GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES

GENERAL NOTICE 4206 OF 2026

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

POLICY DIRECTION ON MATTERS RELEVANT TO ELECTRONIC COMMUNICATIONS NETWORK DEPLOYMENT PURSUANT TO THE NATIONAL POLICY AND POLICY DIRECTION ON RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES, 2023

1. The Minister of Communications and Digital Technologies ("the Minister") hereby issue the Policy Direction on matters relevant to Electronic Communications Network Deployment pursuant to the National Policy and Policy Direction on Rapid Deployment of Electronic Communications Networks and Facilities, 2023 in the Schedule in terms of section 3(2)(b) and (e) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) (“the Act”).

2. The objectives of this Policy Direction are to give effect to existing national and sector policy on access and use of public and private land, to facilitate the rollout of nationwide affordable high-speed broadband networks. The Policy Direction directs the Independent Communications Authority of South Africa (“the Authority”) to consider amendments to the Facilities Leasing Regulations, 2010, and to develop Rapid Deployment Regulations for this purpose.

MR. SOLLY MALATSI, MP
MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES
DATE: 19 October 2026

SCHEDULE

POLICY DIRECTION ON MATTERS RELEVANT TO ELECTRONIC COMMUNICATIONS NETWORK DEPLOYMENT PURSUANT TO THE NATIONAL POLICY AND POLICY DIRECTION ON RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES, 2023

Recognising that –

- the National Policy on Rapid Deployment of Electronic Communications Networks and Facilities, 2023 (Government Notice No. 3236, Government Gazette 48346, 31 March 2023) (the National Policy) and the Policy Direction on Rapid Deployment of Electronic Communications Networks and Facilities, 2023 (Government Notice No. 3237, Government Gazette 48346, 31 March 2023) (the Rapid Deployment Policy Direction) are dependent on implementation by the Authority to achieve the goals of the Electronic Communications Act, 2005 (the Act) and the goals of the National Development Plan, 2030 (NDP); and
- more focused initiatives are required to ensure that the National Policy is implemented efficiently and effectively; and
- there are several other legal instruments that exist in relation to deployment of broadband networks and services in South Africa,

the Minister of Communications and Digital Technologies has decided to issue a policy direction to the Authority, having regard to the National Policy and Rapid Deployment Policy Direction.

This Policy Direction does not withdraw the National Policy or Rapid Deployment Policy Direction but is complementary to it. To the extent that this Policy Direction differs from the National Policy or Rapid Deployment Policy Direction, this Policy Direction prevails.

Having regard to the public interest and having regard to international trends, the Authority is directed to identify the most suitable way to achieve the objectives of rapid deployment, and to:

1. Undertake a review of the Facilities Leasing Regulations in particular in regard to:

   (a) amendments required following the amendment of Chapter 8 of the Act by the Electronic Communications Amendment Act, 2014 (Act No. 1 of 2014);

   (b) market and legal developments such as relevant court decisions handed down on the interpretation and application of Chapter 8 of the Act;

   (c) prescribing a list of essential facilities;

   (d) improving the timeframes within which electronic communications facilities leasing agreements are negotiated, concluded and technically implemented as contemplated in section 44(3)(a) of the Act;

   (e) prescribing wholesale rates as contemplated in section 44(3)(c) read with section 47 of the Act; and

   (f) monitoring, enforcement and implementation of the amended Facilities Leasing Regulations, which shall include the filing of all agreements with the Authority.

2. Develop a framework for new Rapid Deployment Regulations that takes account of the following principles:

    (a) Noting that duplication of facilities may be necessary for commercial reasons including redundancy, quality of service and service differentiation where it can be justified, unnecessary duplication of facilities in areas should be discouraged where existing facilities are available, in particular where a licensee is, or licensees are, by virtue of its or their extensive national networks, in a position to make access available.

    (b) The Authority should establish a central geographic information system (GIS) database for spatial information relating to electronic communications networks and facilities / ICT infrastructure, as a priority. The Authority should consider the requirements of the South African Spatial Data Infrastructure established by section 3 of the Spatial Data Infrastructure Act, 2003 (Act No. 54 of 2003). Cooperation with the Department of Communications and Digital Technologies and other organs of state is necessary to facilitate the capture, management, and sharing of spatial information, thereby eliminating duplication and promoting integration. Access to the GIS database should be regulated to promote universal access while protecting sensitive information. Security requirements require the Authority take reasonable steps to protect spatial information from loss, unauthorised access, modification, or disclosure. Finally, the GIS database must be compatible with the Department's and other government GIS databases by adhering to national standards and participating in collaborative maintenance agreements, ensuring regular updates and synchronisation of datasets across government entities. This approach guarantees that the GIS database supports effective governance, planning, and decision-making, while remaining interoperable within the broader South African Spatial Data Infrastructure framework.

    (c) The GIS database should include information concerning electronic communications networks and facilities / ICT infrastructure obtained from licensees using the Authority's powers to require information and obtained from non-licensees on a voluntary basis.

    (d) The Authority shall, subject to available resources and within its existing budget for technical matters, allocate a ring-fenced portion to a research, development and innovation initiative. This initiative shall promote evidence-based regulatory improvements, innovation and use of regulatory tools that will advance rapid deployment of electronic communications networks.

    (e) The Authority shall ensure that information provided under paragraph 2(c) is updated annually or as often as the information changes and shall oblige licensees to act accordingly.

    (f) The Authority shall take steps to monitor the accuracy of the information provided under paragraph 2(c) from time to time by independently verifying it.

(g) The Authority shall determine a process to be followed to declare a dispute between licensees or between licensees and third parties which considers, among other things –

(i) that the dispute should be declared at least 14 calendar days before the licensee commences with an activity for which access to land is required and provided that a licensee may not continue to deploy broadband infrastructure while awaiting the resolution of the dispute (the Authority should, however, consider the need for an urgent interim procedure to make a determination on suspension of deployment);

(ii) that disputes with landowners and other third parties which are not licensees may only be referred to the Authority if the landowner or third party agrees to submit to dispute resolution under the Rapid Deployment Regulations. Even though the Authority does not have statutory jurisdiction over landowners, section 21(2)(b) of the Act gives the Authority explicit statutory power to make regulations establishing a formal dispute resolution framework between licensees and landowners. If a dispute arises and the landowner voluntarily consents to use that regulatory mechanism, the Authority has full legal authority to adjudicate, facilitate and resolve the matter. The landowner's explicit consent resolves any jurisdictional overreach concerns. It functions as a highly effective, specialised alternative dispute resolution pathway that avoids the high costs of the High Court. If a landowner chooses to use that forum, they can submit to it;

(iii) that if damage is caused by a licensee entering and inspecting land, or building or maintaining broadband infrastructure, a landowner is entitled to the replacement value, if applicable or reasonable compensation agreed to between the landowner and the licensee, for any damage caused;

(iv) that disputes relating to the replacement value or reasonability of compensation for damage should be referred to a court of competent jurisdiction;

(v) that a decision made in accordance with the rapid deployment regulations should be, in all respects, effective and binding on the parties to the dispute unless an order of a court of competent jurisdiction is granted against the decision; and

(vi) that any appeal against or review of a decision of the Authority should be referred to a court of competent jurisdiction.

(h) The Authority shall provide a report to the Minister annually on the steps taken to finalise and implement:

(i) amendments to the Facilities Leasing Regulations; and

(ii) the Rapid Deployment Regulations,

with the first report to be provided within 12 (twelve) months of the date of commencement of this Policy Direction.

EXPLANATORY NOTE

1. Chapter 4 of the Act sets out licensees' right to access public and private land to speedily deploy networks, particularly broadband networks. Despite the apparently wide rights given to licensees in this Chapter, licensees experience delays in getting wayleaves and other permits to access public land and even private land. Every municipality has a different process and charges different fees, and there is significant delay in issuing permits, despite the provisions of the National Infrastructure Development Act, 2014.

Policy background

2. A White Paper published in 2016 devoted a chapter to the concept of 'rapid deployment', which was followed by the publication of the National Policy in 2023. The National Policy must be reviewed at least every three years.

3. The National Policy states that national coverage of broadband infrastructure is necessary to create a digital economy and digital society. All spheres of government must enable the rapid deployment of broadband infrastructure to enable universal digital services. Red tape across government spheres must be reduced to eliminate delays in granting approvals and minimise the costs of deploying broadband infrastructure. The National Policy is one of the action lines under Operation Vulindlela (Phase 1).

Legislative background

4. Section 21 of the Act obliges the Authority to make regulations that "*provide procedures and processes for:*
   (a) … and
   (b) resolving disputes that may arise between an electronic communications network service licensee and any landowner in order to satisfy the public interest in the rapid rollout of electronic communications networks and electronic communications facilities".

5. The Authority published Facilities-Leasing Regulations in 2010. These Regulations have helped facilitate network-sharing and network access, enabling competitors to avoid duplicating infrastructure, reduce strain on the environment, and lower costs. However, since their introduction, the impact of the Regulations on network deployment and affordable access has not been assessed.

6. The Authority has not yet published the Rapid Deployment Regulations required by the Act or the National Policy, but plans to do so in the 2026/27 financial year.

The current position

7. The Competition Commission recommended a standard by-law as one of the ways to reduce the cost of data for consumers.

8. A "standard draft bylaw" was published by the Minister of Cooperative Governance and Traditional Affairs in 2023 (Standard Draft By-Laws for Deployment of Electronic Communications Facilities (Government *Gazette* 48113, Government Notice No. 3087, 24 February 2023)). It is intended to assist in infrastructure rollout by creating a standard approach to applications for and the processing of permits by municipalities. However, to

date, only a fraction of municipalities have adopted it, and more needs to be done to encourage adoption.

9. Ongoing delays and disparities between municipal procedures increase costs to licensees, which are ultimately passed on to consumers. Among other things, this increases the cost of data at a time when the Minister is focused on reducing this, and on expanding affordable access to high-speed broadband networks around the country.

The Policy Direction

10. The Authority requires the Minister's support in establishing the necessary regulations. After discussion, the Minister has decided that a further policy direction that supplements the National Policy and Rapid Deployment Policy Direction issued in 2023 will assist the Authority and ultimately licensees in fulfilling national policy goals. Issues such as creating a GIS database have long been discussed but not formalised. The Policy Direction seeks to do this, among other things.