

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 1225

27 SEPTEMBER 2019



**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA DRAFT
UNRESERVED POSTAL SERVICES REGULATIONS, 2019**

The Independent Communications Authority of South Africa ("the Authority") hereby publishes the draft Regulations in the Schedule, made in terms of Section 61 (b) and (c) read with section 21 of the Postal Services Act, 1998 (Act No. 124 of 1998).

A copy of the Draft Regulations will be made available on the Authority's website at <http://www.icasa.org.za> and in the Authority's Library at No. 350 Witch-Hazel Avenue, Eco Point Office Park, Centurion between 09h00 and 16h00, Monday to Friday.

Written representations must be submitted to the Authority by no later than 16h00 on 29 November 2019 by post, hand delivery or electronically and marked specifically for attention: Esther Gopane. The delivery address is Block B, 350 Witch-Hazel Avenue, Eco Point Office Park, Centurion; or by email at EGopane@icasa.org.za and unreservedpostalservices@icasa.org.za or by facsimile at: 012 568 3698. Telephonic enquiries should be directed to 012 568 3697 between 10h00 and 16h00, from Monday to Friday.

Written representations received by the Authority pursuant to this notice, will be made available for inspection by interested persons at the Authority's library and such copies will be obtainable upon payment of the prescribed fee.

When a person submits information to the Authority, such person may request that specific information be treated as confidential information in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"). The request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential in terms of section 4D(4)(a) to (e) thereof.

The Authority may determine that such representations or any portion thereof is to be treated as confidential in terms of section 4D of the ICASA Act. Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portion(s) thereof.

Persons submitting written representations are further invited to indicate, as part of their submissions, whether they require an opportunity to make oral presentations.



DR KEABETSWE MODIMOENG
ACTING CHAIRPERSON
ICASA

DATE: 19/09/2019

THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

The Independent Communications Authority of South Africa has under Section 61 (b) and (c) read with section 21 of the Postal Services Act, 1998 (Act No. 124 of 1998), made the Regulations in the schedule.

SCHEDULE

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.

"the Act" means the Postal Services Act, 1998 (Act No 124 of 1998);

"Authority" means the Independent Communications Authority of South Africa;

"applicant" means a person who has submitted an application for a registration of a registration certificate;

"application fee" means a once off non-refundable fee paid to apply for registration to provide unreserved postal services;

"day" means working day unless otherwise specified;

"Registered operator / Registrant" means a person issued with registration certificates to provide unreserved postal services as contemplated by section 20 of the Act; and

"Renewal fee" means a non-refundable fee paid for the renewal of a registration certificate to provide unreserved postal services.

2. PURPOSE OF THE REGULATIONS

- (1) The purpose of these Regulations is to set out:
 - (a) the prescribed procedure for the application, renewal, notification for change of information, and the surrender of the registration certificate for the provision of unreserved postal services;
 - (b) fees payable for the application of an unreserved postal services and renewal of a certificate for the provision of unreserved postal services;
 - (c) the duration of validity of the registration certificate, obligation on third party contracting; and
 - (d) penalties applicable for the contraventions of these Regulations.

3. SCOPE

These Regulations apply to a registered operator or registrant who provides unreserved postal services listed in Schedule 2 of the Act.

4. APPLICATION FOR A REGISTRATION CERTIFICATE

- (1) An application for a registration certificate must be made in writing and completed in accordance with **FORM A** of these Regulations.
- (2) An applicant must submit two (2) hard copies of the application as well as a soft copy of the application on a USB or a disc.
- (3) An application must be accompanied by the following documents:
 - (a) certified copies of the applicant's company registration documents;
 - (b) business profile;
 - (c) certified copies of the applicant's tax clearance certificate; and
 - (d) Proof of payment of the application fee.

- (4) An application that is not accompanied by any of the documents listed in sub regulation (3) above is incomplete and will not be processed or dealt with by the Authority.
- (5) An application can be hand delivered or posted to the Authority's Head office or Regional offices by or before 16H00 during working days.
- (6) The application fee must be paid upfront by way of an electronic transfer or via a direct deposit into the Authority's bank account:

Account name: Independent Communications Authority of South Africa

Bank name: Nedbank

Account number: 1454090456

Branch name: Corporate client services JHB

Branch Code: 145405

Reference: Applicant's name

- (7) The Authority will inform the applicant of the outcome of its application in writing within thirty (30) days of submitting a complete application for a registration certificate.
- (8) No person may operate unreserved postal services without a valid registration certificate issued by the Authority.

5. MINIMUM OPERATING STANDARDS

- (1) All applications relating to unreserved postal services must, contain the following minimum operating standards documents with undertakings to:
 - (a) Track and trace system capable of locating the whereabouts of any item received or collected for delivery by the unreserved postal service;
 - (b) Provide standard delivery times;
 - (c) Have delivery rates; and

- (d) Clear items through customs where applicable.

6. CUSTOMER COMPLAINTS PROCEDURES

- (1) An applicant must provide a customer complaints procedure, which at a minimum, must include:
 - (a) a single point of entry for all customer complaints;
 - (b) acknowledgement of receipt of the complaints at least within three (3) days upon receipt in writing;
 - (c) timeframe of a maximum of fifteen (15) days within which to resolve a complaint;
 - (d) information to the complainant of the right to escalate an unresolved complaint to the Authority within fourteen (14) days of receiving the said response; and
 - (e) a record keeping mechanism of all complaints that the operator received for five (5) years.

7. APPLICATION FOR THE RENEWAL OF A REGISTRATION CERTIFICATE

- (1) An application for renewal of a registration certificate must be lodged with the Authority ninety (90) days before the expiry thereof.
- (2) An application for renewal of a registration certificate must be made in writing and completed in accordance with **FORM B** of these Regulations.
- (3) The applicant must submit two (2) hard copies (including an original) of the application for renewal as well as a soft copy of the application on a USB or a disc.
- (4) An application for the renewal of a registration certificate must be accompanied by the following documents:
 - (a) certified copies of the company registration documents;
 - (b) business profile;
 - (c) certified copies of the tax clearance certificate; and

- (d) Proof of payment of the renewal fee.
- (5) A renewal application that is not accompanied by any of the documents listed in sub regulation (4) above is incomplete and will not be processed by the Authority.
- (6) An application for the renewal of a registration certificate can be hand delivered or posted to the Authority 's Head office or Regional offices on or before 16H00 during working days.
- (7) The application fee must be paid by way of an electronic transfer or via a direct deposit into the Authority's bank account as provided in regulation 4 (6) above.
- (8) An application for the renewal shall be processed within ninety (90) days of receipt by the Authority.
- (9) An application for renewal of a registration certificate will not be processed by the Authority where it is found that:
- (a) an applicant has failed to pay its annual fee; and/or
 - (b) an applicant has been found guilty of non-compliance by Complaints and Compliance Committee (CCC) and the applicant has not rectified the non-compliance with the Act or these Regulations, and/or has not paid the relevant fine imposed by the Authority.
- (10) Subject to regulation 4 (8) of these Regulations, if a registered operator fails to lodge an application to renew in terms of subsection (1), such a certificate will expire at the end of its validity period and the operator would need to submit a new application in terms of regulation 4 of these Regulations should it wish to continue providing services.

8. CHANGE OF INFORMATION

- (1) A notice of change of information must be submitted in the format as set out in FORM C.
- (2) A registrant must notify the Authority within fifteen (15) days from the date of a change of information with respect to the following:

- (a) name of the Registrant;
- (b) contact details, including the contact person;
- (c) shareholding; and
- (d) company physical and postal address.

9. FEES PAYABLE

- (1) A non-refundable application fee of R3000.00 (Three thousand Rands) is payable on application for registration.
- (2) A registrant must pay an annual fee of R4000.00 (Four thousand Rands) each year for the duration of the registration certificate.
- (3) The annual fee is payable within sixty (60) days after the publication of inflation adjusted fees on the Authority's website or Government Gazette.
- (4) A non-refundable fee of R3000.00 (Three thousand Rands) is payable upon application for the renewal of a registration certificate.
- (5) No fee is payable in respect of notifications in terms of these Regulations.
- (6) Interest on all late payments in respect of annual fees is payable.

10. FEES INCREASE

- (1) The Authority will, on an annual basis, implement an automatic increase in the registration, renewal and annual fee by the Consumer Price Index ("CPI").
- (2) The applicable CPI, in terms of sub regulation (1), shall be the average of the previous calendar year as published by Statistics South Africa.
- (3) The Authority will on annual basis publish the inflation adjusted fees on the Authority's website and/or Government Gazette.

11. DURATION OF A REGISTRATION CERTIFICATE

A Registration certificate is valid for a period of five (5) years from the date of issue.

12. THIRD PARTY CONTRACTING

- (1) An unreserved postal service may be provided by an agent or franchisee of the registered operator, without such agent or franchisee being required to hold a registration certificate in terms of the Act.
- (2) The registered operator must notify the Authority of such agent or franchisee in writing by providing full business details of the agent or franchisee.
- (3) Any non-compliance with these Regulations, by an agent or franchisee, will be attributed to the registered operator.

13. SURRENDER OF A REGISTRATION CERTIFICATE

- (1) A registrant may not cease providing unreserved postal services prior to notification for the surrender of its registration certificate to the Authority.
- (2) A registrant may surrender its registration certificate by submitting a Notice of Surrender as set out in Form D of these Regulations.
- (3) The registrant that intends to surrender its registration certificate must take appropriate steps to inform its customers of the cessation of its unreserved postal services two (2) months prior.
- (4) All amounts payable in terms of these Regulations must be paid to the Authority within twenty-two (22) days of the date on which the service provided in terms of the registration certificate are discontinued, except where the Authority, upon the request by the registrant and on good course shown, extends the time in this regard.

14. CONTRAVENTIONS AND PENALTIES

- (1) Any registered operator that contravenes regulations 7, 12 (2) and 13 (1) of these Regulations is subject to a penalty not exceeding R 250 000.00.
- (2) Any registered operator that contravenes regulation 9 (3) of these Regulations will have their registration certificate confiscated by the Authority. Prior to confiscating the certificate, the Authority will adhere to the following process:

- (a) give the operator an opportunity to provide reasons, within twenty (20) days of receipt of written correspondence from the Authority, why its certificate must not be confiscated;
 - (b) upon receipt of reasons, as per paragraph (a) above, the Authority will inform the operator of its decision.
- (3) Any person that contravenes regulation 4 (8) of these Regulations is guilty of an offence and subject, on conviction, to imprisonment for a period not exceeding two years or to both a fine not less than R100 000, 00 (One hundred thousand Rand) but not exceeding R300 000, 00 (Three hundred thousand Rand).
- (4) Any person that contravenes regulation 13 (3) and/or (4) of these Regulations, is guilty of an offence and subject, on conviction, to imprisonment of one month and/or a fine not less than R50 000, 00 (Fifty thousand Rand) but not exceeding R100 000, 00 (One hundred thousand Rand).

15. TRANSITIONAL PROVISION

Persons operating without a valid registration certificate have a period of ninety (90) days from the publication of these Regulations to register with the Authority.

16. SHORT TITLE AND COMMENCEMENT

These Regulations are called the "Unreserved Postal Services Regulations, 2019" and shall come into operation ninety (90) days upon publication in the Government Gazette.

17. REPEAL OF REGULATIONS

The Unreserved Postal Services Regulations, 2009 published in Government Gazette No. 32859 of 8 January 2010 are hereby repealed in their entirety.

FORM A

APPLICATION FOR REGISTRATION TO OPERATE UNRESERVED POSTAL SERVICE IN TERMS OF SECTION 21 OF THE POSTAL SERVICES ACT 124 OF 1998

- (a) Applicants must refer to the Act and any Regulations published under the Act regarding 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 THE APPLICANT

- 1.1. Company Name:
- 1.2. Company registration number:
- 1.3. Company name as it is to appear on the certificate:
- 1.4. Provide details of each member of the applicant board of Directors as per below (additional pages may be affixed if required):
 - 1.4.1. Name:
 - 1.4.2. Nationality:
 - 1.4.3. Identification or passport number:
 - 1.4.4. Position:

2. COMPANY DETAILS

- 2.1. Company physical address (Head Office):

2.2. Company postal address:

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2.3. Contact person details:

2.3.1. Name:

2.3.2. Telephone number:

2.3.3. Fax number:

2.3.4. Mobile number:

2.3.5. e-mail address:

3. DESCRIPTION OF THE SERVICE: (additional pages may be affixed if required).

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Standard Operating Procedure:	Yes / No	Initials
Track and trace system		
Standard delivery times		
Delivery Rates		

Customer complaints procedure		
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3.1 Does the applicant have a franchise or agents in the postal services sector (Y/N)?

3.1.1. If yes to the above, provide information as set out below:

3.1.1.1. Number of Franchisees and/or Agents per province.

Province	Number of franchises	Number of agents
TOTAL		

3.1.1.2. Provide business name and address of all Franchisees and Agents (list of franchise and agents must be attached).

4. ANY OTHER INFORMATION THE APPLICANT DEEMS RELEVANT TO THE APPLICATION

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5. DOCUMENTS CHECKLIST

Documents attached	Yes /No	Initials
Proof of payment of the application fee		
Certified copies of the applicant's tax clearance certificate		
Certified copies of the applicant's company registration documents;		
Business profile		

I acknowledge that the Authority reserves the right to have any registration certificate issued 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 acknowledges that he/she:

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

.....
COMMISSIONER OF OATHS

Name:

Address:

Capacity:

FORM B**APPLICATION FOR RENEWAL**

- (a) Applicants must refer to the Act and any Regulations published under the Act regarding 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 THE APPLICANT

1.1 Company Name	
1.2 Registration Certificate Number	
1.3 Nature of services authorised to be provided in terms of the registration certificate	
1.4 Expiry date of the certificate	
1.5. Attach a copy of the registration certificate that is the subject of this application marked clearly as appendix 1 of form B	

2. CONTACT PERSON DETAILS:

- 2.1. Name:
- 2.2. Telephone number:
- 2.3. Fax number:
- 2.4. Mobile number:
- 2.5. e-mail address:

3. BUSINESS PRESENCE

3.1. Number of business outlets / branches:

3.2. Number of business outlets / branches per province.

Province	Number of outlets/ branches
TOTAL	

3.3. Number of Franchises/Agents

3.4. Number of franchises / agents per province.

Province	Number of franchises	Number of agents
TOTAL		

4. Has the applicant been found guilty of contravening the Act or any related Legislation Y/N?

If yes, provide details below

.....

5. Any other information the applicant deems relevant to the application

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6. DOCUMENTS CHECKLIST

Documents attached	Yes /No	Initials
Certified copies of the applicant’s company registration documents;		
Business profile		
Certified copies of the applicant’s tax clearance certificate		
Proof of payment of the renewal fee		

I acknowledge that the Authority reserves the right to have any registration certificate issued 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 acknowledges that he/she:

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

.....

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

FORM C**NOTICE OF CHANGE OF INFORMATION**

- (a) Registrants must refer to the Act and any Regulations published under the Act regarding the requirements to be fulfilled by Registrants.
- (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 registrant, the registrant must indicate that the relevant information in the Form is not applicable.

1. PARTICULARS OF THE REGISTRANT

1.1. Company name	
1.2. Registration certificate number	
Attach a copy of registration certificate that is subject to this application, marked clearly as Appendix 1 of FORM C	

2. CHANGE OF INFORMATION

2.1	Indicate with an X whether the updated information relates to
2.1.1. Name of the registrant	
2.1.2. Contact details	
2.1.2. Shareholding	
2.1.3. Company physical Address	
2.1.4. Company postal address	
2.1.5. Other (provide details)	

3. NEW INFORMATION

3.1. Registrant must provide information in this section only where they have indicated with an "X" above (section 2)	
3.1.1. Name of the registrant	
3.1.2. Contact details	
3.1.2.1. Name of contact person	
3.1.2.2. Telephone number	
3.1.2.3. Mobile number	
3.1.2.4. Fax number	
3.1.2.5. E-Mail address	
3.1.3. Shareholding	
3.1.4. Company physical Address	
3.1.5. Company postal address	
3.1.6. Other (provide details)	

I acknowledge that the Authority reserves the right to have any registration certificate issued 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 theday of 20..., by the deponent who acknowledges 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:

FORM D**SURRENDER OF UNRESERVED POSTAL SERVICE
CERTIFICATE**

- a) Registrants must refer to the Act and any Regulations published under the Act regarding 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 registrant, the registrant must indicate that the relevant information in the Form is not applicable.

1. PARTICULARS OF REGISTRANT

1.1 Company name	
1.2. Company registration number	
1.3. Expiration date of the certificate	
1.4. Date on which surrender of the certificate is to take effect:	
1.5. Attach a copy of the certificate that is the subject of this notice marked clearly as Appendix 1 of Form D.	

2. PARTICULARS OF THE DESIGNATED CONTACT PERSON

2.1. Full name	
2.2. Position	
2.3. Telephone numbers	
2.4. E- mail address	

3. REASONS FOR SURRENDER

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4. STEPS TO INFORM CUSTOMERS

Provide details of the steps the registrant proposes to take to inform customers of the cessation of the unreserved postal services in respect of which the certificate was granted.

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5. FEES PAYABLE

Indicate the fees which will be due and payable by the date on which the surrender of the certificate is to take effect and, where possible, the amount of such fees.

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6. GENERAL

6.1. Provide details of any matter and undertakings which, in the registrant's view, the Authority should take note of.

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6.2. Attach a resolution authorising the person signing this notice marked clearly as Appendix 2 of Form D.

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Signed(CERTIFICATE)

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. consider this oath or affirmation to be truthful and binding on his/her conscience.

.....
COMMISSIONER OF OATHS
Name:
Address:
Capacity: