

**LEGAL NOTICE NO. 126 OF 2016**

**THE SWAZILAND COMMUNICATIONS COMMISSION ACT, 2013**

(Act No. 10 of 2013)

**THE SWAZILAND COMMUNICATIONS COMMISSION (SUBSCRIBER REGISTRATION) REGULATIONS, 2016**

(Under Section 54)

In exercise of the powers conferred by Section 54 of The Swaziland Communications Commission Act, 2013, the Minister for Information, Communications and Technology makes the following Regulations –

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**PART I**

**PRELIMINARY PROVISIONS**

***Citation and commencement***

1. (1) These Regulations may be cited as the Swaziland Communications Commission (Subscriber Registration) Regulations, 2016

- (2) These Regulations shall come into force on the date of publication in the gazette.

**Interpretation**

2. In these Regulation, unless the context otherwise requires –

“Act” means The Swaziland Communications Commission Act No. 10 of 2013.

“activate” means to allow full access to the electronic communication system of the Licensee who provides a mobile cellular Electronic Communications Service, including the ability to make and receive calls, and to send and receive short message services; “activated”, “activation”, “deactivate” and “deactivation” shall be read and construed accordingly;

“Biometric Information” refers to the information on human characteristics, such as finger prints, voice and facial image, used to identify a Subscriber;

“Code-Division Multiple Access (CDMA)” means to a form of multiple access where several transmitters, each with a unique code, can send information simultaneously over as single communication, optimising the use of available band width.

“Central Database” means the central SIM cards database, containing the specific biometric and other registration information of all SIM card-based telephone Subscribers;

“Existing Subscriber” means a Subscriber on a Licensee’s electronic communication services system prior to the commencement date of these regulations’

“Foreign Licensee” refers to a telecommunication and/or Electronic Communications Service licensee by a telecommunications regulator other than the Commission, to provide Electronic Communications Service in a country other than Swaziland;

“Licensee” means any Electronic Communications Service licensee licensed by the Commission for the provision of Electronic Communications Services in Swaziland;

“Limited Access” means the limitation of services available to a licensee on a SIM Card to receive calls and short message services, and make calls to emergency centre numbers and the Licensee’s call centre only;

“International Mobile Equipment Identity – number (IMEI-number)” means a 15 or 17 digit code that uniquely identified mobile phone devices.

“Mobile Subscriber Integrated Service Digital Network number (MSISDN-number)” means the telephone number assigned to a SIM card in a mobile phone.

“New Subscriber” means a Subscriber who acquires a SIM Card or subscribes for the provision of Electronic Communications Service after the commencement of these Regulations;

“Personal Information” refers to the full names, gender, date of birth, residential address, nationality, occupation and such other personal information and contact details of a subscriber specified by the Commission in regulation 5.

“Security Agency” refers to the Royal Swaziland Police, the Umbutfo Swaziland Defence Force, Correctional Services and National Fire Emergency Services;

“SIM Card” means a Subscriber Identity Module smart and containing the telephone number of a subscriber, encoded network identification details, the personal identification number and other user data such as an address book provided by a Licensee for the provision of Electronic Communication Services. The SIM Card may be embedded in the phone, and not be a separate card, in the case of some technologies such as CDMA;

“Subscriber” means any person who subscribes for the provision of Electronic Communications Services either as a result of the purchase of a SIM Card or the conclusion of a contract for the provision of electronic communication service by a Licensee (including an employee of the Licensee or any person who receives or received such services as a gift, reward, favour, benefit or donation) and shall, where the context so admits, include both Existing Subscribers and New Subscribers.

“Subscriber Information” refers to the personal information of a subscriber which is recorded and stored in terms of Regulation 5;

“Subscriber Registration Period” means the six (6) month period from the effective date or such other date as the Commission may specify, within which an existing subscriber will be required to register pursuant to these Regulations.

## **PART II**

### **SCOPE AND OBJECTIVES**

#### ***Scope and objective***

3. These Regulations are made to provide a framework for the registration of all mobile subscribers in Swaziland and the protection of the subscriber information collected.

#### ***Application***

4. These Regulations apply to all electronic communications service licensees and all individual and corporate mobile subscribers in Swaziland but shall not extend to subscribers of Foreign Licensees, notwithstanding that the latter users are roaming on the network or a Licensee.

## **PART III**

### **SUBSCRIBER REGISTRATION**

#### ***Personal Information***

5. (1) A licensee shall, subject to sub-regulation (4), at its own cost implement a process to record and store, and shall record and store –
  - (a) the Mobile Subscriber Integrated Service Digital Network number (MSISDN-number) that is to be activated by an licensee at the request of a person contemplated in paragraphs (b) and (c);
  - (b) in the case of a person who –
    - (i) in a Swazi citizen or is lawfully and permanently resident in Swaziland, the full names and surname, identity number and at least one address of such person; or
    - (ii) is not a Swazi citizen or who is not permanently resident in Swaziland, the full names and surname, identity number and at least one address of such person in Swaziland, and the country where the passport was issued; or
  - (c) in the case of a juristic person –
    - (i) the full names, surname, identity number and an address of the authorised representative of the juristic person; and
    - (ii) the name and address of the juristic person and, where applicable, the registration number of the juristic person.

- (2) For the purpose of the sub regulation (1), a licensee shall verify –
  - (a) the full names, surname, identity number and identity of the person contemplated in sub regulation (1)(b) and (c) and, where applicable, the country where the passport was issued;
  - (b) the name and, where applicable, the registration number of the juristic person;
    - (i) in the case of a person contemplated in sub-regulation (1)(b)(i) and (c), the address; and
    - (ii) the authority of the representative of a juristic person.
  
- (3) A licensee shall verify any of the information contemplated in sub-regulation (1) by means of –
  - (a) an identification document issued by the Government of Swaziland;
  - (b) a registration document, founding statement, document issued by the Swaziland Revenue Authority or any other similar document;
  - (c) a bank statement, a municipal rates and taxes invoice, telephone or cellular phone account of not older than three months, or any other utility bill or an account of a retailer of not older than three months, or an existing lease, rental or credit sale agreement, insurance policy, a current television licence or a new motor vehicle licence document; or
  
  - (d) a signed letter of authority on appropriate letterhead or an affidavit in respect of the authority of the representative of the juristic person.
  
- (4) A licensee shall ensure that the facility in or on which the information is recorded and stored, are secure and accessible only to persons specifically designated by that licensee.

***Registration of New Subscribers***

6. (1) A licensee shall register personal information for new subscribers.
  - (2) Further to sub-regulation (1) a licensee is required to, at own cost, implement a process to capture and transmit personal information of new subscribers.
  - (3) A licensee shall, at the request of a new subscriber, capture and store –
    - (a) the identification number of any SIM card that is to be activated by a Licensee at the request of any new subscriber contemplated in paragraphs (b) and (c) below;
    - (b) the personal information of any new subscriber, other than a juristic person, who requests the activation of such SIM Card by the Licensee; and
    - (c) in the case of a corporate body or other juristic person, the personal information of the authorised representative of the corporate body or other juristic persons; and the name and address of the juristic person and, where applicable, the registration numbers of the juristic person.
  
  - (4) A person who contravenes the provisions of sub-regulation (2) and (3) or any provisions which may be stipulated from time to time by the Commission commits an offence and shall be liable to a fine not exceeding E1000 (one thousand Emalangeni) per Subscriber.

(5) There shall be no proxy registration of SIM cards and any persons registered pursuant to the foregoing sub-regulation (3) shall be liable for activities carried out on the SIM Card.

***Non-activation of New SIM Cards prior to registration***

7. (1) Subjects to sub-regulation (2) below, a licensee shall not activate a SIM Card on its electronic communications system unless the licensee has registered the new subscriber's details pursuant to sub-regulation 5.

(2) Notwithstanding the provisions of sub-regulation (1), a licensee shall not be required to register the details of a subscriber of a Foreign Licensee.

***Registration of Existing Subscribers***

8. (1) A licensee shall register personal information for existing subscribers within six (6) months of the coming into force of these regulations.

(2) A licensee shall promote and support the registration of existing subscribers and shall promptly, upon being notified by the Commission, deactivate any SIM Card where the subscriber has not been registered by the end of the Subscriber Registration Period.

***Non-compliance with activation and deactivation requirements***

9. A licensee who activates a SIM Card in contravention of regulation 7 or who fails to deactivate a SIM Card in accordance with these regulations commits an offence and shall be liable to a fine not exceeding one thousand Emalangen (E1000) per SIM Card or such other amount as may be prescribed by the Commission.

**PART IV**

**DATA PROTECTION AND CONFIDENTIALITY AND CONSUMER AWARENESS**

***Data Protection***

10. (1) A licensee shall, on its electronic communication system, record and store –

(a) personal information; and

(b) every MSISDN-number used with every IMEI-number; and

(c) every IMEI-number used with every MSISDN-number, which shall, on request, be provided to an authorised Security Agency within twelve (12) hours.

(2) Personal information shall be stored by a licensee for a period of five (5) years after –

(a) a customer has cancelled a contract with the licensee; or

(b) the licensee has ended the electronic communications service provided to the customer.

(3) A licensee shall take all reasonable precautions to preserve the integrity and prevent any corruption, loss or unauthorised disclosure of Subscriber Information retained and shall take steps to restrict unauthorised use of the Subscriber Information by its employees who may be involved in capture and/or processing of such Subscriber Information.

(4) A licensee shall not transfer subscriber information outside the Kingdom of Swaziland, except on instruction by an authorised Security Agency.

*Obligation to inform consumers*

11. A licensee shall, from the date of commencement of these Regulations, inform a customer of –
- (a) that customer's obligations in terms of these Regulations;
  - (b) the manner in which the obligations have to be complied with; and
  - (c) the consequences of non-compliance with these obligations.

**DUMISANI NDLANGAMANDLA**

MINISTER FOR INFORMATION, COMMUNICATION AND TECHNOLOGY