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LEGAL NOTICE NO. 127 OF 2016

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THE ELECTRONIC COMMUNICATIONS ACT, 2013

(Act No. 09 of 2013)

THE ELECTRONIC COMMUNICATIONS (CRYPTOGRAPHY) REGULATIONS, 2016

(Under Section 49)

In exercise of the powers conferred by Section 49 of the Electronic Communications Act, 2013, the Minister for Information, Communications and technology makes the following regulations –

Citation and Commencement

1. (1) These regulations may be cited as the Electronic Communications (Cryptography) regulations, 2016.
   (2) These regulations shall come into force on the date of publication in the gazette.

Interpretation

2. In these regulations, any word or expression to which a meaning has been assigned in the act shall have the meaning so assigned and, unless the context otherwise requires –

"Act" means the Electronic Communications Act, 2013;

"Certification practice statement" means a statement issued by a certification service provider to specify the practices that it employees in generating and issuing certificates;

"Certificate policy" means a named set of rules that indicates the applicability of a certificate to a particular community or class of applications or to both such community and class, as the case may be, with common security requirements;

"Certificate service provider" means an entity that issues identity certificates for the purposes of electronic signatures or provides other services to the public related to electronic signatures.

"Trusted personnel" means any persons who have directed duties or responsibilities for day to day operations, security or performance of those business activities relating to cryptography products or services or any part thereof that are regulated under the Act or these regulations;

"Cryptography" means the practice or study of reversible mathematical techniques used where data is stored and/or transmitted over a communication channel in an unintelligible form without any actual loss of data.

"Cryptography provider" means a licensed entity providing cryptography services.

Particulars to identify and locate a cryptography provider, or the products or services of a cryptography provider

3. An application for registration shall contain –
   (a) The following particulars to identify and locate the cryptography provider –
      (i) telephone and fax number, website and e-mail address;

(ii) the constitutive documents of the applicant which are, in the case of a legal person, certified copies of the Memorandum and Articles of Association, certificate of incorporation, founding statement, partnership agreement or trust deed, and in the case of a natural person, a certified copy of the person's identity document book or passport, as the case may be; and

(iii) detailed profiles of trusted personnel of the applicant that have supervisory or managerial responsibilities;

(b) the following particulars to identify and locate the cryptography provider's products or services –
   (i) the physical address where a cryptography product is or will be produced manufactured, created or distributed from;
   (ii) the physical address where cryptography service is or will be rendered, delivered, sold, made available or distributed from;
   (iii) the full details of cryptography operations outsourced;
   (iv) the name, address and contact details of any other cryptography provider that provides a cryptography service or product of the cryptography provider; and
   (v) if the cryptography provider is a certification service provider, the certification practice statement and certificate policy;

(c) the particulars required by sub regulations (a) of these regulation, to identify and, locate an entity to whom cryptography operations have been outsourced; and

(d particulars indicating whether the cryptography provider provides encrypted bugging and debugging equipment.

Manner of furnishing required information

4. (1) An application for registration in terms of the Act shall be made to the Commission or the official in the department designated by the Commission for that purpose, by completing and submitting the application form contained in the schedule together with the other information required in terms of the Act and these regulations, and shall be accompanied by the administrative fee determined in regulation 5.

    (2) A cryptography provider shall inform the Commission or the official in the department designated by the Commission for the purpose, of any changes in the information submitted or the application within thirty (30) days of such change.

Fees payable

5. (1) The administrative fee payable by a cryptography provider who registers with the Commission shall be as follows –

    (a) an application fee of E200.00 (two hundred Emalangeni); and

    (b) an annual administration fee of E200.00 (two hundred Emalangeni).

    (2) The administrative fees referred to in sub-regulation (1) shall be paid to the Commission and the applicant shall provide proof of payment.

(3) Save for the application fee that is payable upon application, the annual administrative fee shall be paid on or before 31st January of each year.

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SCHEDULE

(Under Regulation 4)

REGISTRATION AS CRYPTOGRAPHY PROVIDER

Where there is insufficient space for the recording of information, the rest of the information shall be marked as Annexure and annexed to the application form.

1. Full name of applicant: ………………………………………………………………………………………
2. Street address: …………………………………………………………………………………………..
3. Postal address including postal code: ……………………………………………………………………...
4. Telephone number including area code: …………………………………………………………………
5. Facsimile number: …………………………………………………………………………………………..
6. Cellular and telephone number: ..…………………………………………………….…………………..
7. Website and e-mail address: ………………………………………………………………….…………..
8. Detailed description of type of cryptography service or product: ………………………………..………
9. The constitutive documents of the applicant as published by the Commission: …………………………...
10. Detailed profiles of trusted personnel of the applicant that have supervisory or managerial responsibilities: …………………………………………………………………………………………………
11. Physical addresses where cryptography product is or will be produced, manufactured, created or distributed from: ……………………………………………………………………………………………
12. Physical addresses where cryptography service is or will be rendered, delivered, sold, made available or distributed from: ……………………………………………………………………………………………….
13. Full details of cryptography operations outsourced: ………………………………………………………
14. Name, address and contact details of any other cryptography provider that provides a cryptography service or product to the cryptography provider: …………………………………………………………..
15. Particulars in section of the Act and Regulation 2(a), to identify and locate an entity to whom cryptography operations have been outsourced: …………………………………………………………
16. Certificate practice statement and certificate policy if applicable: …………………………………………..
17. Whether the cryptography provider provides encrypted bugging and debugging equipment.

DUMISANI NDLANGAMANDLA

MINISTER FOR INFORMATION, COMMUNICATIONS AND TECHNOLOGY