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Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
	GENERAL NOTICES • ALGEMENE KENNISGEWINGS		
	Independent Communications Authority of South Africa / Onafhanklike Kommunikasie-owerheid van Suid-Afrika		
983	Electronic Communications Act (36/2005): Amendment of HDG and ICT Sector Code Regulations	46245	3

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**NOTICE 983 OF 2022****THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA****AMENDMENT TO REGULATIONS IN RESPECT OF THE LIMITATIONS OF CONTROL AND EQUITY OWNERSHIP BY HISTORICALLY DISADVANTAGED GROUPS (HDG) AND THE APPLICATION OF THE ICT SECTOR CODE, 2022**

The Independent Communications Authority of South Africa (“the Authority”) hereby amends the Regulations in respect of the Limitations of Control and Equity Ownership by Historically Disadvantaged Groups (HDG) and the Application of the ICT Sector Code, 2021 published in Government Gazette No. 44382 (Notice No. 170) of 31 March 2021, to the extent reflected in the Schedule in terms of section 4 (7)(b) of the Electronic Communications Act, 2005 (Act No. 36 of 2005).

DR. KEABETSWE MODIMOENG
CHAIRPERSON**DATE: 11/04/2022**

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

The Independent Communications Authority of South Africa has, under section 4(3)(k) of the Independent Communications Authority of South Africa Act, 2000 (Act No.13 of 2000), as amended, read with sections 4, 9(2)(b) and 13(3)(a) of the Electronic Communications Act, 2005 (Act No.36 of 2005), as amended, made the regulations in the Schedule.

SCHEDULE

1. Definitions

In these regulations, "the Regulations" means the regulations published by Government Notice No 170 of 31 March 2021.

2. Amendment of Regulation 1 of the Regulations

2.1 Regulation 1 of the Regulations is hereby amended by the substitution for sub-regulation 1.5 of the following sub-regulation:

"1.5. **B-BBEE Contributor Status Level** - means a B-BBEE status as referred to in paragraph 5.2 of Statement AICT000 of Code Series AICT 000 of the ICT Sector Code, as determined in terms of Statement AICT000 of Code Series AICT000, Statement AICT004, of Code Series AICT000, or Statement AICT600 of Code Series AICT600 of the ICT Sector Code, and as confirmed by a valid B-BBEE Verification Certificate, a sworn affidavit or a CIPC issued certificate, as may be applicable;"

2.2 Regulation 1 of the Regulations is hereby amended by the substitution for sub-regulation 1.24 of the following sub-regulation:

“1.24 **ICT Sector Code** - means the Amended Information and Communication Technology Sector Code published in terms of section 9 (1) of the B-BBEE Act on 3 November 2016;”

3. Amendment of regulation 3 of the Regulations

3.1 Regulation 3 of the Regulations is hereby amended by the substitution for sub-regulation (3) of the following sub-regulation:

“(3) Equity held by Organs of State or Public Entities designated as B-BBEE Facilitators, by the Minister of Trade, Industry and Competition in accordance with the B-BBEE Codes, will be recognised as black owned equity in accordance with the B-BBEE Codes.”

3.2 Regulation 3 of the Regulations is hereby amended by the substitution for paragraph (b) of sub-regulation (6) of the following paragraph:

“(b) A credible assurance report issued by a SANAS recognised and accredited verification agency confirming ownership equity held by historically disadvantaged groups (excluding Black People if a B-BBEE Verification Certificate is provided in terms of regulation 3(6)(a)) determined in accordance with Appendix 1.”

4. Amendment of regulation 4 of the Regulations

4.1 Regulation 4 of the Regulations is hereby amended by the substitution for sub-regulation (5) of the following sub-regulation:

“(5) Subject to regulation 7, existing Class Licensees will not be required to comply with the minimum B-BBEE Contributor Status Level requirement set out in regulation 4(4) until the renewal, transfer or amendment of their Class Licences.”

4.2 Regulation 4 of the Regulations is hereby amended by the substitution for sub-regulation (7) of the following sub-regulation:

“(7) Proof of compliance with regulations 4(1) and 4(4) will, subject to regulation 4(8), be by way of a B-BBEE Verification Certificate.”

5. Amendment of Regulation 5

Regulation 5 of the Regulations is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

“(2) Notwithstanding the provisions of regulations 3(5) and 4(6), the Authority may, within ten (10) Business days of such notification, call for proof, as set out in sub-regulations 3(6) and 4(7), of ongoing compliance post the said Transfer(s) with regulations 3(1) and 4(1).”

6. Amendment of Regulation 6

Regulation 6 of the Regulations is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

“(1) A person that submits false, misleading or inaccurate information to the Authority is guilty of an offense and subject, on conviction to a fine of not less than R50 000 but not exceeding R5 million.”

7. Amendment of Regulation 7

Regulation 7 of the Regulations is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

“(1) All applications received prior to the promulgation of these Regulations will be assessed in terms of the prior regulatory

framework and will be required to comply with these Regulations within the transitional period set out in regulation 7(3).”

8. Short title and Commencement

These Regulations are called the Amendment Regulations in respect of the Limitations of Control and Equity Ownership by Historically Disadvantaged Groups (HDGs) and the application of the ICT Sector Code, 2021 and will come into force upon publication in the Government Gazette.

