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Independent Communications Authority of South Africa

General Notice

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GENERAL NOTICE

NOTICE 1318 OF 2004



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE OF INTENTION TO REPEAL THE EXISTING SECTION 56 REGULATIONS (REGULATION NO. R1463 PUBLISHED ON THE 26TH OF AUGUST 1994) PUBLISHED IN TERMS OF SECTION 96 OF THE TELECOMMUNICATIONS ACT REGARDING THE LICENSING OF PABX SWITCHING UNITS AND SUPPLIERS

The Independent Communications Authority of South Africa hereby gives notice that it intends making the regulations in the Schedule in terms of section 96 read with section 56 of the Telecommunications Act, (Act No. 103 of 1996).

Interested persons are invited to submit written comments or written representations with regard to the proposed regulations, to be received **by no later than 16H00 on 17 August 2004** by post, hand delivery, facsimile transmission and an electronic version in Microsoft Word.

Persons submitting written representations are further invited to indicate whether they are requesting an opportunity to make oral representations and the estimated duration thereof, which duration shall not exceed one hour.

Written representations will be made publicly available except where respondents indicate that their responses or parts thereof are confidential. Respondents are requested to separate any confidential material into a clearly marked confidential annex. Unconditional permission to use such confidential

material will be assumed unless the author expressly states otherwise. Any copyright attached to responses will be assumed to have been relinquished unless it is expressly reserved.

Written representations may be posted or hand delivered for the attention of:

Mr. Praneel Ruplal,

c/o ICASA, Private Bag X10002, Sandton, 2146; or

hand delivered to ICASA, Block A, Pin Mill Farm, 164 Katherine Street, Sandton;
or

faxed to (011) 321 8581; or

emailed to pruplal@icasa.org.za

MANDLA LANGA
Chairperson, ICASA

CHAPTER 1

1. Definitions

In these regulations any expression shall have the meaning ascribed to it in the Telecommunications Act (Act No. 103 of 1996 as amended), and unless the context otherwise indicates-

“accredited test laboratory” means a test laboratory accredited by the South African National Accreditation System (SANAS) in South Africa or an international test lab that has accreditation by its relevant National accrediting body. This accrediting body must have a mutual recognition agreement with SANAS.

“client” means the registered subscriber of a telecommunications service or any person using such a telecommunications line in a manner that it is generally assumed that such a person is rendered as a registered subscriber or causes him to be regarded as such a subscriber;

“common interest group” means a group of companies that need not be legally associated or affiliated but which, by virtue of common business interests, desires access to the same computer(s) for data processing;

“data modem” means a device that enables the interconnection of data equipment to a telecommunications line;

“data processing” means application processing, excluding an application dedicated to text switching and routing;

“data transmission” means transmission of binary digital information including both data and text, between data terminal equipment;

“electronic PABX” means PABX switching unit of which the switching matrix and the control circuitry are mainly constructed of non-mechanical components;

“exchange line” means the voice channel (physical or otherwise) that connects the PABX switching unit with the PSTN;

“extension line” means the voice channel (physical or otherwise) that connects the PABX switching unit with an extension terminal on premises under the PABX user's control;

“extension reticulation” means the network cabling connecting the PABX switching unit and extension terminals;

“extension terminal” means any TLTE connected to an extension line;

“LMO” means licensed maintenance Organisation and is an Organisation, not affiliated to a PABX supplier, that is licensed by ICASA to install, alter and maintain licensed PABX switching unit types and/or the associated extension reticulation and extension terminals;

“PABX” means a private automatic branch exchange;

“PABX supplier” means the person to whom Type Approval is issued by ICASA, allowing him to supply, install and maintain a PABX system in accordance with ICASA's requirements;

“PABX switching unit” means a switching unit installed on the premises occupied by the PABX user or intended to be so installed, and connected to the PSTN by means of exchange lines and which functions as an intermediary to enable telephone calls to be established between extensions, or between extensions and exchange lines or between extensions and tie lines, connected to the PABX switching unit;

“PABX switching unit type” means a specific model and version of a specific make of PABX switching unit;

“PABX system” means the PABX switching unit and its associated exchange line terminations, extension reticulation and extension terminals;

“PABX user” means the person for whom and at whose request a PABX system has been installed and connected to the PSTN (a PABX user may own or rent a PABX system);

“PBX” means a private branch exchange, whether automatic or manual;

“PSTN” means the public switched telephone network consisting of the exchanges, interexchange connections (cable, microwave, optic fibre, etc.), exchange lines and TLTE owned and operated by a South African Network Operator, for the provision of telephone service to the general public;

“RF equipment” means radio frequency equipment;

“the Act” means the Telecommunications Act, number 103 of 1996, as amended;

“tie line” means a voice channel (physical or otherwise) provided by a PSTN operator for the direct interconnection of two PBXs used by the same person or legal entity; and

“TLTE” means telecommunication line terminal equipment which is connected to an exchange line or an extension line to transmit, receive and manipulate voice, data and video signals.

CHAPTER 2

PRIVATE AUTOMATIC BRANCH EXCHANGES (PABXS)

2. Type Approval of PABX switching units and suppliers

- (1) PABXs connected to the PSTN shall satisfy ICASA's regulations on safety, electromagnetic compatibility and performance as set out in the latest issue of the PABX specification compiled by and obtainable from ICASA prior to being used, possessed, supplied, sold, offered for sale, leased or hired. Should no such specification exist, ICASA reserves the right to inform the type approval applicant in writing of the technical requirements for gaining type approval.
- (2) All PABX switching unit types shall be evaluated and tested by an accredited test laboratory for compliance with the requirements referred to in subregulation (1) and to ensure that they will interface satisfactorily with the PSTN. Only complete test reports issued by an accredited test laboratory shall be accepted as proof of compliance to the required standards. Declarations of conformity will not be acceptable.
- (3) Application for the type-approval of a PABX switching unit type shall be made to ICASA in accordance with the application procedure prescribed in the "Suppliers guide to the approval of PABX equipment intended for connection to the PSTN", compiled by and obtainable from ICASA.
- (4) Type-approval shall only be issued to South African citizens or South African registered companies.
- (5) When a particular PABX switching unit type complies with ICASA's requirements, the equipment will be type approved for use in South Africa and a type approval certificate will be issued allowing registered suppliers to supply and install PABX switching units of such type for connection to the PSTN and to maintain such PABX switching units, extension reticulation and extension terminals, provided that-
 - (a) the type-approval fees prescribed in the relevant tariff list have been paid by the PABX supplier; and

- (b) ICASA is satisfied that the PABX supplier-
 - (i) is capable in all respects to install and maintain the PABX switching unit type, extension line reticulation and extension terminals, in accordance with the required standards;
 - (ii) is qualified to provide prospective PABX users with adequate technical information and advice; and
 - (iii) will maintain an adequate stock of spare parts for systems supplied by him.

3. **Licensing of maintenance organisations**

- (1) ICASA may license an Organisation which is not affiliated to a PABX supplier as a type 1 LMO in respect of a PABX system using a particular PABX switching unit type, provided that-
 - (a) the prescribed licence fee has been paid; and
 - (b) ICASA is satisfied that the applicant-
 - (i) has a sufficient number of qualified telecommunication technicians or electricians in his employ who have been suitably trained on the particular PABX switching unit type;
 - (ii) has access to the necessary technical information and spares;
 - (iii) is capable in all respects to install, alter and maintain the PABX switching unit type, extension reticulation and extension terminals in accordance with the required standards; and
 - (iv) has, in the case of an electronic PABX switching unit type, made suitable arrangements for the repair of printed circuit boards, for access to spares and software support, and for obtaining specialised training on the maintenance of such a switching unit type.
- (2) ICASA may license an organisation which is not affiliated to a PABX supplier as a type 2 LMO for the maintenance of extension reticulation and extension terminals, provided that-
 - (a) the prescribed licence fee has been paid; and

(b) ICASA is satisfied that the applicant-

- (i) has a sufficient number of qualified telecommunication technicians or electricians in his employ; and
- (ii) is capable in all respects to install and maintain extension reticulation and extension terminals in accordance with the required standards.

4. Validity of the Type Approval Certificate and licences

Type-approval certificates referred to in regulation 2 shall be valid for the lifetime of the product unless if there are exceptional circumstances, such as alteration and/or modification of the technical specification of the type-approved equipment. A licence referred to in regulation 3 shall be valid for 3 years from the date of issue.

5. Licence not transferable and may be revoked

- (1) No person or legal entity to whom a licence has been issued under regulation 3 may transfer such licence, or the powers or authority granted to him by such licence, to any other person or legal entity, or surrender it in any way in favour of another person or legal entity, except with the written approval of ICASA.
- (2) ICASA may, with prior warning, revoke a supplier's registration if the supplier:
 - (a) supplies PABX switching units that are not type-approved or which in any way differ from those which were type-approved;
 - (b) contravenes or fails to comply with any of the conditions of the type-approval; and
 - (c) requests ICASA in writing to this effect.
- (3) When a Supplier Registration is revoked for any reason the supplier must return the supplier registration certificate to ICASA within 14 days after receiving notice of the revocation.

6. Type Approval does not grant exclusive rights

Type Approval does not grant exclusive rights to the person who originally applies for the type-approval. Type-approval is granted to the type approval holder to use, possess, sell, offer for sale, lease or hire a

particular model of equipment in South Africa. Subsequent equipment suppliers who wish to supply that same make and model of equipment in South Africa would have to apply for their own type-approval certification. However, the requirements referred to in sub-regulation 2(2) would not be applicable as long as such PABX systems do not in any way differ from those which were type-approved. The supplier should comply with all of the conditions of the type-approval and should be registered with ICASA in terms of Section 56 of the Act.

7. Procurement and commissioning

- (1) A prospective PABX user shall apply to the PSTN operator on the prescribed application form for the connection of his PABX system to the PSTN. (Such application may be made directly to the PSTN operator or with the assistance of a PABX supplier or LMO.)
- (2)
 - (a) The configuration of the PABX system shall be in accordance with the requirements of the PABX user. Where applicable, the configuration requirements shall also comply with the requirements of the PSTN operator who will issue a schedule of requirements upon payment of the prescribed fee.
 - (b) The schedule of requirements referred to in paragraph (a) above is valid for twelve months from the date of issue. Should this schedule of requirements expire, or the requirements of the PABX user necessitate a change, application shall be made to the PSTN operator for a revised schedule of requirements.
- (3) The PABX switching unit, extension, reticulation and extension terminals shall be installed by a PABX supplier or type 1 LMO in accordance with the standards required by ICASA and the requirements referred to in subregulation (2) (a).
- (4) Where a PABX supplier or an LMO makes use of a sub-contractor, the PABX supplier or LMO shall remain responsible for the quality and standard of installation.
- (5) No person shall supply, install, alter or maintain a PABX system or any part thereof, unless he is licensed in terms of regulation 3.
- (6) Prior to commissioning of the PABX system the PABX user shall provide the PSTN operator with, a guarantee that-
 - (a) only type-approved equipment has been used and will be used;

- (b) the work has been carried out in accordance with the standards prescribed by ICASA; and
 - (c) the equipment and facilities installed are in accordance with the PABX user's requirements referred to in subregulation (2) (a).
- (7) The PSTN operator is entitled to do an acceptance test on the exchange line interfaces of the PABX system at its own cost.

8. Exchange lines

- (1) The exchange lines shall be rented from the PSTN operator by the PABX user at the prescribed tariff.
- (2) The PABX user must ensure that the traffic carrying capacity of the PABX system shall be sufficient to ensure that all the traffic originating from and terminating on it will be carried at the grade of service specified by the PSTN operator.
- (3) Failure to comply with subregulation (2) can result in the service being suspended by the PSTN operator.

9. Extension reticulation and extension terminals

- (1) The PABX user is responsible for the provision of the extension reticulation and extension terminals on the premises on which the PABX switching unit is situated and on premises under the PABX user's control having a common border with the premises on which the PABX switching unit is situated.
- (2)
 - (a) The connections between the premises on which the PABX switching unit is situated and premises not sharing a common border therewith, shall be provided and maintained by the PSTN operator at the prescribed tariffs.
 - (b) Written exemption from the requirements referred to in paragraph (a) may in certain instances be granted by ICASA should the PSTN operator be unable or unwilling to provide such a connection.
- (3) A PABX user may negotiate the purchase of extension reticulation and extension terminals originally provided by the PSTN operator.
- (4) A PABX supplier or LMO may install, alter and maintain extension reticulation and extension terminals only with the written consent of the owner of such extension reticulation and extension terminals.

- (5) The equipment practice and materials used for extension line reticulation shall be in accordance with the relevant specifications issued by ICASA and conditions of service stipulated by the PSTN operator.
- (6) Only extension terminals type approved by ICASA in accordance with Chapter 3 shall be connected to a PABX and the connection of non-type approved extension terminals may result in service being suspended, or a penalty being imposed or both.

10. Maintenance

- (1) The primary responsibility for the efficient functioning of any PABX system rests with the PABX user of that system.
- (2) A PABX user who wishes to maintain his PABX system himself shall be licensed as a type 1 LMO in accordance with regulation 3 (1).
- (3) A PABX user who does not maintain his PABX system himself in accordance with subregulation (2) shall make use of the services of the PABX supplier or an appropriate LMO.
- (4) Inadequate PABX maintenance which causes an unacceptably high incidence of service complaints, may result in ICASA requesting the PSTN operator to suspend service to the PABX user,
- (5) Service difficulties on PABX systems shall be handled in accordance with a procedure agreed between the PABX user and his PABX supplier or LMO and the PSTN operator.

11. Indemnity and amendment of conditions

- (1) ICASA shall not be liable to any PABX supplier, LMO or PABX user for any loss or damages resulting from -
 - (a) a service difficulty or fault condition in the PSTN;
 - (b) the installation, alteration, maintenance or operation of a PABX system;
 - (c) the revocation of a licence in terms of regulation 5 (2); and
 - (d) the suspension of service in terms of regulation 8 (3), 9 (6) or 10 (4).

- (2) ICASA reserves the right to amend the conditions of a type-approval certificate from time to time after consultation with all interested parties.

12. Penalties

Any person possessing, using, supplying, selling, offering for sale or hiring non-type approved PABXs, connecting non-type approved PABXs to the PSTN or any person contravening a provision of regulation 7 (5) or 9 (6) or failing to comply therewith, shall be guilty of an offence and upon conviction be liable to a fine, and/or imprisonment in terms on Section 102 of the Telecommunications Act (as amended).

CHAPTER 3

TELECOMMUNICATION LINE TERMINAL EQUIPMENT (TLTE)

13. TLTE must satisfy ICASA's requirements

- (1) All TLTE must satisfy ICASA's regulations for safety, electromagnetic compatibility and performance as set out in the relevant specifications obtainable from ICASA, prior to being used, possessed, supplied, sold, offered for sale, leased, hired or connected, either directly or indirectly, to the PSTN. Should no such specification exist, ICASA reserves the right to inform the type approval applicant in writing of the technical requirements for gaining type approval.
- (2) All TLTE shall be evaluated and tested against the specifications mentioned in sub-regulation (1) to ensure that they will interface satisfactorily with the PSTN. Only complete test reports issued by an accredited test laboratory shall be accepted as proof of compliance to the required standards. Declarations of conformity will not be acceptable.
- (3) When a TLTE complies with ICASA's requirements, it will be type-approved for distribution and connection to the PSTN after the type approval fees prescribed in the relevant tariff list have been paid to ICASA.
- (4) Type Approval applications can only be accepted from South African citizens or South African registered companies.

14. ICASA may require certain modifications

- (1) A registered equipment supplier is obliged to effect, at his own expense, any modification to the TLTE that may be required in order to comply with the relevant specifications.
- (2) All subsequent TLTE of the same make and model supplied for connection to the PSTN shall have the same technical and operational characteristics as the evaluated samples, including any modifications of such samples that may have been ordered by ICASA.
- (3) No person shall, without the written consent of ICASA, modify TLTE or add any facility to it, or allow any other person to make such modification or add such facility, thereby causing it to deviate in any way from the conditions of the type approval.

15. Validity of the type approval

The type approval referred to in regulation 13 shall be valid for the lifetime of the product.

16. Suspension of service

ICASA may authorise the PSTN operator to instruct a Client to disconnect a non type-approved TLTE from an exchange line or extension line and should the Client fail to comply with such instruction within seven days after receiving the instruction, to suspend the service. ICASA may institute legal proceedings against the TLTE user.

17. Type Approval does not grant exclusive rights to a supplier of TLTE

Type-approval does not grant exclusive rights to the person who originally applies for the type-approval. Type-approval is granted to the type approval holder to use, possess, sell, offer for sale, lease or hire a particular model of equipment in South Africa. Subsequent equipment suppliers who wish to supply that same make and model of equipment in South Africa would have to apply for their own type-approval certification. However, the requirements referred to in sub-regulation 13(2) would not be applicable as long as such TLTE do not in any way differ from those which were type-approved. The supplier should comply with all of the conditions of the type-approval and should be registered with ICASA in terms of the Act.

18. ICASA does not sponsor TLTE

- (1) A supplier of TLTE shall not verbally or otherwise intimate to any person that ICASA supports, prefers or recommends in any way the use of a particular TLTE.
- (2) A registered equipment supplier may inform potential customers accordingly that he is supplying type approved equipment by means of advertising, public notices etc.
- (3) All Type Approved equipment are to be labelled in accordance with the labelling regulation published in Government Notice R289 in *Government Gazette* 23212 of 6 March 2002

19. Installation, performance and maintenance

- (1) It is the TLTE user's responsibility to install the TLTE in accordance with the conditions of service laid down by the PSTN operator, for supplying the service.
- (2) Neither ICASA nor the PSTN operator shall under any circumstances be responsible for the performance of the TLTE.
- (3) Should it be found that a faulty TLTE adversely affects the PSTN, the PSTN operator may instruct the TLTE user to disconnect it from the PSTN and, should the TLTE user fail to comply with such an instruction, the service to the TLTE user may be suspended by the PSTN operator.

20. Indemnity

Neither the supplier of the TLTE nor his client shall have any claim against ICASA or the PSTN operator in the event of any action taken in terms of this regulation.

21. Imposition of additional type approval conditions

ICASA reserves the right to impose from time to time such additional conditions as may be considered desirable for type approval referred to in regulation 13.

22. Penalties

Any person possessing, using, supplying, selling, offering for sale or hiring non-type approved TLTE or connecting non-type approved TLTE to the

PSTN shall be guilty of an offence and upon conviction be liable to a fine, and/or imprisonment in terms on Section 102 of the Telecommunications Act (as amended).

CHAPTER 4

RADIO FREQUENCY (RF) EQUIPMENT

23. RF Equipment must satisfy ICASA's requirements

- (1) All RF equipment must satisfy ICASA's regulations for safety, electromagnetic compatibility and performance as prescribed in the various specifications obtainable from ICASA, prior to being used, possessed, supplied, sold, offered for sale, leased or hired. Should no such specification exist, ICASA reserves the right to inform the type approval applicant in writing of the technical requirements for gaining type approval.
- (2) All RF equipment shall be evaluated and tested against the specifications mentioned in subregulation (1) to ensure that they will operate satisfactorily within the allocated Radio Frequency bands, operate safely and would not cause harmful interference. Only complete test reports issued by an accredited test laboratory shall be accepted as proof of compliance to the required standards. Declarations of conformity will not be acceptable.
- (3) When RF equipment complies with ICASA's requirements, it will be type approved for use in South Africa after the prescribed type-approval fees have been paid to ICASA.
- (4) Type Approval applications can only be accepted from South African citizens or South African registered companies.

24. ICASA may require certain modifications

- (1) A registered equipment supplier is obliged to effect, at his own expense, any modification to the RF equipment that may be required in order to comply with the relevant specifications.
- (2) All subsequent RF equipment of the same make and model supplied for connection to the PSTN shall have the same technical and operational characteristics as the evaluated samples, including any modifications of such samples that may have been indicated by ICASA.

- (3) No person shall, without the written consent of ICASA, modify RF equipment or add any facility to it, or allow any other person to make such modification or add such facility, thereby causing it to deviate in any way from the conditions of the type-approval.

25. Validity of the type-approval

The type-approval referred to in regulation 23 shall be valid for the lifetime of the product unless if there are exceptional circumstances, such as alteration and/or modification of the technical specification of the type-approved equipment. .

26. Suspension of service

ICASA may authorise the network operator to instruct a Client to discontinue use of any non-type approved RF equipment. However, should the Client fail to comply with such instruction within seven days after receiving the instruction, to suspend the use, ICASA may institute legal proceedings against the RF equipment user.

27. Type Approval does not grant exclusive rights to a supplier of RF equipment

Type Approval does not grant exclusive rights to the person who originally applies for the type approval. Type-approval is granted to the type approval holder to use, possess, sell, offer for sale, lease or hire a particular model of equipment in South Africa. Subsequent equipment suppliers who wish to supply that same make and model of equipment in South Africa would have to apply for their own type-approval certification. However, the requirements referred to in sub-regulation 23(2) would not be applicable as long as RF equipment does not in any way differ from those which were type-approved. The supplier should comply with all of the conditions of type-approval and should be registered with ICASA in terms of Section 56 of the Telecommunications Act (as amended).

28. ICASA does not sponsor RF equipment

- (1) A supplier of RF equipment shall not verbally or otherwise intimate to any person that ICASA prefers, supports or recommends in any way the use of any particular RF equipment.
- (2) A registered equipment supplier may inform potential customers accordingly that he is supplying type-approved equipment by means of advertising, public notices etc.

- (3) All Type Approved equipment are to be labelled in accordance with the labelling regulation published in Government Notice R289 in *Government Gazette* 23212 of 6 March 2002

29. Installation, performance and maintenance

- (1) It is the RF equipment user's responsibility to install the RF equipment in accordance with the conditions of service laid down by the network operator, for supplying the service.
- (2) Neither ICASA nor the network operator shall under any circumstances be responsible for the performance of the RF equipment.
- (3) Should it be found that faulty RF equipment adversely affects the network, the network operator may instruct the RF equipment user to disconnect it from the network and, should the RF equipment user fail to comply with such an instruction, the service to the RF equipment user may be suspended by the network operator.

30. Indemnity

Neither the supplier of the RF equipment nor his client shall have any claim against ICASA or the network operator in the event of any action taken in terms of this regulation.

31. Imposition of additional type approval conditions

ICASA reserves the right to impose from time to time such additional conditions as may be considered desirable for type-approval referred to in regulation 24.

32. Penalties

Any person possessing, using, supplying, selling, offering for sale or hiring non-type approved RF equipment shall be guilty of an offence and upon conviction be liable to a fine, and/or imprisonment in terms on Section 102 of the Act.

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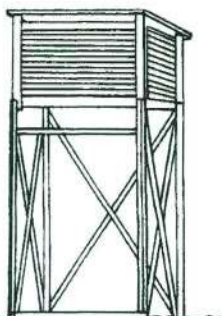
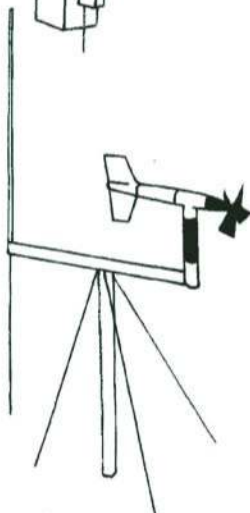
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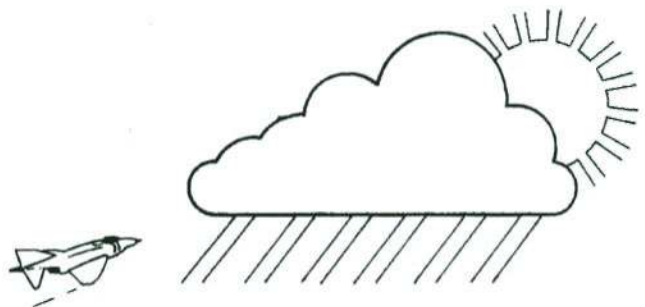


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