



**Subject : SENIOR EMPLOYEE, ENGAGEMENT DIRECTIVE**

**Number : 09/2020**

**Scope : Individual Licence Holders**

**Circulated : 10 February 2020**

## **Table of Contents**

<b>1. CITATION AND COMMENCEMENT</b>	<b>3</b>
<b>2. SCOPE AND MANDATE OF THE COMMISSION</b>	<b>3</b>
<b>3. OBJECTIVE</b>	<b>3</b>
<b>5. APPLICATION</b>	<b>4</b>
<b>6. APPROVAL PROCESS</b>	<b>4</b>
<b>7. FIT AND PROPER TEST</b>	<b>5</b>
<b>8. REVIEW AND AMENDMENT OF THE DIRECTIVE</b>	<b>6</b>

## **1. Citation and Commencement**

1.1. This Directive may be cited as the Senior Employee Engagement Directive 2020 and shall come into force on 10 February 2021.

## **2. Scope and Mandate of the Commission**

2.1 The functions of the Commission, as specified in the Eswatini Communications Commission Act 2013, (hereinafter the Act) include the responsibility to “*promote efficient management and human resource development within the communications industry*” and to “*establish minimum qualifications to be possessed by any person who is engaged or employed in any activity regulated by the Commission*”. This responsibility entails that individuals performing key control functions or holding key positions in the postal, broadcasting and electronic communications sector should be approved by the Commission prior to their engagement or employment.

2.2 This Directive is issued pursuant to Section 38 (b) of the Act, which empowers the Commission to issue Directives necessary for implementing the Act and any other laws which fall under the remit of the Commission;

## **3. Objective**

3.1. The objective of this Directive is to-

- 3.1.1. Direct the appointment of individuals performing key control functions or holding key positions in the electronic communications, postal and broadcasting sector, taking into account the following factors, amongst others:
- a) The position to be filled;
  - b) The candidate to be engaged/employed;
  - c) The candidate’s qualifications and experience;
  - d) The candidate’s character;
  - e) Localization of positions and skills transfer in the sectors;
  - f) Verification of academic qualifications of the candidate; and
  - g) Police security clearance of the candidate.

## **4. Definitions**

4.1. For purposes of this Directive:

- a) “*Act*” means the Eswatini Communications Commission Act, 2013;
- b) “*applicant*” means a holder of an Individual licence issued by the Commission;

- c) “*candidate or employee*” means any individual employed or engaged, for whatever period, by an individual licence holder, performing key control functions or holding a key position;
- d) “*Commission*” means the Eswatini Communications Commission established by Section 3 of the Act;
- e) “*Key Control Function*” is one where the individual is likely to exercise significant influence on the conduct of affairs of the licensee;
- f) “*Key Control Position*” means amongst others but not limited to Chief Executives, Heads of Department and EXCO members;
- g) “*Licensee*” has the meaning assigned in the Electronic Communications Act, 2013;
- h) “*network*” has the same meaning as ascribed by the Electronic Communications Act, 2013;
- i) “*services*” has the same meaning as ascribed by the Electronic Communications Act, 2013;
- j) “*vacancy/ies*” means a situation where an office of an individual performing key control functions or holding a key position becomes available within a licensee.

## **5. Application**

5.1. The Directive shall apply to all Individual Licence holders.

5.2. The Directive shall not affect the duty of any person to comply with any other provision of legal frameworks applicable in the regulation of the electronic communications, broadcasting and postal sectors.

## **6. Vetting process**

6.1. No person shall be employed or engaged in an executive position or function in the electronic communications sector in Eswatini unless the licence holder seeking to employ/engage that person has provided thirty (30) days’ written notice to the Commission of such contemplated appointment/engagement for vetting.

6.2. The notice referred to in 6.1 shall be made in the prescribed Form attached hereto.

6.3. The Commission may request further information if, in the Commission’s opinion, the furnished information is not sufficient or is incomplete.

- 6.4. Failure to timely submit required information, initial or subsequent, shall result in the disregarding of the application. In that event, the licensee shall relaunch the application. The maximum time allowed for such submission shall be 14 (fourteen) days from date of dispatch of the request for such information by the Commission.
- 6.5. The Commission shall, within thirty (30) days of receipt of required sufficient information from the applicant, render a Decision on the application, with reasons, delivered to the applicant.
- 6.6. The decision on the application shall be based on the following considerations:
- 6.6.1. Availability of the skill for the position being filled locally where the candidate is a non-local;
  - 6.6.2. Succession plan of the licensee for the position sought to be filled where the candidate is a non-local;
  - 6.6.3. Human resource development strategy of the licensee where the candidate is a non-local;
  - 6.6.4. The candidate's academic qualifications;
  - 6.6.5. The candidate's working experience; and
  - 6.6.6. The candidate's character.

## **7. Filling of vacant position**

### 7.1. Notice to the Commission

- 7.1.1. Licensees shall notify the Commission in writing of any vacant executive position or key function.
- 7.1.2. Written notice of such vacancy shall be done within thirty (30) calendar days of the position being vacant.

### 7.2. Filling of position

- 7.2.1. A licensee shall fill any vacant executive position or key function within one hundred and twenty (120) days from the date the position becomes vacant.

## **8. Fit and Proper Test**

- 8.1. The following criteria shall be met in order for the Commission to consider a person "fit and proper":
- 8.1.1. The licensee's governing body or Executive management has determined that the candidate has the necessary skills, experience and knowledge in electronic

communications, broadcasting and postal sectors;

- 8.1.2. The candidate does not serve in any capacity on another holder of an Individual Licence;
- 8.1.3. The candidate is not associated with any business practices or other conduct that cast doubt on the candidate's competence or sound judgement;
- 8.1.4. The candidate's employment record does not indicate any impropriety in handling the employer's business;
- 8.1.5. Neither the candidate, nor a body corporate, partnership or unincorporated institution with which the candidate is associated as a director or shareholder, has been found guilty of a serious offence by a government agency or other regulatory body or is guilty of repeated non-serious offences;
- 8.1.6. There is no evidence that either the candidate, body corporate or partnership with which the candidate is associated as a director or shareholder, has knowingly violated any law or committed gross negligence or intentional wrong in the course of the candidate's duties;
- 8.1.7. The candidate has not been;
  - 8.1.7.1. dismissed from any office or employment;
  - 8.1.7.2. found guilty by any disciplinary hearing of an offence involving integrity, breach of responsibility and/or honesty;
  - 8.1.7.3. barred from entry into any profession or occupation;
  - 8.1.7.4. declared insolvent and has not been rehabilitated;
  - 8.1.7.5. found mentally incompetent or incapacitated and has not been certified fully recovered from such infirmity;
- 8.1.8. There are no known considerations related to the service of the candidate including potential conflicts of interest which will, or are likely, to adversely affect;
  - 8.1.8.1. The applicant's ability to conduct its business;
  - 8.1.8.2. The public interest;
  - 8.1.8.3. The networks and/or services in the sector.

## **8 Review and amendment of the Directive**

The Commission shall review and amend this Directive from time to time.

---

**MVILAWEMPHI DLAMINI**  
CHIEF EXECUTIVE OFFICER



*If the space is insufficient, a separate sheet may be attached*

**STATEMENT BY THE APPLICANT**

1. Name of the Applicant

<b>Registered Name of Licensee</b>	
<b>Licence Number</b>	
<b>Type of licence</b>	

2. Name of candidate/s

<b>Name</b>	<b>Surname</b>	<b>Identity Number</b>

3. Office/Position or Vacancy to be filled

--

4. Job profile and responsibilities

--

5. Academic qualifications of the candidate/s and years of acquisition (attach certified copies of certificates)

<b>Name of Institution</b>	<b>Qualification Obtained</b>	<b>Year of Award of Qualification</b>

6. Working experience of the candidate/s in the past 10 years

<b>Name of Institution</b>	<b>Position held</b>	<b>Period Position held</b>

7. Does candidate hold any interest, directly or indirectly, in any entity that is licensed or has applied for licensing with the Commission? If so, give particulars

<b>Name of Institution</b>	<b>Nature and amount of interest held</b>	<b>Period interest held</b>

8. Has candidate applied for authorization by the Commission previously? If so, give particulars.

<b>Type of authorization applied for</b>	<b>Period of application</b>	<b>Status of authorization If authorization was refused, suspended or revoked, give particulars</b>

9. Candidate's personal details (Date of birth, nationality and method of acquisition, residential address, contact details, PIN)

<b>Date of Birth (Year/Month/Day)</b>	<b>Nationality and method of acquisition</b>	<b>Personal Identity Number</b>	<b>Residential Address</b>	<b>Contact Details</b>

10. Candidate/s' current occupation and for the past five (5) years, including the name of employers, nature of business, position held and relevant dates for each case

<b>Name of Employer</b>	<b>Nature of Business</b>	<b>Position Held</b>	<b>Period Position Held</b>

11. Any other offices held

<b>Name of Employer</b>	<b>Nature of Business</b>	<b>Position Held</b>	<b>Period Position Held</b>

12. Any direct or indirect interest held by the candidate in any other entity regulated by the Commission? If so, give particulars

<b>Name of Entity regulated by the Commission</b>	<b>Type of Interest</b>

13. Has the candidate, at any time, been convicted of a criminal offence? If yes, give particulars

--

14. Has the candidate/s been censured, disciplined or warned in Eswatini, or made subject of a court order at the instance of any regulator? If yes, give particulars

--

15. Has candidate or anybody corporate or partnership or institution with which the candidate/s is associated, been subject to investigation by a government agency or any regulator in Eswatini? If yes give particulars

--

16. Has the candidate/s been dismissed from any office or employment, or subject to disciplinary proceedings by an employer or barred from entry into any profession or occupation? If yes, give particulars

17. Has any institution or entity with which the candidate has been associated, by reason of any matter relating to a time when candidate was concerned, been censured or disciplined or a court order or regulatory finding been made against? If yes, give particulars

18. Has candidate, at any time, been convicted of any offence by a Court of law, either here in Eswatini or outside? If yes, give particulars

19. Has candidate been in connection with the formation or management of any body-corporate, partnership or unincorporated institution, been adjudged by a court in Eswatini or elsewhere, civilly liable for any fraud, misfeasance or other misconduct by you towards such a body or company or towards any members thereof? If so, give particulars.

20. In carrying out duties will the candidate be acting on the directions or instructions of any other individual or institution? If so, give particulars:

21. Does candidate, while acting in the capacity for which this form is filled, undertake to:

- Act in good faith towards the applicant and the sector at large;
- Avoid conflict between the candidate's own interests and those of the applicant and the sector at large?
- Place the interests of the sector above all?

**DECLARATION BY THE APPLICANT**

I, the undersigned .....

being (capacity)

.....,

confirm that I have carefully and diligently studied the information furnished in this statement and confirm that the information is correct in so far as the Applicant is concerned and, after discussion with the deponent....., and all other members of the Board, and after having taken into account any other information at my disposal or that has come to my attention, am of the opinion that the deponent ....., is fit and proper to take up office in this institution with effect from.....20...

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Company Stamp:

## DECLARATION BY CANDIDATE

*If more than one candidate, each signs own form*

I.....

hereby declare the following:

This statement consists of..... pages, each signed/initialled by me. The content of this declaration is true and correct to the best of my knowledge and belief. I am aware that should it be submitted as evidence and I know that there is some falsehood therein, I may be subjected to criminal prosecution.

I know and understand the content of this declaration. I have no objection to taking an oath, which I consider to be binding/ not binding to my conscience.

\_\_\_\_\_  
Deponent

**I certify that the above statement was taken by me and that the deponent has acknowledged the that he/she understands the contents thereof. This statement was sworn to/ affirmed before me and the deponent's signature placed thereon before me at \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_.**

\_\_\_\_\_  
Commissioner of Oaths