

Namibia

Communications Act, 2009

Regulations regarding Administrative and Licence Fees for Service Licences, 2012

General Notice 311 of 2012

Legislation as at 15 November 2017

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Regulations regarding Administrative and Licence Fees for Service Licences, 2012

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Republic of Namibia
Annotated Statutes

Communications Act, 2009

**Regulations regarding Administrative and
Licence Fees for Service Licences, 2012**
General Notice 311 of 2012

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[This is the version of this document at 15 November 2017.]

[Note: The version of this legislation as at 15 November 2017 was revised and consolidated by the Legal Assistance Centre and the Government of the Republic of Namibia. All subsequent amendments have been researched and applied by Laws.Africa for NamibLII.]

These regulations were made by the Board of the Communications Regulatory Authority of Namibia. The General Notice which publishes them states that they amend the regulations in [GN 212/2007](#) (GG 3942), [GN 213/2007](#) (GG 3942) and [GN 108/2007](#) (GG 3858) insofar as they are inconsistent with these regulations. as amended by

**General Notice 331 of 2013 (GG 5269) came into force on date of publication: 19 August 2013
General Notice 181 of 2016 (GG 6035) came into force on date of publication: 13 June 2018**

1. Definitions

In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning and-

“**Act**” means the Communications Act, 2009 (Act [No. 8 of 2009](#)).

2. Purpose

- (1) These regulations set out the application fees applicable to-
- (a) Telecommunications service licence applications;
 - (b) Broadcasting service licence applications;
 - (c) Licence transfer applications (for telecommunications service and broadcasting service);
 - (d) Licence amendment applications (for telecommunications service and broadcasting service);

[paragraph (d) amended by [General Notice 331/2013](#)]

- (e) Licence renewal applications (for telecommunications service, broadcasting service and spectrum use).

[The full stop at the end should be a semicolon now that this is no longer the last paragraph in subregulation (1).]

- (f) Multiplex applications; and

[paragraph (f) inserted by [General Notice 331/2013](#)]

- (g) Class Comprehensive Multiplex and Signal Distribution applications

[Paragraph (g) is inserted by [General Notice 331/2013](#). There should be a full stop at the end.]

- (2) These regulations set out the annual licence fees applicable to-

- (a) Telecommunications service licences;

[paragraph (a) amended by [General Notice 331/2013](#)]

- (b) Broadcasting service licences.

[The full stop at the end should be a semicolon now that this is no longer the last paragraph in subregulation (2).]

- (c) Multiplex applications; and

[paragraph (c) inserted by [General Notice 331/2013](#)]

- (d) Class Comprehensive Multiplex and Signal Distribution applications

[Paragraph (d) is inserted by [General Notice 331/2013](#). There should be a full stop at the end.]

3. Administrative fees

The administrative fees applicable to licences are set out in the table below, in relation to each of the different licence types as set out and defined in the Regulations Setting out Broadcasting and Telecommunications Service Licence Categories, published in Government *Gazette* No. 4714, General Notice No. 124 dated 18 May 2011, amended from time to time.

Licence Type	New Licence	Amendment	Transfer / Transfer of Control	Renewal	Annual Levy
Telecommunications - Individual Comprehensive (ECNS and ECS)	n/a	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Telecommunications - Class ECNS	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Telecommunications - Class ECS	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Telecommunications - Class Comprehensive (ECNS and ECS)	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Telecommunications - Network Facilities	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Telecommunications - Non-Profit ECS/ECNS	N\$ 500.00	N\$ 500.00	N\$ 500.00	N\$ 500.00	N\$ 500.00
Broadcasting - Commercial	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Broadcasting - Community	N\$ 500.00	N\$ 500.00	N\$ 500.00	N\$ 500.00	N\$ 500.00
Broadcasting - Public	n/a	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Broadcasting - Signal Distribution	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
Broadcasting - Multiplex	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00

Broadcasting - Class Comprehensive Multiplex and Signal Distribution	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00	N\$ 10 000.00
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[regulation 3 substituted by [General Notice 331/2013](#) and by [General Notice 181/2016](#)]

4. Payment of application fees

- (1) The application fee must be paid by way of electronic transfer or direct deposit into the Authority's bank account.
- (2) The application fee must be paid on or before the day the application is submitted to the Authority.
- (3) The applicant must submit documentary proof of payment of the application fee with the submission of the application to the Authority.
- (4) Application fees are non-refundable.
- (5) The Authority will not process an application where the applicant fails to pay the applicable application fee or fails to submit proof thereof to the Authority.

5. Annual adjustments in respect of fees

The fees may be adjusted in relation to the Consumer Price Index as published by the Bank of Namibia, as determined by the Authority from time to time, and such adjustments will be published in the *Gazette*.

6. Licence fees

The annual licences fees applicable to licences are set out in the table below, in relation to each of the different licence types as set out and defined in the Regulations Setting Out Broadcasting and Telecommunications Service Licence Categories, Published in Government *Gazette* No. 4714, General Notice No. 124 dated 18 May 2011, amended from time to time.

[The word "published" should not be capitalised.]

Licence type	Annual percentage licence fee
Telecommunications - Individual Comprehensive (ECNS and ECS)	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Telecommunications - Class ECNS	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Telecommunications - Class ECS	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Telecommunications - Class Comprehensive (ECNS and ECS)	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Telecommunications - Network Facilities	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Telecommunications - Non-Profit ECS/ECNS	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Broadcasting - Commercial	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Broadcasting - Community	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Broadcasting - Public	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Broadcasting - Signal Distribution	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Broadcasting - Multiplex	Levy % = Minimum (1.5%, 0.0000000002*Turnover)
Broadcasting - Class Comprehensive Multiplex and Signal Distribution	Levy % = Minimum (1.5%, 0.0000000002*Turnover)

[regulation 6 substituted by [General Notice 331/2013](#) and by [General Notice 181/2016](#)]

7. Payment of licence fees

- (1) The licence fee must be paid by way of electronic transfer or direct deposit into the Authority's bank account.
- (2) The licence fee must be paid on or before the due date, which is six months after the licensee's financial year end.
- (3) Licence fees which are based on a percentage of turnover must be calculated based on the licensee's audited annual financial statements, or, if the licensee is not required by law to audit its financial statements, on the annual financial statements signed and sworn by the accounting officer of the licensee.
- (4) For the purposes of these regulations, turnover is turnover excluding value added tax.

- (5) The licensee's annual audited (or signed and sworn) financial statements must be submitted to the Authority on or before the due date for payment of the licence fee, which submission must be accompanied by documentary proof of payment of the licence fee.

8. Interest and penalties in respect of payment of licence fees

- (1) If a licensee fails to pay its annual licence fee or fails to submit its annual audited (or signed and sworn) financial statements on or before the due date, the licensee may also pay interest on the overdue amount from the due date to the date of payment (or the dates of submission of its annual audited (or signed and sworn) financial statements), at the rate of three percent above the then current overdraft interest rate being charged by the Authority's bankers.
- (2) If a licensee fails to pay its annual licence fee or fails to submit its annual audited (or signed and sworn) financial statements within 45 days after the due date, the licensee may, in addition to paying interest as set out above, also pay a late payment penalty of 25 percent of the overdue amount.
- (3) If a licensee fails to pay its annual licence fee or submit its annual audited (or signed and sworn) financial statements within 120 days after the due date, the licensee may, in addition to paying the interest set out above, must either-
 - (a) also pay a late payment penalty up to 50 percent of the overdue amount; or
 - (b) surrender its licence or licences to the Authority.
- (4) If a licensee fails to pay its annual licence fee or submit its annual audited (or signed and sworn) financial statements and fails to pay interest and the late payment and penalties set out above, within six months after the due date, and fails to surrender its licence or licences to the Authority, the Authority shall, after following a due process specified under regulations (6) and (7) below, declare the licence (and related spectrum use or other licences) forfeited and/or impose a fine not exceeding N\$5 000 000.00.
- (5) The Authority must before imposing an interest rate penalty, late payment penalty or before declaring the forfeiture of a license of a licensee as a result of the late submission of annual financial statements and late payment of its annual license and non-surrender of the licence, follow a due process as described in regulations (6) and (7) below.
- (6) The Authority must, give the licensee an opportunity to be heard and shall grant a period of not less than 14 days to the licensee within which to make representations to the Authority about the matter.
- (7) After consideration of the representations referred to or if no such representations have been made the Authority may determine whether to impose the interest rate penalty, late payment penalty or declare the forfeiture of the license of the licensee.