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(See Supplement of the Gazette)

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LEGAL NOTICE NO. 20 OF 2013**Lesotho Communications Authority (Licensing Classification and Fees)
Rules 2013**

Pursuant to section 5 of the Communications Act 2012¹ the Authority makes the following Rules –

Citation and commencement

1. These Rules may be cited as the Lesotho Communications Authority (Licensing Classification and Fees) Rules, 2013 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Rules, unless the context otherwise requires -

“annual fee” means an annual, recurrent fee that is charged to a licensee;

“application fee” means a once-off, non-refundable, and non-transferable fee that is meant to cover costs related to assessing and processing an application for any service offered by the Authority;

“Authority” means Lesotho Communications Authority;

“class licence” means a licence for which terms and conditions are generally not specific to the licence holder;

“exemptions” means services for which licences are not required;

“individual licence” means a licence that is specific to an operator, in relation to terms and conditions;

“individual numbers” means numbers on the national numbering plan, used for toll-free and for premium messaging service. They are allocated as single numbers, and not as block or ranges;

“initial fee” means a once-off non-refundable fee that is payable before a licence is issued, following a positive evaluation of the application;

“international interconnection” means peering or transit arrangements for exchanging traffic between entities in Lesotho and those abroad;

“licensed spectrum” means radio spectrum which must be allocated to users by the Authority;

“numbering block” means an allocation of 100,000 (one hundred thousand), 8-digit numbers which are based on the national numbering plan.

“numbering resources” means numbers allocated by the Authority to service providers for use in communications and as determined by the national numbering plan;

“other administrative charges” means fees for various administrative costs relating to the processing of licences;

“permits” means authorisation for entities to set up facilities and services for a period not exceeding 6 months. These are for testing or short-term activities or events, such as sports or meetings;

“primary licence” means a class or individual licence authorising the holder to provide services and/or infrastructure, or in the case of private networks, to self-provide infrastructure and services;

“public networks” means any network, operated on the basis of a licence issued by the Authority to provide services to third parties on a commercial basis;

“radio licence fees” means fees charged for the use of licensed radio spectrum bands. Fees are payable in advance;

“royalty fee” means a fee charged annually based on the Net Operating Income (NOI) of a licensee meant to cover on-going costs of regulation;

“type approval” means a process to ascertain that a product meets a minimum set of regulatory, technical and safety requirements. Type approval is required before a communications product is allowed to be sold or installed;

“unified licence” means a category of licence that authorises an operator to provide electronic communication services without restrictions; and

“universal service” means provision and availability of essential information and communications technologies (ICT) services to all sections of society as determined by the Authority and/or Universal Service Fund Committee.

Payment of licensing fees

3. (1) The licensing classification and fees are set out in the Schedule.
- (2) The fees are payable annually with the exception of –
- (a) the application fee; and
 - (b) the initial licence fee.
- (3) The licence fees shall be payable-
- (a) on the date as the Authority may decide; or
 - (b) in accordance with the payment schedule as may be agreed between the Authority and the licensee.

Penalties

4. Where a licensee fails to pay required licensing fees as set out in these Rules, the penalties as shown in the Schedule shall apply.

Repeal

5. The Lesotho Communications Authority (Licensing Fees) Rules, 2008² are repealed.

MONEHELA POSHOLI
CHIEF EXECUTIVE OFFICER

¹ Act No. 4 of 2012

² Legal Notice No. 7 of 2008

FIRST SCHEDULE

Licence Classification Details

(i) Content (broadcasting)

This is a service consisting of the delivery of scheduled programming content to the public in line with the broadcasting rules and other relevant laws and regulations. This authorization is for television and audio broadcast services originating in Lesotho, and broadcast over terrestrial radio. A licensee is eligible for one or more frequencies to enable broadcasting over air. The classification of broadcasting licences is defined in the Communications Act No. 4 of 2012.

A holder of this licence may choose to lease all facilities needed for transmission, or self-provide parts or all facilities for transmission. If they self-provide, they may not lease facilities out to other players, though they may enter into infrastructure sharing agreements with third-parties that hold network infrastructure licence. The licence holder shall obtain applicable radio spectrum licences required for all transmitting stations.

A Network Infrastructure licence is required in order to lease out facilities to third parties.

(ii) Applications

These are electronic value added services provided by entities based in Lesotho. Services in this category do not require licensing unless the service provider chooses to have their own numbering resources to deliver services, such as in the case of premium rate message services (PRMS). In that case, they need to obtain a class licence and apply for the numbers. This category does not qualify for licensed radio spectrum, and numbering blocks. Examples of services falling under this category are: premium rate messaging services, resale ISP.

(iii) Network Services

Service providers in this category are authorized to own and operate facilities for the purpose of providing electronic communication services to end-users. They may own infrastructure facilities or lease parts or all of their facilities from network infrastructure service providers. They may also arrange interconnection with foreign correspondents.

Subject to authorization by the relevant authorities, service providers may build their own cable infrastructure or transmission facilities. In case of need for radio spectrum resources for deploying infrastructure such as VSAT, terrestrial access and links, they shall obtain appropriate licences for these resources. The same applies to numbering resources.

Examples of service providers in this category are ISPs who self-provision, and value added service providers such as mobile virtual network operators that wish to own subscriber telephone numbers. Licensees in this category are not authorised to provide content broadcasting services over radio frequencies (FM/AM/SW).

(iv) Network Infrastructure (facilities)

This category focuses on wholesale leasing of transport and access infrastructure to service providers who do not wish to or are not licensed to set up their own facilities. Examples of services a licensee in this category could provide are: a service neutral open access network, and broadcasting signal distribution, VSAT stations for servicing clients requiring such services.

Subject to authorisation from relevant authority, they may build cable and wire-less infrastructure throughout the country. They may also interconnect with entities in foreign territories for the purpose of facilitating the exchange of traffic between own network and those of foreign parties.

(v) Unified licence

- (1) This is a full service licence that consists of fixed and mobile services, and data licence authorizes the holder to provide all forms of electronic communications networks and services, including voice and data services.
- (2) The initial fee covers a licence for:
 - (a) The provision of services defined under the network infrastructure and networks services licence categories; and
 - (c) Numbering resources.

- (3) Additional numbering resources shall be applied for separately.
- (4) The radio spectrum shall be applied for separately, and only after a primary licence has been obtained.

(vi) Radio Spectrum

This applies to radio spectrum which is subject to licensing in line with the LCA Spectrum Policy. Spectrum users must hold appropriate licences. Landing rights are categorised under radio spectrum, even though no assignments are made.

Radio frequency spectrum licences are issued to users of radio frequency spectrum, and the sub-categories of licence are described below:

a) Land mobile services

This is a mobile service between base station and land mobile station, or between land mobile stations. Cross border licence refers to permission given to radio operators in this category to operate beyond the borders of Lesotho. High Frequency (HF) communication licences are issued for truckers travelling in the SADC region. Examples of land mobile infrastructure / devices are:

- (a) Mobile two-way radio stations;
- (b) Repeater/base stations;
- (c) Alarm systems; and
- (d) Paging systems.

A primary licence (such as class or individual licence) is not required for an applicant to obtain a licence(s) for radio spectrum in this category.

b) Satellite Services

Fixed satellite services

These are radiocommunication services between earth stations at given positions, when one or more satellites are used. Very Small Aperture Terminals (VSATs) are licensed under this category for private and commercial use. Each VSAT station must be licenced before it can be operated. A VSAT licence shall be issued only to a holder of an applicable primary licence.

Non-transmitting devices for non-commercial use are licence exempt. Examples are satellite receivers used in homes and businesses. Other uses are subject to landing rights which must be procured by the provider of the service. An example is commercial pay-TV. The service operator is required to obtain landing rights from the Authority.

c) Radiodetermination/Aeronautical Services

The determination of the position, velocity and/or other characteristics of an object, or the obtaining of information relating to these parameters, by means of propagation properties of radio waves.

d) Fixed Links

These are radio licences for fixed terrestrial applications. The services involve transmission of radio signals between fixed points. They can be point-to-point or point-to-multi-point. The spectrum is charged in Mega Hertz (MHz).

e) Access Spectrum

Access spectrum is licensed to public service providers for providing services to customers (end-users such as mobile and fixed-mobile customers). It is charged in MHz.

f) Fixed Links for Broadband Access

This is spectrum aimed at providing high capacity links for trunking, and is charged per hop. It is aimed at enabling the provision of broadband services by providing trunking speed similar to those provided by fibre networks.

g) Telemetry/Telecommand

Telemetry is a technology that allows remote measurement and delivery of remote information. A primary licence is not required for an applicant to obtain a licence for radio spectrum in this category.

h) Broadcasting Services

Radio spectrum for broadcasting services is available to holders of individual licences designated for Content service provision. Licensees have to apply sepa-

rately for radio frequencies as these are not included in the primary licences.

i) Amateur Radio

A primary licence (such as class or individual licence) is not required for an applicant to obtain a licence(s) for radio spectrum in this category.

(j) Numbering Resources

These are numbers that identify communicating hosts, and to enable interconnection between networks. These numbers are allocated by the Authority, and must be used according to the national numbering plan. Internet number resources and domain names are excluded, as the responsibility for their allocation lies with other bodies.

Numbers are classified as “number blocks” and “individual numbers”. Number blocks are for use by network operators for allocation to subscribers, while the individual numbers are for short codes and toll-free numbers.

(k) Private Network

A private network is a network that is for exclusive use by the entity deploying it. It is subject to prohibition against resale of services or infrastructure to third-parties. A private network licence is precluded from numbering blocks. Spectrum may be allocated for the establishment of radio links.

Annual fees shall be determined on a case by case basis.

(l) Permits (for short-term activities)

Permits are issued to an applicant to carry out activities that require licensing for a short duration not exceeding 6 months. The applicant must pay an application fee as well as a prorated fee for the specific service for which a permit is required. Permits are not renewable.

(m) Licence Exemptions

Licence exemptions apply to all communications services which have been delisted or are not indicated as requiring licensing in these Rules. Generally, these are resale services that do not require the allocation of regulated resources such as numbers and spectrum, and/or rights of way for cables or transmission towers on public spaces or third party property.

SECOND SCHEDULE

A. Licence Classification

Table 1– Categories in line with the convergence model

Licence Category	Type of Authorisation	Authorisation tenure
Content (radio and television)	Individual licence	10 years
Applications (only those using numbering resources)	Class licence	1 year
Network Services	Individual Licence	15 years
Network Infrastructure (facilities)	Individual Licence	20 years
Unified licence	Individual Licence	20 years
Private Networks	Individual Licence	1 year
Short-term activities	Permits	Up to 90 days

Table 2 – Resources

Licence Category	Type of Authorisation	Authorisation tenure
Radio Spectrum	Class Licence	1 year
Numbering Resources	Class License	1 year

Licence Exemptions

Licences are not required for the provision of services, unless any of the following conditions apply:

- (a) the service provider wishes to be allocated numbering resources to provide services;
- (b) the service provider (or private entity) requires radio spectrum resources that require licensing; or
- (c) the service provider (or private entity) requires rights of way to deploy network infrastructure.

B. Regulatory Fees

Table 1: Individual Licences

Category	Authorisation tenure	Application Fee (Maloti)	Initial Fee (Maloti)	Annual Fee (Maloti)	Royalty Fee (NOI %)
Network Services	15 years	50 000	140 000	-	3.5
Network Infrastructure	20 years	50 000	140 000	-	3.5
Unified Licence	20 years	50 000	5,000,000	-	3.5
Content					
<i>(Broadcasting)</i>					
<i>Sound</i>					
Commercial	10 years	10 000	20 000	11 300	
Community	10 years	8 800	10 000	2 000	-
Private	10 years	10 000	15 000	10 000	-
Public	10 years	10 000	25 000	15 000	-
<i>Television</i>					
Commercial	10 years	15 000	34 000	15 000	
Community	10 years	8 800	10 000	2 000	-
Private	10 years	15 000	20 000	12 000	-
Public	10 years	20 000	40 000	20 000	-
Private Network	1 year	10,000	-	Per evaluation	-

Table 2: Class Licences – Applications and Numbers

Authorization Type	Application Fee (Maloti)	Annual Fee (Maloti)
Applications (Value added services)	2 000	1 300
Individual Numbers for PRMS*	1 300	250
Individual Number (Emergency Services) (e.g. fire department, child-helpline, police, public ambulance)	-	-
Individual Numbers (Toll-free numbers and premium rate telephony services)	1 300	1 000
Numbering Resources (block of 100,000 numbers)**	2 000	32 000

*: The annual fee is for each number in the database. Each application can be for up to 10 numbers. Beyond 10 numbers, the applicant has to submit a second application for a new batch of up to 10 numbers.

**: Licensees may choose to acquire numbering resource and hold them for the duration of their primary licences or renew their holding annually. For long-term holdings, the annual fee is prorated over the period indicated in the application.

Table 3: Class Licences - Radio Spectrum

	Type of Service	Application (Maloti)	Annual Fees (Maloti)
3.1	Land Mobile Services (Non-Cellular)		
3.1.1	Mobile Two-way Radio Stations (National)		
3.1.1.1	Network of up to 10 radios	1 300	1 700
3.1.1.2	Network of 11-30 radios	1 300	3 400
3.1.1.3	Network of 31-50 radios	1 300	6 800
3.1.1.4	Network of 51-100 radios	1 300	10 200
3.1.1.5	Network of above 100 radios	1 300	17 000
3.1.2	Mobile Two-way Radio Stations (Cross Border)		
3.1.2.1	Network of up to 10 radios	1 300	2 800
3.1.2.2	Network of 11-30 radios	1 300	4 500
3.1.2.3	Network of 31-50 radios	1 300	7 900
3.1.2.4	Network of 51-100 radios	1 300	11 300
3.1.2.5	Network of above 100 radios	1 300	18 100
3.1.3	Alarm System including base station with remote stations	1 300	5 700
3.1.4	Paging Systems	1 300	300
3.1.5	Emergency services as per ITU recommendation	-	Exempted

3.2 Satellite Services

3.2.1	Earth station/VSAT- Transit/Receive (per MHz)	2 000	1 600
3.2.2	Amateur	2 000	1 400
3.2.3	Terminal for radio determination services	2 000	1 400
3.2.4	Landing Rights		
3.2.4.1	Broadcasting	2 000	250 000
3.2.4.2	Other	2 000	11 300

3.3 Radio-Determination/Aeronautical Services

3.3.1	Aeronautical Stations (per airport)	700	3 400
3.3.2	Aircraft licence (per aircraft)	700	800
3.3.3	Radio operators certificate	-	-
3.3.4	Aeronautical Earth Station	700	1 100
3.3.5	Radio location stations e.g. radar	700	650
			-

3.4 Fixed Links (Per MHz)

3.4.1	Point-to-point link	1 300	1 400
3.4.2	Point-to-multi point link	1 300	2 000

(Per MHz)

3.5 Fixed Links for Broadband Access 400

(Per MHz)

3.6 Radio Access Networks 10 000 11 300

3.7	Telemetry/Tele-command: e.g. Radio equipment for measuring seismic movements	1 100	3 400
3.8	Sound Broadcasting Services		(Per MHz)
3.8.1	MF-AM	1 100	1 000
3.8.2	HF-AM	1 100	1 000
3.8.3	VHF-FM		
3.8.4.1	Up to 500 W	1 100	1 000
3.8.4.2	Above 500 W	1 100	2 000
3.9	Television Broadcasting Services		
3.9.1	VHF	1 300	1 000
3.9.2	UHF operating with an effective isotropic radiated power (e.i.r.p) of:		
3.9.2.1	up to 1kW	1 100	1 000
3.9.2.2	Above 1kW	1 100	2 300
			Per call sign
3.10	Amateur Radio (terrestrial)	250	-

Table 4: Short Term Activities (Permits)

	Application (Maloti)	Permit Fees (Maloti)
Content	2 000	-
Facilities	2 000	-
Spectrum	1 300	Applicable spectrum fees prorated
Individual numbers (Toll-free, PRMS)	650	Applicable fees prorated
Individual numbers (Emergency)	-	-

Table 5: Other Administrative Charges

	Service	Fee (Maloti)
5.1	Short-term activities application Processed within 5 days	1 000
5.2	Printing	
	Printed Material (per page)	5
	Licence Certificate (reprint)	60
5.4	Licence Amendment (requested by a licensee)	
	Individual licence: Unified, Infrastructure, Network Services *	15 000
	Individual Licence: Content*	3 000
	Private Network licence	3 000
	Class Licence	2 000

5.5 Penalties**5.5.1** Non-Payment of regulatory fees

1-3 Months	10% of outstanding amount
Above 3 month, up to 6 months	25% of outstanding amount
Above 6 month, up to 12 months	50% of outstanding amount
Above 12 month, up to 24 months	75% of outstanding amount
Above 24 Months	Automatic expiration

As stipulated in the
Communications Act, 2012,
and/or licence conditions /
General Authorizations

5.5.2 Other Penalties

5.6	Site survey	1 200
5.7	Registration of transmitting equipment	-
5.8	Type-approval (per item)	1 300

** In the case of a merger of two or more licences, the application for licence amendment is treated as if it is one licence that is being amended.*

C. Universal Service Obligation

Licensees in the following categories are required to pay a universal service charge in line with the Communications Act, 2012:

- (i) Network Services;

- (ii) Network Infrastructure; and
- (iii) Unified Licence.

D. Transition

(i) Class C ISPs

An ISP that deals only in resale, and has no access spectrum (in the form of radio spectrum as this was allowed in the old regime), will no longer be required to register. Instead they will be subject to general rules, which will be published in the gazette. Their terms and conditions of service will be contained in the gazette.

Current Class C ISPs registrations have a tenure of 12 months. Class C ISPs that have access infrastructure will have a choice to upgrade to any of the relevant converged licence categories (Communications Network Services, Communications Network Infrastructure, or Unified Licence) within a period of 24 months from the date when these rules come into operation. They will not qualify for spectrum licences unless they upgrade to the converged licence regime. Hence, when their spectrum licences expire, they will be renewed two times. After that, renewals will no longer be allowed.

(ii) Broadcasting (TV and Audio)

The Content licence to be issued does not include infrastructure and spectrum. The new licensing regime requires the separation of infrastructure and content services. However, for lack of development in the infrastructure market, content providers have had to self-provide to some extent. Existing operators will continue with the current practice that allows broadcasters to self-provide transmission infrastructure.

Any broadcaster providing transmission services for others must hold the appropriate infrastructure licence. They will be subject to price and competition regulation for the transmission services.

(iii) Mobile / Fixed Voice and Data

Under converged licensing, a distinction will no longer be made between voice and data, mobile and fixed. Technology specific licences such as those for fixed and mobile will no longer be issued.

Existing operators will be encouraged to convert to the proposed regime or they shall migrate upon renewal of licences. Conversion shall not attract any fees, but licence periods will remain unchanged. The mobile and fixed network operators will be converted to unified licences. Their numbering resource allocation will not be affected by the conversion, so that the conversion does not leave them worse off. This will come up for review when their licence periods expire and fall due for renewal.

(iv) New Entrants

New entrants will be issued with converged licences as per the classification in these Rules.

(v) Radio Spectrum

Radio spectrum licensing will continue to be issued based on the Radio Spectrum Policy.

(vi) Numbers on the National Numbering Plan

Currently, numbers are bundled with mobile and fixed network licences. In the proposed regime, a primary licence will be required before numbers are allocated.

(vii) International Interconnection

Holders of infrastructure licences, unified licences, and network service providers may arrange interconnection with foreign entities. There will not be a special licence for what has been termed “international gateway”.