

Namibia

Communications Act, 2009

## Regulations setting out Broadcasting and Telecommunications Service Licence Categories, 2011

General Notice 124 of 2011

Legislation as at 15 November 2017

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## Regulations setting out Broadcasting and Telecommunications Service Licence Categories, 2011

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Republic of Namibia  
**Annotated Statutes**

**Communications Act, 2009**

## **Regulations setting out Broadcasting and Telecommunications Service Licence Categories, 2011**

**General Notice 124 of 2011**

Published in Government Gazette 4714 on 18 May 2011

Commenced on 18 May 2011

[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.]

GN 124/2011 provides that these regulations are effective from the date the Communications Act 8 of 2009 comes into operation as determined by the Minister in terms of section 136(1) of the Act. The Act was brought into force on 18 May 2011 – with the exception of Parts 4 and 6 of Chapter V and Chapter IX – by GN 64/2011 (GG 4714). The remaining provisions will come into force on a date or dates set by the Minister by notice in the *Government Gazette*.

These regulations were made by the Board of the Communications Regulatory Authority of Namibia.

as amended by

General Notice 74 of 2013 (GG 5148) came into force on date of publication: 17 December 2010  
General Notice 387 of 2015 (GG 5805) came into force on date of publication: 12 August 2015;  
the Schedule to this General Notice includes a motivation for the amendments it makes

[General Notice 74/2013 amends the regulations throughout to delete the expression “Broadcasting back-haul system service”. However, no instances of this expression remain in the regulations after the specific amendments made by General Notice 74/2013.]

### **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);

“**Aeronautical service**” means a radio service used principally for the purpose of the transmission of messages from and to aircraft;

**“Alarm system service”** means a radio service used in connection with the operations of an alarm system;

**“Amateur service”** means a radio service used for the purpose of self-training in radio communications, intercommunication using radio communications and technical investigation into radio communications by persons who do so solely for personal use and have no pecuniary interest in the operations of the service;

[definition of **“Broadcasting back-haul system service”** deleted by [General Notice 74/2013](#)]

**“Citizen Band service”** means a private, two-way, short-distance radio service used for the purpose of speech communications for personal and business operations, which may also be used as a paging system;

[definition of **“Citizen Band service”** inserted by [General Notice 74/2013](#)]

**“Class Comprehensive Multiplex and Signal Distribution”** means providing an electronic communications network service for signal distribution as well as operation of multiplexer equipment for the purpose of delivering broadcasting services;

[definition of **“Class Comprehensive Multiplex and Signal Distribution”** inserted by [General Notice 74/2013](#)]

**“Class telecommunications licence”** means a licence awarded to a person who applies to the Authority and meets the criteria of the class and is not otherwise disqualified from holding a class licence;

**“Commercial broadcasting service”** means a broadcasting service operating for profit;

**“Community broadcasting service”** means a broadcasting service that serves a particular community (either geographic or a group of persons having a common interest) and is wholly-owned by a nonprofit association registered in terms of section 21 of the Companies Act, 2004 (Act [No. 28 of 2004](#)) or, if it is not registered, is established in terms of a constitution (or other agreement) containing provisions that comply with the effect of the provisions of section 21 of the Companies Act, 2004 (Act [No. 28 of 2004](#));

**“Electronic communications network service”** or **“ECNS”** means a service whereby a person makes available an electronic communications network, whether by sale, lease or otherwise-

- (a) for that person’s own use for the provision of an electronic communications service;
- (b) to another person for that other person’s use in the provision of an electronic communications service; or
- (c) for resale;

**“Electronic communications service”** or **“ECS”** means any service provided to the public, sections of the public, or the subscribers to such service, which consists wholly or mainly of the conveyance of electronic communications over an electronic communications network, but excludes broadcasting services;

**“Emergency response system service”** means a radio service used in connection with the operations of an emergency response system;

**“Individual licence”** means a licence awarded to Telecom in terms of section 45 of the Act to provide ECNS and ECS;

**“Maritime service”** means a radio service between maritime ship stations, maritime coast stations and on-board communications stations associated with maritime ship stations, survival craft stations or emergency position indicating radio beacon stations;

**“Multiplex”** means the operation of multiplexer equipment for the purpose of delivering broadcasting services;

[definition of **“Multiplex”** inserted by [General Notice 74/2013](#)]

**“Navigation and radar system service”** means a radio service used in connection with the operations of a navigation and radar system;

**“Network Facilities”** means a telecommunications service licence entitling the holder to construct, maintain, own and make available one or more network elements, infrastructure or other facilities that facilitate the provision of telecommunication services, broadcasting services, electronic communications services or application services including content services.

[definition of “Network Facilities” inserted by [General Notice 387/2015](#)]

**“Non-profit ECNS/ECS”** means an electronic communications network service or electronic communications service that is wholly-owned by a non-profit association registered in terms of section 21 of the Companies Act, 2004 (Act [No. 28 of 2004](#)) or, if it is not registered, is established in terms of a constitution (or other agreement) containing provisions that comply with the effect of the provisions of section 21 of the Companies Act, 2004 (Act [No. 28 of 2004](#));

**“Private ECNS/ECS network”** means an electronic communications network used for providing an electronic communications network service or electronic communications service solely for the provider’s own use;

**“Public broadcasting service”** means any broadcasting service provided by the Namibian Broadcasting Corporation;

**“Resale of ECNS/ECS”** means acquiring, through lease or other commercial arrangement, an electronic communications network service or electronic communications service and making such electronic communications network service or electronic communications service available to subscribers for a fee;

**“Signal distribution”** means the electronic communications network service where the output signal of a broadcasting service is taken from the point of origin, being the point where such signal is made available in its final content format, from where it is conveyed to any broadcast target area, by means of electronic communications.

## 2. Submission of documents to the Authority

In these regulations “submit in writing to the Authority” means by hand to the head offices of the Authority, namely Communication House, 56 Robert Mugabe Avenue, Windhoek or at alternative addresses set out by the Authority from time to time.

## 3. Purpose

- (1) These regulations set out the broadcasting licence categories in terms of section 84 of the Communications Act.
- (2) These regulations set out the telecommunications licence categories in terms of sections 37 and 38 of the Communications Act.

## 4. Broadcasting service licence categories

- (1) The following are categories of broadcasting service licences-
  - (a) Commercial;
  - (b) Community;
  - (c) Public;
  - (d) Signal Distribution;
  - (e) Class comprehensive Multiplex and Signal Distribution; and
  - (f) Multiplex.

[subregulation (1) substituted by [General Notice 74/2013](#)]

- (2) In respect of the commercial, community, and public broadcasting service categories, each broadcasting service licensee may provide its own signal distribution service or may contract with a signal distribution service licensee for such service.
- (3) In respect of the commercial, community, and public broadcasting service categories, each broadcasting service licensee must, in addition to its broadcasting service licence, obtain from the Authority any required radio frequency spectrum licence.

## 5. Telecommunications service licence categories

- (1) The following are categories of telecommunications service licences, all of which are technology and service neutral-
  - (a) Individual (Comprehensive telecommunications service licence (ECNS and ECS)); and
  - (b) Class;
    - (i) ECS;
    - (ii) ECNS;
    - (iii) Comprehensive telecommunications service licences (ECNS and ECS);
    - (iv) Non-profit ECNS/ECS; and
    - (v) Network Facilities.

**[subregulation (1) substituted by General Notice 387/2015]**

- (2) Persons may provide the following telecommunications services without a licence-
  - (a) Private ECNS/ECS;
  - (b) Resale of ECNS/ECS;
  - (c) **[paragraph (c) deleted by General Notice 387/2015]**
  - (d) Amateur service;
  - (e) Aeronautical service;
  - (f) Maritime service;
  - (g) Navigation and radar system service;
  - (h) Alarm system service;
  - (i) Emergency response system service; and
  - (j) Citizen Band Service.

**[paragraph (j) substituted by General Notice 74/2013]**

- (3) Each telecommunications service licensee must, in addition to its telecommunications service licence, and each person providing a telecommunications service that may be provided without a licence, must obtain from the Authority any required radio frequency spectrum licences.

## 6. Manner of prosecuting regulatory offences

- (1) The form of summons to be issued by the Authority in terms of section 115(1) of the Act, is included herein and marked "SUMMONS IN TERMS OF SECTION 115(1) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009)".



- (2) The form of notice the accused must submit in writing to the Authority in terms of section 115(2) and (6) of the Act is included herein, marked “NOTICE IN TERMS OF SECTION 115(2) AND (6) OF THE COMMUNICATIONS ACT, 2009 (ACT NO. 8 OF 2009) - RESPONSE TO SUMMONS”.

### **Forms**

**[Editorial note: The forms have not been reproduced.]**