

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 80 OF 2015

The Information and Communications Technologies Act, 2009
(Act No. 15 of 2009)

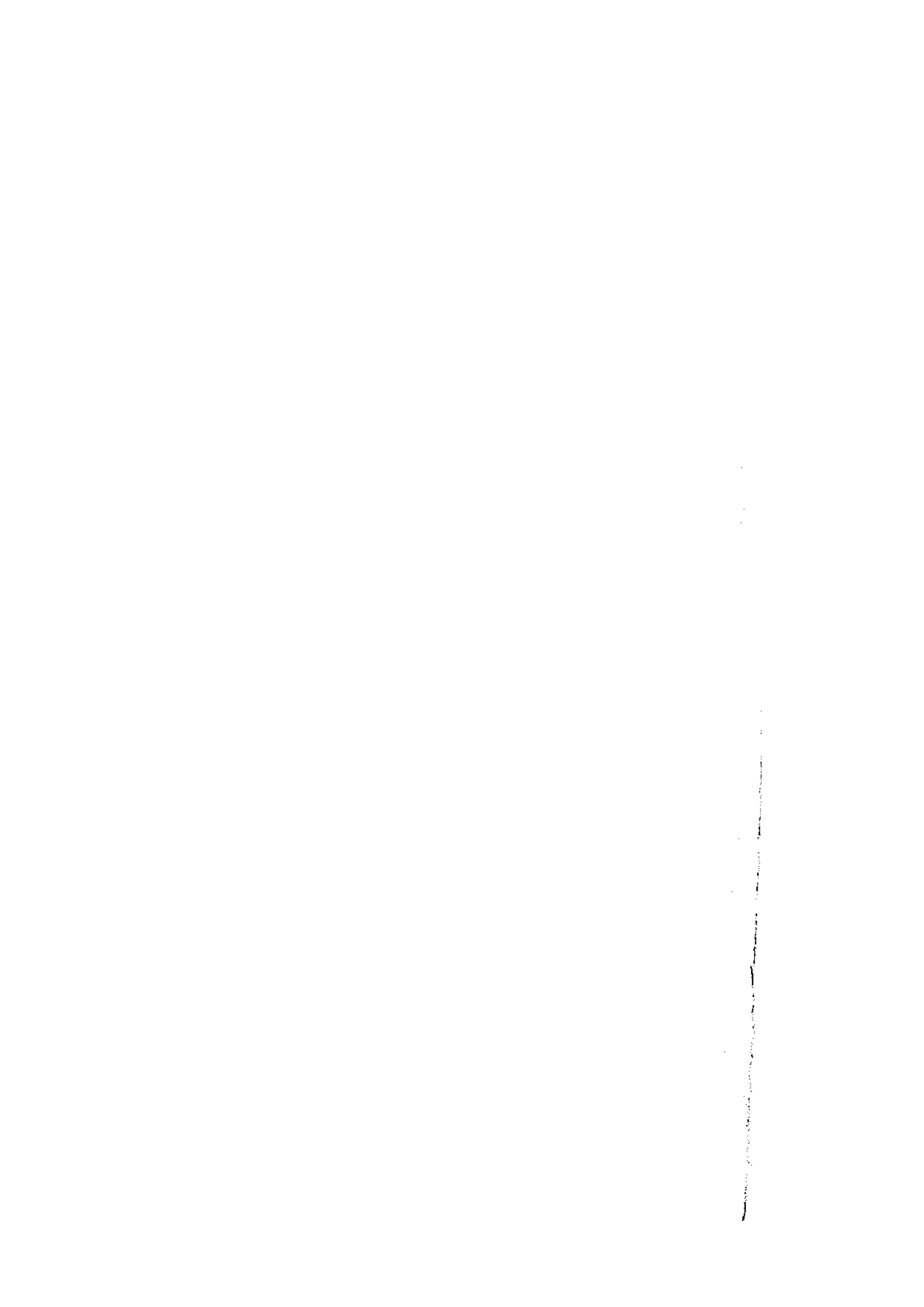
The Information and Communications Technologies
(Telecommunication Traffic Monitoring)
Regulations, 2015

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SCHEDULE



IN EXERCISE of the powers contained in sections *six* and *ninety-one* of the Information and Communications Technologies Act, 2009, the following Regulations are made:

1. These Regulations may be cited as the Information and Communications Technologies (Telecommunication Traffic Monitoring) Regulations, 2015. Title

2. In these Regulations, unless the context otherwise requires— Interpretation

“ call detail record ” means a detailed call history or log of a consumer obtained from the telephone switch or exchange system for a specified period;

“ calling line identification presentation ” means a supplementary service offered to the called party that provides the calling party’s Integrated Services Digital Network (ISDN) number, with sub-address information, to the called party;

“ fraudulent traffic ” means telecommunication traffic associated with instances where—

(a) the telecommunication facilities or services are used—

(i) with the intention of avoiding payment;

(ii) without correct payment;

(iii) with no payment at all;

(iv) by making someone else pay; or

(v) by using a wrongful or deceptive means of obtaining a financial or personal gain from the use of those facilities or services;

(b) it is managed by a person without a licence or authorisation issued by the Authority for the management of international telecommunications traffic;

(c) it is managed by a licensee, but not accounted for to the Authority;

(d) it is managed by a licensee, but charged at a rate below the minimum rate prescribed in the Schedule; and

(e) it is unlawfully trafficked by third parties or carriers that get terminated in Zambia where a network licensee is unable to bill or collect payment.

- “ gateway ” means a switching system through which telecommunications traffic is sent and received with provision for allowing physical monitoring of traffic flow;
- “ ICT ” means information communication technology;
- “ licensee ” has the meaning assigned to it in the Act;
- “ market watch services ” means a business intelligence that looks into emerging key market and technology trends affecting ICT infrastructure and network computing technologies in the market place;
- “ monitoring ” means observing and keeping records of telecommunication traffic signalling for the purpose of—
- (a) ensuring compliance with quality of service standards specified and published by the Authority in accordance with section *sixty-seven* of the Act;
 - (b) deleting fraudulent traffic; and
 - (c) revenue assurance;
- “ monitoring system ” means a telecommunication traffic monitoring system installed and maintained by the Authority in accordance with regulation 4;
- “ Network Operation Centre ” means a location from which the Authority or its appointed agent can exercise network monitoring and control, or network management of a licensee’s network;
- “ telecommunication ” means that part of an electronic communication that involves the transmission, emission or reception of signs, signals, writing, images, sounds, data or a combination of them, by wire, radio, optical or other electromagnetic systems;
- “ telecommunication network ” means a system for providing telecommunication services among a number of locations through equipment;
- “ telecommunication traffic ” means a profile of signs, signals, writing, images and sounds, data or intelligence of any nature flowing within a telecommunication network; and
- “ SIM ” means Subscriber Identity Module.

Monitoring
system

3. (1) The Authority shall establish, install and maintain a telecommunication traffic monitoring system which shall ensure quality of service provision and assist in compliance with the Act, the guidelines and the terms and conditions of licences issued by the Authority.

(2) The Authority shall, in implementing its function under subregulation (1)—

- (a) require licensees to interconnect their networks to the monitoring system to enable real time data submission for the purpose of monitoring compliance;
- (b) ensure that, in implementing the monitoring system, licensees comply with applicable interconnection standards;
- (c) require the licensees to electronically submit periodic reports, statistics, data and other information necessary for the setting up and operation of the monitoring equipment;
- (d) establish—
 - (i) appropriate interface points for the monitoring system; and
 - (ii) appropriate links between a licensee's network and the monitoring system;
- (e) ensure interoperability of the monitoring system with the licensee's equipment;
- (f) verify the returns of operations;
- (g) establish procedures for billing and settlement; and
- (h) ensure and enhance telecommunication traffic revenue assurance and market watch services.

(3) Subject to these Regulations, the Authority shall bear the cost of ensuring interoperability where the monitoring system is not interoperable with the licensees' networks.

(4) The Authority, or an employee of the Authority, shall not disclose any information received or obtained during the exercise of any power or performance of any function under these Regulations, unless required or permitted to do so under a written law.

4. (1) The functions of the monitoring system are to—

- (a) monitor the quality of service;
- (b) generate reliable statistics for both local and international telecommunication traffic;
- (c) provide terminal identification details;
- (d) provide profiles on fraudulent SIM cards;

Functions of
monitoring
system and
monitoring
process

REV
Amendment

- (e) track and detect fraud through an anti-fraud system and services within the telecommunications network and cause by-pass fraud to be blocked; and
- (f) detect new mobile devices or other technology that connect onto a licensee's network in Zambia;
- (2) The Authority shall monitor—
- (a) the monthly trend of telecommunication traffic in Zambia; and
- (b) the parameters relating to quality of service as contained in guidelines issued by the Authority in accordance with subsection (1) of section *sixty-seven* and fraud detection by licensees.
- (3) The Authority shall collect any information from a licensee that is necessary to ascertain the quality of service and volume of traffic carried over to the licensee's network.
- (4) A licensee shall, to facilitate the monitoring of telecommunication traffic by the Authority—
- (a) allow the Authority, or a person acting on behalf of the Authority, to install and maintain necessary equipment in, on, upon or under the licensee's network;
- (b) provide the required support and space for the installation of the monitoring system on the licensee's premises; and
- (c) facilitate the installation of data transmission equipment between the monitoring system installed at its switch centres and the Network Operating Centre.
- (5) The Authority shall ensure that—
- (a) call detail records data are collected for the purpose of monitoring compliance with these Regulations;
- (b) call detail records data are collected, encrypted and stored with the last three digits of the calling numbers hashed in a manner that protects the confidentiality of the caller; and
- (c) the call detail records collected are not transmitted or given to any third party, except as permitted by law.

Provision of
information
by licensee

5. (1) A licensee shall cooperate with the Authority by collecting, submitting and recording data, in real time, associated with specified telecommunication through applicable technical means and compliance with the guidelines and directives issued by the Authority.

(2) Notwithstanding the generality of subregulation (1), a licensee shall—

- (a) maintain information in a manner that enables the Authority to carry out its functions under these Regulations;
- (b) interface with the monitoring system at interface points identified by the Authority within the time specified by the Authority;
- (c) furnish the Authority with information and data of its network in a manner and format requested by the Authority;
- (d) permit the Authority, or a person authorised by the Authority, to access its information, facilities or equipment, at a reasonable time or whenever an emergency occurs, for the purpose of verifying compliance with these Regulations;
- (e) submit to the Authority any data or information requested for purposes of these Regulations within seven days of receipt of the request; and
- (f) ensure that the data necessary for monitoring purposes is submitted electronically in a format determined by the Authority.

(3) A licensee shall, where required to do so by the Authority, provide the Authority with the following information:

- (a) the call detail records, in a format specified by the Authority for—
 - (i) domestic telecommunication traffic; and
 - (ii) international inbound telecommunication traffic, including transit and roaming telecommunication traffic;
- (b) statements by international carriers or operators for the telecommunication traffic terminating in Zambia or invoices sent to international carriers or operators;
- (c) the number of minutes and revenue for telecommunication traffic terminating with each international carrier who has contracted the termination service with the licensee; and

(d) any other information relating to the management of the licensee's network for the provision of telecommunication services, including network signalling data links, recorded telecommunication traffic, contracts and invoices with international carriers and other licensees.

(4) A licensee who, without reasonable cause, fails to submit data or information within the time frames specified by the Authority commits an offence and is liable, upon conviction, to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a period not exceeding two years, or to both.

Collecting
of revenue
generated

6. (1) A licensee shall charge the rate for international incoming telecommunication traffic as prescribed in the Schedule.

(2) The revenue collected from international incoming telecommunication traffic shall be distributed in the manner prescribed in the Schedule.

(3) The Authority may collect any revenue on international telecommunication traffic of a licensee originating from a country with which Zambia has a bilateral agreement governing telecommunication traffic rates between Zambia and that country.

(4) A licensee shall settle an invoice in full and payment shall be made to the Authority within thirty days from the date of the invoice issued by the Authority.

(5) A licensee that has a query relating to an invoice issued by the Authority shall communicate it to the Authority within two working days from the date of the invoice, and the Authority shall address the query within seven working days of receipt of the query, except that the query is not a ground for withholding the payment of the invoiced amount.

Detecting
and handling
fraudulent
telecommu-
nication
traffic

7. (1) The Authority shall provide the necessary regulatory surveillance for detecting and handling fraudulent telecommunication traffic.

(2) Subject to subregulation (1), the Authority shall, where there is fraudulent trafficking by a licensee, order the licensee to do any of the following:

- (a) effectively carry out or comply with fraud surveillance obligations;
- (b) disclose a fraud user SIM;
- (c) deactivate a fraud user SIM;

- (d) provide for detailed reporting on a fraud user SIM;
- (e) share any other fraud information; and
- (f) report any fraud or related criminal activity to a law enforcement agency for further action.

(3) The delivery and termination of incoming telecommunication traffic by a licensee shall be limited to the routing of calls to its customers or another licensee's customers with whom it has an interconnection agreement for the provision of transit and roaming services for incoming telecommunication traffic.

(4) An end user may, in writing, dispute a bill where the end user disputes the origination of calls from a telephone line for which the end user is responsible.

(5) The Authority may, where an end user disputes a bill, make a determination whether an end user is entitled to refuse a bill, within twenty-four hours of the dispute.

8. (1) A licensee shall permit the Authority or a person authorised by the Authority to—

Survey and
inspection

- (a) conduct a site survey in order to facilitate installation of the monitoring system; and
- (b) conduct site inspection in order to ensure compliance with these Regulations.

(2) A site inspection conducted in accordance with subregulation (1) shall be done with, or in the presence of, the licensee or the licensee's authorised representative.

9. (1) A licensee shall keep signalling data necessary for the management of telecommunications.

Signalling
data

(2) A licensee shall notify the Authority before making any upgrade or change to the licensee's signalling system by giving detailed timelines that may affect the proper functioning of the monitoring system.

(3) For purposes of this regulation, "signalling data" includes origin, destination, service information, time and path of the communication.

10. (1) A licensee shall—

Charging
rates

- (a) impose a higher premium tariff or block on all international inbound traffic without proper calling line identification presentation in order to encourage international carriers to comply with the International Telecommunications Union calling line identification presentation recommendations and standards;

(b) apply the minimum rate per minute as specified in the Schedule for termination of telecommunication traffic in Zambia;

(c) not charge a lesser rate than that specified in the Schedule; and

(d) not charge its customers a higher fee for its service due to its application of the minimum rate specified in the Schedule.

(2) A licensee that contravenes paragraph (d) of subregulation (1) commits an offence and is liable upon conviction to a fine not exceeding twenty-five penalty units for each day the contravention continues.

Installation
of devices
and safety

11. (1) Where a device is installed on a licensee's network, the licensee shall exercise due care on the safety of the device.

(2) Where a device that is installed on a licensee's network is interfered with, destroyed or damaged by a licensee, the licensee is liable to pay—

(a) for the cost of replacement of the interfered with, destroyed or damaged device; and

(b) the amount payable to the Authority as specified in the Schedule based on the previous highest returns, plus ten percent of the previous highest returns during the period the device remains tampered with, destroyed or damaged.

(3) The Authority shall, where a device is destroyed or damaged by an act of God or natural calamity, take responsibility for the destruction or damage.

Interference
of networks

12. (1) There shall be a transmission link between a licensee and the Network Operation Centre that shall be managed and operated by the Authority or a person authorised by the Authority.

(2) Subject to subregulation (1), where there is interference to the Network Operation Centre, concerned parties shall take, in good faith, reasonable measures to resolve the problem promptly.

Physical
access to
colocation
space and
inspection

13. (1) The Authority shall determine the procedures regarding the physical access to the colocation space and the inspection of the colocation space and equipment by the Authority, representatives or staff of the Authority.

(2) Where there is any direct damage to the co location plant, network equipment or facilities, arising out of, or during the course of, installation, operation, maintenance, replacement or repair of the colocated facility or network in the premises of an operator, the damage shall be reported to the Authority, its representative or staff and the network equipment or facility shall be, subject to any agreement, rectified by the Authority without delay.

14. (1) The Authority or its representative shall be responsible for the operation and maintenance of its colocation equipment.

Operation or
maintenance
of colocation
equipment

(2) The Authority and licensees shall ensure that their staff observe and comply with applicable or specified safety rules and standards for the purposes of the link.

15. A person aggrieved with the decision of the Authority under these Regulations may appeal to the Tribunal in accordance with the Act.

Appeal
Act No.
of 2009

16. A person who contravenes a provision of these Regulations for which no penalty is provided commits an offence and is liable, upon conviction, to a fine not exceeding two thousand five hundred penalty units and in the case of a continuing offence, to an additional penalty of twenty-five penalty units for each day that offence continues.

General
penalty

SCHEDULE

(Regulation 5)

| <i>Item</i> | <i>Rate per Minutes (US Cent)</i> | <i>Percentage Rate</i> |
|---|---|----------------------------|
| 1. Rate for international incoming telecommunication traffic | 20 | 100 |
| 2. The operators' share of per minute of incoming call | 11 | 55 |
| 3. Revenue to be collected by ZICTA and payable to the Treasury | 3 | 20 15 |
| 4. Service fees <i>fees</i> | 6 | 25 30 |

LUSAKA
27th October, 2015
[MTWSC.104/8/14]

K. SIMBAO,
*Minister of Transport and
Communication*