days to renew the radio frequency spectrum licence;
- (4) the licensee must comply with all the directions from the Authority in relation to the use of the spectrum;
- (5) the licensee must take all steps necessary to ensure that no harmful interference is caused;

- (6) unless permitted in the national radio frequency plan, the licensee must cease operation of all radio apparatus causing harmful interference until such time as the harmful interference has been eliminated;
- (7) the licensee must ensure that no radio apparatus used or operated in that spectrum exceeds the specified output powers, emission parameters, coverage area or other parameters approved for the assignment without the prior written approval of the Authority;

15. Duration of a Radio Frequency Spectrum Licence.

- (1) The grant of a Radio Frequency Spectrum Licence and assignment must not be construed as conferring upon the holder a monopoly of the use of the frequency or a right of continued tenure in respect of the frequency;
- (2) Unless otherwise specified in regulations, an ITA or in the licence, a Radio Frequency Spectrum Licence will remain valid from 01 April until 31 March of the following year and is thereafter renewable by payment of the prescribed annual licence fee in terms of these regulations;
- (3) Where a Radio Frequency Spectrum Licence is issued for assignment in the Amateur Radio, Aeronautical, Maritime, Citizen Band frequency bands or for Ski Boats, the Radio Frequency Spectrum Licence shall remain valid from 01 April of the year in which it was issued and is thereafter renewable by payment of the prescribed annual licence fee for a maximum period of five (05) years.

16. Standard Terms and Conditions for Spectrum Sharing

- (1) Radio Frequency Spectrum Sharing is where two or more licensees have been granted Radio Frequency Spectrum Licences for all or part of the same frequency assignment.
- (2) The Authority may require a licensee to share an assigned frequency with other licensees.
- (3) Two or more persons may apply to the Authority for Radio Frequency Spectrum Licences for spectrum assignments on a shared basis.
- (4) All radio frequency spectrum sharing agreements are subject to approval by the Authority.

17. Standard Terms and Conditions for Spectrum Co-ordination

- (1) Licensees are required to make every effort to come to an agreement over the use of shared spectrum before declaring a dispute.
- (2) The Authority may at its discretion, for particular frequency bands, require that licensees, who have an assignment on a shared basis, collectively submit a spectrum sharing co-ordination agreement for approval.
- (3) The Authority may at its discretion specify co-ordination procedures to the licensees of shared spectrum assignments.

- (4) Licensees may request the Authority to assist in co-ordination.

18. Standard Terms and Conditions for Spectrum Dispute Resolution

Dispute Resolution in shared frequencies:

- (a) A dispute between two or more persons ("the parties") regarding any matter pertaining to radio frequency spectrum shall first be attempted to be resolved by the parties.
- (b) If an undertaking provided by any one of the parties has been registered with the Authority the parties may then adopt the conditions of the undertaking in resolving the dispute.
- (c) The parties may seek resolution of the dispute by the Authority if :
 - a. They cannot or have otherwise failed to reach an agreement to the dispute, and no relevant undertaking has been registered or
 - b. one of the parties to the dispute does not wish to adopt the conditions of the undertaking; and
 - c. the Act expressly provides for such resolution.
- (d) Both parties should make every attempt in good faith to reach a solution using "Alternative Dispute Resolution" (ADR) techniques before approaching the Authority including
 - a. Negotiation – bilateral discussions between the involved parties
 - b. Mediation and arbitration – negotiations supported by a neutral party:
 - i. in this case the parties may approach the Authority to assist in the appointment of a mediator who is acceptable to all parties;
 - ii. the recommendations from the mediation and arbitration process need to be mutually accepted by the disputing parties;
 - iii. the Authority cannot be held responsible or liable for any decision reached through the ADR process.
- (e) The Authority, may at its discretion reject any dispute application where there has not been any clear and documented attempt to adopt ADR before referring the dispute to the Authority; exception is made for reasons under 18(b) above.
- (f) Where licensees are unable to come to an agreement following ADR process, one or more of the licensees may declare a dispute by informing the Authority in writing, indicating the subject matter of the dispute.
- (g) The Authority must refer the matter to the Complaints and Compliance Committee.
- (h) In resolution of the dispute, the CCC may make a recommendation to the authority to either:
 - I. direct the removal of radio apparatus,
 - II. impose penalties on one or more of the licensees should it be ascertained that the said licensees are in contravention of their licence conditions, regulations or Act;
 - III. suspend or cancel Radio Frequency Spectrum Licences in accordance with the provisions of these regulations.

IV. impose other terms and conditions as required.

19. Radio Frequency Spectrum Licence Fees

- (1) No applications, renewals, amendments or transfers will be permitted where it has been established that the licensee has not paid the required fees.
- (2) The Radio Frequency Spectrum Licence Fees to be paid by the holders of a Radio Frequency Spectrum Licence are contained in the Radio Frequency Spectrum Licence Fees Regulations as contained in notice number 754 published in government gazette number 33495 of 27 November 2010.
- (3) The Radio Frequency Application Fees and Radio Frequency Examination and Certificate Fees are contained in Annexure F and G of this regulation.
- (4) The Radio Frequency Spectrum Licence Fees paid are non refundable.

PART VI – Specific Services

20 Services in Respect of Radio apparatus

1. Radio apparatus dealer certificate

- (1) The Authority may issue to any person a radio apparatus dealer certificate and raise a fee as prescribed by it.
- (2) A person who deals with a Radio apparatus, either personally or as agent must be in possession of a Radio apparatus certificate issued by the Authority.
- (3) All radio apparatus in the possession of a radio apparatus dealer shall be disconnected from any power supply and antenna, except in cases where a radio frequency spectrum licence has been issued by the Authority to that dealer.
- (4) A radio apparatus dealer may demonstrate the workings of any equipment only when the Authority has issued a radio frequency spectrum licence for that purpose to him or her.
- (5) No radio apparatus dealer may sell, hire out, donate or in any manner supply or install any radio apparatus to any person, or effect any repairs to any radio apparatus for any person, unless that person is entitled to have that equipment in his possession.
- (6) An radio apparatus dealer shall, in respect of all types of electronic communication facilities and radio apparatus other than a sound receiver or television set that he has sold, hired out, donated or supplied in any other manner or has repaired or installed for any person, keep a register in which the following are recorded:
 - (a) Name and address of the person to whom such equipment was sold, hired out, donated or supplied or for whom the repairs or installation was done.

- (b) Date of the transaction by virtue of which such equipment was sold, hired out, donated or supplied or the date on which the repairs or installation were carried out and the nature of such repairs.
 - (c) A description of the type and nature of the equipment involved and, in the case of radio apparatus, the serial number as well as the frequency on which it operates, for example, XYZ two-way radio 1358706 on the frequency 83.5000 MHz
 - (d) The number or, where applicable, the call sign and the expiry date of the licence issued to the person to whom such radio apparatus was sold, hired out, donated or supplied or for whom the repairs or installation was carried out or the call sign or number and expiry date of the licence, radio apparatus dealer registration certificate or particulars of permit by virtue of which the person to whom the equipment was supplied or for whom the repairs or installation was carried out was exempted from an obligation to be a holder of an appropriate licence for the possession of such apparatus.
- (7) The register referred to must be retained by the radio apparatus dealer for a period of at least eighteen (18) months after the date of the transaction by virtue of which the required records were made.
- (8) Electronic communication facilities and radio apparatus other than a sound radio or television set shall not be handed over or returned by the radio apparatus dealer to a person or any other radio apparatus dealer unless the radio apparatus dealer is satisfied that such apparatus is tuned to only that frequency or those frequencies which the licensee may use in terms of the conditions of his licence or which the Authority has otherwise prescribed.

2. Procedure in respect of applying for a radio apparatus dealer certificate

- (1) The relevant application form, obtainable at any office of the Authority, shall be completed and submitted with proof of payment of the prescribed application fee.
- (2) In the event that the applicant is a natural person, a certified copy of the applicant's identity document must also be submitted with the application form.
- (3) In the event that the applicant is a juristic person or an association, a certified copy of the applicant's company or closed corporation registration certificate or constitution of the association must also be submitted with the application form.
- (4) Radio apparatus dealer certificates may only be issued to South African citizens or residents or South African registered companies, closed corporations and associations.
- (5) The issuing of a radio apparatus certificate does not grant sole rights with regard to the supply of any particular type of electronic communication equipment.

21. Amateur Radio communications

1. Conditions for the granting of amateur radio station radio frequency spectrum licences
 - (1) The Authority may, subject to these regulations and on the conditions that are set out in this Chapter, issue a Class A or Class B licence for the use of an amateur radio station.
 - (2) A Class A licence (ZS – CEPT Class 1) may be issued to a person who-
 - (a) has furnished proof of his or her ability to correctly set up, adjust and operate an amateur HF Radio apparatus;
 - (b) is in possession of a HAREC issued or recognised by the Authority.
 - (3) A Class B licence (ZU) may be issued to a person who-
 - (a) has furnished proof of his or her ability to correctly set up, adjust and operate an amateur HF transceiver; and
 - (b) is in possession of a radio operator certificate specified for a Class-B licence.
 - (c) is over the age of twenty (20) years.
 - (4) A Holder of a Class B novice licence should write and pass the Class A examination before his/her 25th birthday after which the Class B novice licence will be cancelled.
 - (5) The Authority shall issue call signs to licensed amateur radio stations and no person shall acquire call signs on behalf of a group of persons or amateur radio stations.
 - (6) The Authority may issue an amateur radio station licence to a person who is in possession of any of the following:
 - a. a valid foreign amateur radio station licence or
 - b. an amateur operator certificate, equivalent to the relevant class of South African licence or certificate, issued by a recognised competent foreign authority or
 - c. where there is a reciprocal agreement between South Africa and the other country.
2. Use of amateur radio stations
 - (1) An amateur radio station shall only be used by the holder of the Amateur Radio Station Licence issued by the Authority.
 - (2) The holder of an Amateur Radio Station Licence may use an amateur radio station other than his or her own with the permission of the licensee concerned.
 - (3) An Amateur Radio Listener's Licence authorizes the holder thereof to acquire and be in possession of a radio apparatus for the reception of amateur radio signals only.
3. Communication by amateur radio stations

- (1) The licensee is permitted:
 - (a) To engage in communication with other licensed amateur radio stations, using the permitted amateur bands, and such communication must be restricted to comments on technical investigations, remarks of a personal nature and other items of a common interest which must not include commercial or business communication for which an electronic communication service would have been used had the amateur radio communication not been available;
 - (b) in the case of an emergency and where the safety of life or limb is at stake, to communicate with amateur stations or any other stations to prevent loss of life, to render assistance, to call for assistance or convey health and welfare messages directly connected with the emergency;
 - (c) to practice emergency and event related communication, by providing communication for cycle, motor, marathon rallies and general community service: provided that the station engaged in the practise, is a holder of the appropriate class licence, for the frequency used;
 - (d) to carry out communication in plain language or Q Code;
 - (e) to send signals un-enciphered that form part of or relate to the transmission of messages.
 - (2) An amateur radio station must not advertise any goods or services or anything else, or transmit any news or messages on behalf of a third person on an amateur radio station: provided that the Authority may authorize a licensee to transmit:
 - (a) reports on behalf of or by a third person during events that are in the public interest;
 - (b) information bulletins that are of direct interest to amateurs; and
 - (c) Morse code for reception by persons learning Morse code operation or for improving their competence in Morse.
 - (3) An amateur radio station must not be used to transmit or receive messages for monetary reward.
 - (4) For the purposes of this regulation, messages and signals include communication by any of the modes or types of modulation permitted in the national radio frequency plan.
 - (5) The Authority may permit stations registered with it as educational stations to demonstrate amateur radio to persons who do not hold an amateur radio station licence by allowing them to speak and operate the station under the supervision of a licensed amateur, whilst participating in a special educational event or at educational institutions.
4. Log book for amateur radio station activities

- (1) The licensee must keep a log book recording the activities of the amateur radio station used by him or her or any other person under the supervision of the licensee, except when operating a station in the VHF and UHF bands or mobile.
 - (2) Details recorded in the log book referred to in sub-regulation (15) must include-
 - (a) the date, time and nature of each transmission: provided that the date with regard to each individual day's operation need to be recorded only once and for the purposes of this paragraph "time of each transmission" shall mean the time that a specific station is called and the time at which the communication with such station is terminated;
 - (b) the full name and address of the person making the transmission: provided that the name of the licensee who regularly uses the amateur radio station need to be recorded only once in the log book with an explicit statement that all transmissions are made by him, except where stated otherwise;
 - (c) the call sign of every station: provided that it need not be recorded repeatedly for calls made to the station during the course of the communication;
 - (d) the transmitter power that is used;
 - (e) the frequency band that is used: provided that it need to be recorded in the log book only once until a change of frequency to another authorized band takes place; and
 - (f) the address from where the transmission takes place: provided that such address needs to be recorded only once, should the place of transmission not change.
5. Terms and conditions for amateur licences
- (1) No person must transmit by way of an amateur radio station, using a mode of emission or at a power level, other than that indicated in the national radio frequency plan, unless authorised by the Authority.
 - (2) The mode of emission referred to is contained in Annexure H in these regulations.
 - (3) Where the amateur service allocation is on a secondary basis, frequency spectrum bands must be shared with other services, subject to the following conditions that:
 - (a) amateur radio stations must not interfere with these services;
 - (b) users of these frequency bands must unconditionally accept interference from Industrial, Scientific and Medical (ISM) equipment;
 - (4) The radio apparatus used at an amateur radio station may/must not be tuned to a frequency other than a frequency for amateur services referred to in Annexure I in these regulations.
 - (5) The frequencies required by the licensee must be selected in such a manner that no energy is radiated at frequencies other than those referred to in the amateur radio frequency plan, provided that the bandwidth of emissions on bands that have

been allocated to the amateur radio service in terms of these regulations shall be restricted to the minimum.

6. Limitation in respect of transmissions by an amateur radio station

- (1) No person may operate an amateur radio station using frequency bands, modes of emission or at power levels other than those specified in the amateur national radio frequency plan.
- (2) Class-B emission (damped waves) by an amateur radio station is not permissible.
- (3) An amateur or experimental radio station must not be used for the simultaneous retransmission, by automatic or other means of programs or signals originating from a commercial radio station: provided that the holder of an amateur radio station licence or experimental station licence may relay legal signals by automatic or other means that originate from a licensed amateur or experimental radio station.
- (4) An amateur radio station must not be erected in or on a vehicle which is used for public transport.

7. Music transmissions

- (1) No form of entertainment must be transmitted from an amateur radio station, provided that music transmissions for experimental purposes shall be permissible on condition that-
 - (a) Such transmissions shall last no longer than three (3) minutes;
 - (b) at least five (5) minutes shall elapse before any further music is transmitted from the same station;
 - (c) when commercial recordings are used, the make, name or title of such recordings shall not be mentioned; and
 - (d) such transmissions must not take place in bands other than those indicated in the amateur national radio frequency plan.

8. Television transmissions

- (1) Holder of an amateur radio station licence may require approval to transmit television, provided that such approval shall only be granted to the licensee after at least twelve (12) months have elapsed since the date of issue of such licence.

9. Spread-spectrum communication

- (2) The Authority may, subject to the condition that interference is not caused to other users of the same frequency band and such other conditions as it may deem necessary, on application in the standard application form, authorize the holder of an amateur radio station licence to employ spread-spectrum communication.
- (3) The frequency (band edges) and the modulation technique/emission designation to be used shall be furnished in the application form.

10. Transmitter power output of amateur radio stations

- (1) The maximum power output of the transmitter, as measured at the antenna port, must not exceed the levels specified in the national radio frequency plan for the relevant licence classes and linearity must be maintained.
- (2) An adequately filtered direct-current power supply must be used for all the transmitting equipment.
- (3) The coupling between the antenna and the transmitter shall be such that no direct potential danger to life exists at a power supply on or at the antenna.
- (4) The antenna system must furthermore comply with the requirements of the relevant local municipality.

11. Frequency measuring equipment

- (1) Every amateur or experimental radio station must have frequency measuring equipment with accuracy of at least 0.1 per cent, unless the frequencies of all transmitters of the station are crystal controlled and are accurate to at least 0.1 per cent.

12. Mobile amateur radio station

- (1) An amateur holding a Class A or B licence may use a mobile amateur radio station within the boundaries of the Republic of South Africa.
- (2) When a mobile amateur radio station is used in an amateur radio zone other than that in which the amateur resides, the call sign allocated to the main station must :-
 - (a) In the case of continuous-wave radiotelegraphy, be followed by the signal, the letter M and the number of the zone from where the station is operated; and
 - (b) in the case of radiotelephony be followed by the word "mobile" and the number of the zone from where the station is operated.
- (3) For the application of the provisions in respect of zone the different zones of the Republic of South Africa are indicated in Annexure J of the Regulations.

13. Amateur radio operator certificate

- (1) No person shall obtain a HAREC or a certificate specified for a Class B licence unless he or she has passed an examination in the Republic of South Africa for Class A or Class B licences.
- (2) Any person who is not prohibited by the regulations, from qualifying may sit for the examination.
- (3) The examination must be conducted at least once a year.
- (4) HAREC and a certificate specified for Class B licences shall be issued to a candidate who passes the examination and such certificate is not recognised for any purpose other than an amateur radio station licence.
- (5) The possession of a HAREC or certificate specified for a Class B licence shall not entitle the user thereof to an amateur radio station licence.

- (6) The following conditions are applicable to the radio amateur examination:
- (a) The syllabi for the examination must be provided to anybody on request.
 - (b) Three (3) hours must be allowed for the examination paper consisting of various parts.
 - (c) To pass the examination, a candidate must obtain at least fifty (50) percent in each of the relevant parts with a total average of sixty-five (65) percent.
 - (d) A candidate who passes either of the parts referred to in sub-regulation 6(c) and passes the remaining part within three (3) successive attempts, which shall commence with the examination immediately after the one in which the candidate was unsuccessful, is exempt from writing the whole examination again.

22. Communal Repeater Station Services.

- (1) A communal radio repeater station service may not be provided to one(1) client only.
 - (2) No person shall interconnect a communal radio repeater station service without the approval of the Authority: provided that such approval shall only be considered in cases where multi-channel allocations are already in use on a communal radio repeater station service.
 - (3) The Authority may issue an additional assignment for a communal radio station service to a licensee if the licensee's existing communal radio repeater stations in the same area serves no less than ten (10) clients and one-hundred (100) two-way radios.
 - (4) An assignment may be refused on the grounds that the licensee's existing communal radio repeater station service or services does not or do not comply with the requirements specified. in these regulations,
 - (5) An assignment may be issued by the Authority if proof of channel occupancy to justify the application is furnished.
 - (6) A licensee of a communal radio repeater station service who is experiencing coverage obstacles should submit proof that he or she has tested alternative technical solutions without success before he or she applies for an additional communal radio repeater station service assignment in the same working area.
- (7) No person shall operate or use a communal radio repeater station service unless:
- (a) Tone signalling is built into all stations in the system and provided that if the CTCSS signalling method is not used, some other method of automatic tone control shall be used to ensure that contact with the repeater station is

maintained at the end of each message in order to enable the recipient of the message to reply;

- (b) Each station shall be equipped with a 2-minute forced repeater-release facility, provided that the forced release shall not be exclusively dependant on the discontinuance of the carrier;
 - (c) The communal radio repeater station has a facility to prevent any user group from re-engaging it within one minute of completing a call;
 - (d) All transceivers have a built-in facility to prevent the transmission of a carrier while the communal radio repeater station is being used by other clients and by means of which it can be ascertained whether the system is engaged; and
 - (e) The transmitter power is set at the levels as approved by the Authority.
- (8) The licensee of a communal radio repeater station service must keep a register of:
- (a) each user connected to the service, reflecting the user's name and address as well as the address of the base station when applicable;
 - (b) any additional users connected to the service during the previous calendar year;
 - (c) particulars of persons, who had cancelled the use of the service during the course of the said calendar year.
- (9) A copy of the register must be made available to the Authority on request and shall, if an application is made for a licence for an additional communal radio repeater station in a specific area, accompany such application in confirmation of the clients and stations served by an existing system in that area.
- (10) At the end of each year, the licensee must send a copy of the register by certified post to the Authority to reach it not later than 31 January of the following year.

23. Burglar Alarm Services

- (1) Burglar alarm services must be assigned a minimum of twenty (20) kilometres (km) radius around the site coordinates.
- (2) Radio frequency spectrum for the purposes of providing burglar alarm services will be assigned on a shared basis and the various manufacturers or suppliers of the burglar alarm equipment have a responsibility to coordinate the use thereof between the different licensees.
- (3) All signals between burglar alarm transmitters and control stations must be unidirectional from the transmitters only.

- (4) All alarm equipment must be capable of being programmed with codes in order to allow for efficient use by multiple controls and parrot repeater stations.
- (5) All lock-on faulty signals and transmitters must be investigated and rectified by a licensee or licensees affected.
- (6) An assignment for additional frequency spectrum in the licensed area may be issued by the Authority if the licensee's existing burglar alarm systems in the same area services no less than twenty (20) control stations and twenty thousand (20 000) burglar alarm transmitter stations.
- (7) If the licensee's existing burglar alarm service does not comply with the requirements as specified in these regulations, then the licensee must at least demonstrate that they are using the entire radio frequency spectrum assigned to him or her efficiently.
- (8) A licence may be issued by the Authority if proof of channel occupancy is furnished to justify the application.
- (9) Approval must be obtained from the Authority before any parrot repeater station or control station is supplied and installed on a burglar alarm service.
- (10) A licensee providing a burglar alarm service using radio frequency spectrum assigned for that purpose must keep a register of each client connected to its service and provide a copy of the register to the Authority by April of each year.
- (11) The register must clearly indicate any additional burglar alarm transmitters connected to a licensee's system during the preceding year and clearly indicate burglar alarm transmitters that were cancelled during the same period.

24. Simplex Radio Rental Services.

- (1) A Radio Frequency Spectrum Licence for a simplex radio rental system will be for a minimum of fifty (50) two-way radio stations.
- (2) A licensee assigned radio frequency spectrum to provide a simplex radio rental system may rent simplex radio apparatus subject to regulation on leasing.
- (3) The Radio Frequency Spectrum for a simplex radio rental system will be assigned on a shared basis allowing for a maximum operating area of fifty (50) kilometres radius from the coordinates provided to the licensee.
- (4) All equipment of a simplex radio rental system must operate with Continuous Tone Coded Squelch System (CTCSS) and or a Digital Coded Squelch System equivalent.
- (5) Permission must be obtained from the Authority before any equipment may be rented for use outside the licensed operational area.

25. Citizen Band Services.

1. Licences for the operation of a citizen-band radio station

- (1) A Radio Frequency Spectrum Licence issued for citizen band radio services confers on the licensee the right to use a citizen-band radio station from a mobile or fixed point.
- (2) The following persons may also be permitted by the licensee to use his or her citizen-band radio station on the authority of the licence issued:
 - (a) a member of the licensee's household who resides with him or her;
 - (b) an employee of a licensee, provided the communication concerns the business of the licensee only;
 - (c) every partner or employee of a partnership which is a licensee: provided the communication concerns the business of the partnership only;
 - (d) every member of an association and employee of an association which is a licensee: provided the communication concerns the business of the association only;
 - (e) every member or employee of a closed corporation which is a licensee: provided the communication concerns the business of the corporation;
 - (f) every official, director or employee of a company which is a licensee; provided that the communication concerns the business of the company only;
 - (g) any other person authorized by the Authority.
- (3) Communication between fixed points for business purposes is prohibited.

2. Frequencies for transmitting over the citizen-band radio service

- (1) No person may transmit in the citizen-band on any frequency other than those indicated in the national radio frequency plan:
- (2) Although any channel may be used for emergency communication or for assistance to travellers, the emergency channel may not be used for purposes other than emergency communication or travellers' assistance.
- (3) All channels are for the common use of all licensees and no channel may be reserved for the private or exclusive use of any particular station or group of stations.
- (4) Users of the citizen-band radio service who work within the limits of the frequency band 26.96 MHz to 27.28 MHz shall accept harmful interference from Industrial, Scientific and Medical (ISM) users.

3. Communication between citizen-band radio stations

- (1) Citizen-band radio stations may only be used to communicate with other licensed citizen-band radio stations.
 - (2) Reception of as well as transmission to foreign radio stations and radio stations not licensed in the citizen-band radio service is prohibited.
 - (3) Communication in the citizen-band radio service must be by means of two-way conversations in plain language or the 10 code.
 - (4) No person shall use the citizen-band radio service to-
 - (a) transmit material intended for direct or indirect transmission over a broadcasting station;
 - (b) communicate for business purposes between fixed points; or/and
 - (c) operate the system in such a way as to cause interference to any other radio station.
 - (5) No licensee or any other person may accept remuneration for the transmission or reception of messages over the citizen-band radio service.
 - (6) Users of the citizen-band radio service are obliged to give priority to emergency communication at all times.
 - (7) Communication between citizen-band stations must be as brief as practicable and must not exceed five (5) continuous minutes except in the case of an emergency.
4. Use of a handle, station indicator or other special identification
- (1) A handle, station indicator or other special identification may be used in addition to, but not instead of the call sign allocated to the station by the Authority. Similarly, the phonetic alphabet may be used as an aid to identification.
5. Modification/ adjustment of citizen-band radio apparatus
- (1) No person shall effect any modification or adjustment to an approved citizen band *radio apparatus* without the approval of the Authority.
 - (2) All repairs or approved adjustments must be made by or under the direct supervision of a registered radio apparatus dealer.
6. Technical requirements that citizen-band radio apparatus must satisfy
- (1) Citizen-band *radio apparatus* must satisfy all technical requirements as specified in the national radio frequency plan and on the radio frequency licence.
 - (2) No person may connect or use a linear or additional radio-frequency amplifier to a citizen-band radio station.
 - (3) The Authority must seize all unsealed linear or additional radio frequency amplifiers found in the possession or in the premises of the user, for examination and safe custody.

PART VII – General Provisions**26. Allocation and display of call sign**

- (1) Where the Authority allocates a call sign to a radio station, the said call sign must be conspicuously displayed on the said radio set by the licensee and the call sign must be transmitted at least once during each separate transmission

27. Modifications to a station

- (1) A licensee is obliged to effect at his or her own cost any modifications to his radio-communication system that the Authority has directed, and the Authority shall by no means be liable to the licensee or any other person for any costs or damages arising from such modifications.

28. Interference, condition of station and compliance with requirements of the Authority and local municipality

- (1) The licensee is obliged to maintain all radio apparatus in a good technical condition and to ensure at all times that it satisfies the requirements of the Authority and does not cause harmful interference.
- (2) The antenna system must comply with any requirements of the relevant local municipality.

29. Indecent language and fraudulent transmissions over stations prohibited

- (1) No person shall transmit language which, judged within context:
 - (a) Violates the dignity or privacy of a person;
 - (b) amounts to profanity;
 - (c) amounts to obscenity;
 - (d) amounts to propaganda for war;
 - (e) amounts to incitement of imminent violence;
 - (f) amounts to the advocacy of hatred based on race, ethnicity, religion or gender and that constitutes incitement to cause harm;
- (2) Sub-regulation 35(1) shall not apply to bona fide literature, drama, documentary or scientific material or to bona fide religious debate.

30. Distress signal

- (1) No person shall transmit a distress signal without justifiable reason.

31. Change of address

- (1) Every licensee who changes his address must advise the Authority of his or her new address within fourteen (14) days of the change.

32. Radio receiving apparatus with continuous tuning

- (1) No person must use or have in his or her possession any radio receiving apparatus which is capable of continuous tuning and be tuned to bands above thirty(30) MHz other than the international broadcasting and amateur bands except where the Authority's prior approval was obtained.

33. Operation of radio apparatus on board ship while it is in harbour

- (1) The master of a ship must ensure that the radio installation on board is not used for radio-communication while the ship is berthed or anchored in a harbour in the republic, except for the purposes of type F3 transmissions in the VHF maritime mobile band to communicate with-
 - (a) the nearest coast station in the Republic that is open for public correspondence;
 - (b) the port operations service; and
 - (c) a vessel on its way to the harbour or berth provided the communication is limited to navigational safety.
- (2) The restriction shall not apply to the apparatus used on board ships for establishing communication via any satellite of the INMARSAT organization.

34. Recognition of licences issued by other countries

- (1) Notwithstanding provisions to the contrary in these regulations, the Authority may issue a radio frequency spectrum licence as required by the Act or these Regulations to a person who, in the opinion of the Authority, possesses a similar licence issued by another country despite the fact that such person does not satisfy specific requirements stipulated by these regulations for the acquisition of the licence or certificate.

35. Permit for possession of radio apparatus without licence

- (1) **Under section 31(6)(b) of the Act, the Authority may on request from** a person who wishes to possess a radio apparatus without a radio frequency spectrum licence being issued, issue a permit authorizing such possession.
- (2) An application for a permit must be accompanied by the prescribed application fee and must contain the following:
 - (a) Full name, address and contact details of the applicant.
 - (b) If the applicant is a juristic person or an association, a copy of the registration certificate for the company or the constitution for the association must be supplied.
 - (c) The storage location of the radio apparatus for which the permit is applied.
 - (d) The make and model number of the radio apparatus.
 - (e) The number of units in question.
 - (f) Technical parameters of such radio apparatus, including, but not limited to, frequency, power and applicable standard.

(3) Where the radio apparatus is not type-approved for use in South Africa and is intended for export purposes only, the applicant must provide an affidavit stating the following:

- (a) The country from where the equipment originates.
- (b) Country (ies) to where the radio apparatus will be exported.
- (c) That the radio apparatus and containers thereof are sealed.
- (d) That the radio apparatus is not intended for use, sale or distribution in South Africa.

(4) Trial, experimentation or demonstration systems

- (a) In addition to the radio frequency spectrum licence assignment, applicants may also apply for test, experimental and demonstration system licences which are temporary and provided for a limited time period under certain criteria.
- (b) All applications shall be accompanied by a cover letter and relevant supporting documents including :
 - a. Trial objective
 - b. Location
 - c. Equipment technical specification
 - d. Network configuration
 - e. Coverage map (not applicable for demo and experimental)
 - f. Trial schedule and time line
 - g. Sampling size and category (for commercial trial)
 - h. Data collection method (for commercial trial)
- (c) During the course of the trial, the applicant will have to provide additional input with regards to:
 - a. Reporting of Status/Progress of a Trial:
 - i. For the purposes of effective evaluation of a trial in conduct, the trial shall be subjected to regular reporting on the status or progress to the Authority throughout the trial period. This must be in the form of a periodic report, submitted every three (months).
 - ii. A final report that will cover the whole trial activity and period is required to be submitted at the end of the trial period. This report will detail, inter alia, the findings, the issues and problems and their resolutions, the benefits obtained and the proposals for the next steps.
 - iii. The report shall consist of additional trial results and trial outcome or findings.
 - b. Participation of the Authority Personnel in Trials.
 - a. All trials shall allow for the participation of the Authority personnel, if required, according to mutually agreed principles and terms and according to the necessity for participation in line with the purposes of the trial and the functions of the Authority with respect to the Act and the related Regulations.

(5) Criteria for a Trial, Experimental and Demonstration Systems Licence

- I. A trial, experimental and demonstration systems could be considered under each of these categories:
 - a. For the benefit of "Public interest" as stated in the Act (Section 2).
 - b. For the benefit of users or the public
 - c. For strategic business decisions and implementation.

- d. For consumer education, orientation and feedback.
- e. For technology orientation, research and development.
- II. A similar task or activity shall not be implemented within the same geographic area that has an existing system of the same nature, unless there are critical and strategic reasons to support the subsequent application[s]. Each application of a trial will need to specify the criteria as listed above and its justifications.
- III. A trial, experimental and demonstration systems may be conducted for the purposes of:
 - a. **Field or Technical Trial:**
A field or technical trial includes aspects such as compatibility, interoperability, safety, compliance to standards and engineering and network operational practices, as well as other related activities and should concentrate largely on the areas of technical operation and performance of a system or product as well as the technical assessment of the technology.
 - b. **Pilot Study:**
A pilot study may encompass evaluating all-round aspects of a system or product and is normally conducted with an offering for trial to a select group of users who will evaluate services offered by the trial within the specified time period.
 - c. **Commercial Trial:**
A commercial trial will involve commercial issues and may incur all or any of the commercial levies or charges, as mutually agreed for the trial, usage or recurring charges and billing, installation and commissioning costs and rental of equipment over the period where the trial is being conducted.
- IV. Trials and experimental systems may be conducted for the purpose of research and development (R&D) either by individuals or organizations, like government, universities, research establishments, companies, trade associations or learned societies on condition that sufficient justification is provided.

V. Showcase, Testing of Applications and Contents

Trials, experimental and demonstration systems may be conducted for showcase to test new applications and contents on an existing system or product.

VI. Duration of the trial, experimental and demonstration systems

1. Duration of Trial System (long and short term)

- 1) The short term trial shall be limited to three (3) months and may be extended on good cause shown for a period which does not exceed three (3) months.
- 2) The long term trial shall be eight (8) months and may be extended on good cause shown for a period which does not exceed six (6) months.
- 3) Applications with a duration of less than three (3) months may be extended on good cause shown for a period which does not exceed one (1) month.

2. Duration of Experimental and Demonstration Systems

- 1) For experimental purpose the duration shall be based on an applicant's requirement.
- 2) For demonstration purposes, the assignments period shall be based on the exhibition or conference period.

PART VIII –Other**36. Rights**

- (1) Assignment of Radio Frequency Spectrum and the issuance of licences to use Radio Frequency Spectrum are at the discretion of the Authority and applicants for Radio Frequency Spectrum must furnish all information to support their application as required by the Authority.

37. Offences and Penalties

- (1) Any person who fails to comply with these regulations is liable on conviction by the Complaints and Compliance Commission to a fine not exceeding R 200,000 unless stated otherwise in regulations.
- (2) Any person who fails to comply with the regulations regarding the licence exempt bands / radio apparatus is liable on conviction by the Complaints and Compliance Commission to a fine not exceeding R 500,000 unless stated otherwise in regulations.

38. Short title and commencement

- (1) These Regulations are called the Radio Frequency Spectrum Regulations, 2011 and shall commence on 01 April 2011.

39. Repealed Regulations and Notices

- (1) The Radio Regulations promulgated by Government Notice R. 2862, dated 28 December 1979 as amended, are hereby repealed;
- (2) The Regulations with respect to applications for Radio Frequency licences, station certificates and authorities promulgated by Government Notice R. 291, dated 6th March 2002 as amended, are hereby repealed;
- (3) The Regulations for obtaining a permit for the possession of radio apparatus promulgated by Government Notice R. 294, dated 6th March 2002 as amended, are hereby repealed;
- (4) The High Demand Radio Frequency Spectrum Licensing Framework Regulations promulgated by Government Notice R. 469, dated 28th May 2010 as amended, are hereby repealed;

- (5) The Radio Frequency Spectrum Licensing Exempt Regulations promulgated by Government Gazette number 31290, Notice number 926 dated 26th July 2008 as amended are hereby repealed;
- (6) The Radio Frequency Spectrum Licensing Exempt Regulations promulgated by Government Gazette number 31321, Notice number 944 08 dated August 2008 as amended are hereby repealed.

ANNEXURES**ANNEXURE A****FORM A****APPLICATION TO AMEND A RADIO FREQUENCY SPECTRUM LICENCE****(See Regulation 8)**

- 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 included in an appendix attached to the Form. Each appendix must be numbered with reference to the 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 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. The copy of the Licence must be marked clearly as Annexure A of FORM A 1 . | |

| | | |
|-----------|---|--|
| 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 Tel. number/s: |
| 2.7 | Applicant's Telefax number/s: |
| 2.8 | E-mail address of designated contact person: |

| | |
|-----------|---|
| 3. | PROPOSED AMENDMENT TO THE LICENCE |
| 3.1 | Set out the proposed amendment/s and attach a copy of the radio frequency spectrum Licence marked clearly as Annexure A of FORM A 2 . |
| | |
| 3.2 | Set out the reasons for the proposed amendment/s to the Licence. |
| | |
| 3.3 | Proposed date on which the proposed amendment shall become valid: |
| | |

| | |
|-----------|--|
| 4. | UNDERTAKINGS |
| 4.1 | Provide details of undertakings (if any) and other matters which, in the applicant's view, the Authority may need to take into consideration: |
| | |
| | Attach a resolution authorising the person signing this application. The resolution must be marked clearly as Appendix A of FORM A 3 . |

5. 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 aton
the day of 20..., by the deponent who acknowledged that he/she:

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

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

FORM B**APPLICATION TO RENEW A RADIO FREQUENCY SPECTRUM LICENCE****(Regulation 9)****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 included in an appendix attached to the Form. Each appendix must be numbered with reference to the 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 is not applicable.*

6. PARTICULARS OF LICENCE

| | | |
|-----|--|--|
| 6.1 | Licence number: | |
| 6.2 | Nature of services authorised to be provided in terms of the Licence: | |
| 6.3 | Expiry date of Licence: | |
| 6.4 | Attach a copy of the Licence that is the subject of this application. The copy of the Licence must be marked clearly as Annexure A of FORM B 1 . | |

7. PARTICULARS OF APPLICANT (LICENSEE)

| | | |
|-----|---|--|
| 7.1 | Full name of applicant: | |
| 7.2 | Designated contact person: | |
| 7.3 | Applicant's street address: | |
| 7.4 | Applicant's principal place of business (if different from street address): | |
| 7.5 | Applicant's postal address: | |
| 7.6 | Applicant's telephone number/s: | |