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Government Notice

OFFICE OF THE PRIME MINISTER

No. 23

1995

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 1 of 1995: Namibian Communications Commission Amendment Act, 1995.

Act No. 1, 1995

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AMENDMENT ACT, 1995**

— Words underlined indicates insertions proposed

[] Words in square brackets and in bold indicate words deleted

ACT

To amend the Namibian Communications Commission Act, 1992, so as to empower the Commission to issue postal service licences and telecommunications service licences, and to provide for matters incidental thereto.

(Signed by the President on 13 February 1995)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:—

Amendment of section 1 of Act 4 of 1992.

1. Section 1 of the Namibian Communications Commission Act, 1992 (hereinafter referred to as the principal Act), is hereby amended —

(a) by the insertion of the following definitions after the definition of “Minister”:

“postal service” means a postal service as defined by section 1 of the Posts and Telecommunications Act, 1992 (Act 19 of 1992);

‘postal service licence’ means a licence issued under section 22A (1) (a) which entitles the holder thereof to provide a postal service;” and

(b) by the insertion of the following definitions after the definition of “station”:

“telecommunications service” means a telecommunications service as defined by section 1 of the Posts and Telecommunications Act, 1992;

‘telecommunications service licence’ means a licence issued under section 22A (1) (b) which entitles the holder thereof to provide a telecommunications service;”.

Amendment of section 11 of Act 4 of 1992.

2. Section 11 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) to issue —

(i) broadcasting licences;

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(ii) postal service licences; and

(iii) telecommunications service licences; and".

Insertion of section 22A
in Act 4 of 1992.

3. The principal Act is hereby amended by the insertion after section 22 of the following section:

"Postal service
licences and
telecommunications
service licences."

22A. (1) The Commission may on application made to it in the prescribed manner, and on such conditions and against payment of such fees as may be prescribed, issue –

- (a) a postal service licence conferring the right to provide a postal service;
- (b) a telecommunications service licence conferring the right to provide a telecommunications service,

for such period as the Commission may determine.

- (2) (a) The Commission shall cause notice to be given in the *Gazette* of every application received by it under subsection (1).
- (b) Any person may within fourteen days of publication of a notice in terms of paragraph (a) lodge with the Commission written representations opposing the application in question and such representations shall be taken into account when the Commission considers that application.
- (3) (a) The Commission may from time to time, on application made to it in the prescribed manner, renew a licence issued under subsection (1) for such further period as it may determine.
- (b) An application referred to in paragraph (a) shall be made not earlier than six months and not later than sixty days before the date of expiration of the existing licence in question.

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(c) The Commission may, when considering an application for the renewal of a postal service licence or telecommunications service licence, require such new or additional information as it may deem necessary to make a finding.

(d) If a decision in connection with application made under paragraph (a) has not been reached by the Commission at the time when the period of validity of the existing licence in question expires, such licence shall continue to be of effect pending such decision.

(4) If any prescribed fees with regard to a postal service licence or telecommunications service licence are not paid by the holder of such licence on the date on which such fees are payable and remain unpaid after the expiry of a period of seven days after a written notice by the Commission to such holder to remedy the default, such holder shall forfeit the licence concerned.

(5) (a) The Commission may, where it is of the opinion that the conditions of any postal service licence or telecommunications service licence have been materially breached, request the holder of such licence to make written representations to it regarding the alleged breach.

(b) If, after consideration of the written representations contemplated in paragraph (a), the Commission is of the opinion that the holder of a postal service licence or telecommunications service licence has materially breached a condition of the licence concerned, it may issue an order –

(i) warning such holder;

(ii) imposing a fine on such holder not exceeding N\$10,000;

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- (iii) suspending the licence concerned; or
 - (iv) withdrawing the licence concerned.
- (c) Any fine imposed under subparagraph (ii) of paragraph (b) shall be for the benefit of the State Revenue fund.
- (d) Whenever the Commission orders the withdrawal of a postal service licence or telecommunications service licence under subparagraph (iv) of paragraph (b) it shall cause a notice to be published in the *Gazette* containing details of such order.
- (6) The holder of a postal service licence or telecommunications service licence shall, within sixty days after the end of such holder's financial year, submit to the Commission his or her financial statements, audited by a person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951).
- (7) The provisions of section 28 shall *mutatis mutandis* apply to postal service licences and telecommunications service licences."

Amendment of section 27
of Act 4 of 1992.

4. Section 27 of the principal Act is hereby amended in subsection (1) –

- (a) by the substitution for paragraph (a) of the following paragraph:

“(a) applications for the issue, renewal or transfer of **[broadcasting]** licences referred to in section 11(b).”;

- (b) by the substitution for paragraph (c) of the following paragraph:

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“(c) the application fee, if any, that shall be payable in regard to **[broadcasting licence]** applications for licences to be issued under this Act;”;

- (c) by the substitution for paragraph (e) of the following paragraph:

“(e) the annual licence fees that shall be payable in respect of a **[broadcasting]** licence issued under this Act;” and

- (d) by the substitution for paragraph (f) of the following paragraph:

“(f) the annual administrative levy, if any, that shall be payable **[by a licence holder]** in respect of a licence issued under this Act;”.

Short title.

5. This Act shall be called the Namibian Communications Commission Amendment Act, 1995.