

**ZAMBIA INFORMATION AND COMMUNICATIONS TECHNOLOGY  
AUTHORITY**

**LICENCE EXEMPTION GUIDELINES**

**(Sections 7)**

*The Zambia Information and Communications Technology Authority (ZICTA) is provided for under section 4 of the Information and Communication Technologies Act No. 15 of 2009. Section 6 of the Act empowers ZICTA to regulate the provision of electronic communication services and products and monitor the performance of the sector, including the levels of investment and the availability, quality, cost and standards of the electronic communication services.*

*Pursuant to section 7 of the Information and Communication Technologies Act No. 15 of 2009, the ZICTA is mandated to make any guidelines as are necessary for the better carrying out of the provisions of the Act, and publish such guidelines in a daily newspaper of general circulation in Zambia and the guidelines shall not take effect until they are so published. In accordance with the aforementioned section, the Authority is hereby publishing the Licence Exemption Guidelines to provide for the licence exemption procedure, and registration of exempt persons or activities before they are declared as such under section 20 of the ICT Act*

## **1.0 DEFINITIONS**

Unless the context otherwise requires, any word or expression has the meaning assigned to it in these guidelines or as assigned to it in the Information and Communication Technologies Act No. 15 of 2009. Where there is an inconsistency between a definition in these guidelines and a definition in the Act, the definition in the Act shall apply to the extent of the inconsistency.

“*Act*” means the Information and Communication Technologies Act No. 15 of 2009;

“*Authority*” has the meaning assigned to it under the Act;

“*ancillary service*” means a retail service or bundle of retail services which include necessary but ancillary elements of electronic communications service, where such electronic communications service elements do not constitute the major purpose, utility or value of the service, including, but not limited to, tracking, alarm and similar services;

“*Re-seller*” means a person whose retail sales to the public may include the sale of items consisting of electronic communications services without any re-branding or re-packaging, and without creating any contractual obligations in relation to such electronic communications services sold to the consumers, provided that such distributor is not owned or controlled, directly or indirectly, by any licensee;

“*electronic communications network*” has the meaning assigned to it in the Act;

“*electronic communications service*” has the meaning assigned to it in the Act;

“*ITU*” means the International Telecommunications Union; and

*“small electronic communications network”* means-

- (a) an electronic communications network that lies within a limited spatial area, used by a specific user group, has a specific topology and is not a network of national, provincial, district or local municipal scope, but may be connected to one which is licenced or licence exempt; or
- (b) a network, the scope of which is limited to equipment physically located on a single piece or contiguous pieces of land owned or controlled by a single person and, where such network uses radio frequency spectrum, where the technical parameters of such spectrum use fall within the radio frequency spectrum licence exemption guidelines.

## **2.0 LICENSE EXEMPTION IN GENERAL**

- (1) An Electronic Communications Network or Electronic Communications Service which would require a licence in terms of Section 10 of the Act may be exempt from licence requirements, if that network or service satisfies the criteria provided under Clauses 3 and 4 of these guidelines.
- (2) In granting a licence exemption in accordance with these guidelines, the Authority shall take into account the need to implement the ITU recommendations, Universal Access and Service obligations as well as give effect to e-governance objectives of the government or any other relevant considerations that may arise depending on the particular nature of a case.
- (3) The Authority shall, in permitting the provision of an exempted Electronic Communications Network or Service, retain control over the manner in which such services are

provided and over the persons permitted to provide exempt services.

(4) A person providing an exempted service shall remain subject to the provisions of the Act, including any Rules or Regulations made under the Act.

### **3.0 ELECTRONIC COMMUNICATIONS SERVICE**

(1) A person who provides an Electronic Communications Service on a non-profit basis may apply for an exemption.

(2) Non-profit basis may be presumed where the electronic service provider is-

- (a) a company limited by guarantee incorporated in the Republic under the companies Act;
- (b) a trust incorporated under the Land (Perpetual Succession) Act;
- (c) an association or Religious body registered under the Societies Act;
- (d) an educational institution registered under the Education Act;
- (e) a health institution registered under the Medical and Allied professions Act;
- (f) an amateur sporting association registered under the sports Council of Zambia Act;
- (g) anybody or organisation established or registered under any other law exclusively established for the purpose of providing facilities ,goods or services for the benefit of the public; or

- (h) a non profit making organisation registered under the Non-Governmental Organisation Act
- (3)A Reseller that provides an Electronic Communications Service duly obtained from a licensee under the Act or an exempt entity may operate in terms of the exemption and shall not require a licence.
- (4)A person that provides an Ancillary Service may not be required to hold a licence.
- (5)A Government agency providing an Electronic Communication Service to the Government may not be required to hold a licence.
- (6)An Electronic Service Provider operating in terms of a licence exemption under *sub-clauses (i) to (vii)* shall not, by virtue of the exemption, be exempted from the requirement for authorisation to use of necessary frequency spectrum or applying for a network or service licence, as appropriate.
- (7)All Electronic Communications Equipment and facilities as well as radio apparatus to be used in respect of the services must comply with type approval regulations issued under the Act.

#### **4.0 ELECTRONIC COMMUNICATIONS NETWORK**

- (1)Subject to *Sub-clause (2)*, a Small Electronic Communications Network may apply for exemption.
- (2)Notwithstanding the provisions of *Sub-clause (1)*, where a small Electronic Communications Network communicates with other such networks across the boundaries of the different properties upon which they are installed using only radio equipment operating in exempt radio frequency spectrum bands to form networks, such aggregation of

small electronic networks continues to be subject to a licence exemption provided that:

- (a) the provision of the Electronic Communications Service over such networks is limited to exempted Electronic Communication Services provided by entities under *Clause 3*; and
- (b) no capacity on the aggregation of the Small Electronic Networks is sold, leased or otherwise made available to any licensee.

## **5. APPLICATION FOR A LICENCE EXEMPTION**

(1) Any person or class of persons may apply to the Authority for an exemption to hold an individual licence or a class licence, for a limited or unlimited period of time.

(2) An application for exemption shall be in writing, accompanied by reasons for the requested exemption in the proposal. The proposal shall:

- (a) define the activity;
- (b) define all proposed arrangements (business, technical plans etc);
- (c) assess and define whether the exemption has any significant effect on the applicant's activities;
- (d) assess and define how the proposal outlined in the exemption request will apply to a range of businesses and individuals, assisting them in their activities and

effect if any on market share in the ICT sector or entry to the market. and

(e) define how arrangements will be put in place to ensure that the exempt activities are reported to ZICTA.

(3) Upon receiving the application, the Authority may do any of the following:

(a) issue an exemption;

(b) reject the application;

(c) amend an existing exemption; or

(d) issue, amend and/or revoke such directions as it considers appropriate

(4) The Authority shall, within 60 days of receiving the application, make a decision based on the factors stipulated under the guidelines.

(5) Where, a person or class of persons was exempted due to factors which have subsequently changed, that person shall notify the Authority in writing of such changes within 14 days of the change happening.

(6) The Authority shall then notify the exempted person or class of persons of its decision within 21 days whether to revoke, amend or continue any exemption granted and may issue, amend or revoke such directions as it considers appropriate for the stated purposes.

(7) The Authority may at any time revoke an exemption by providing written notice to the licensee and may amend or revoke such directions as it considers appropriate.

## **6.0 REGISTER OF EXEMPT ACTIVITIES**

(1) The Authority shall maintain a register for exempt activities.

(2) The following shall constitute the details to be registered by the Authority in the Register-

(a) the name and address of the applicant, telephone, email address;

(b) the activity which constitutes the exempt activity;

(c) the place(s) where the activity is to be carried out; and

(d) any other information the authority relevant to the application.

(3) The register shall be made available at all times, for inspection by the public, and may be kept in any form.

(4) Registration of an exempt activity shall cease to have effect on the expiry of the period of two (2) years and the Authority shall, no later than 2 months before expiry of the period, notify the exempted entity of-

(a) the date on which the registration expires; and

(b) the effect of the expiry of the registration



(5)The Authority may renew the particulars registered in respect of an exempt activity at the date of expiry of the previous registration relating to such exempt activity. The exempt entity shall -

(a)not later than thirty (30) days from the date of expiry, serve a written notice to the Authority of its desire to renew the registration; and

(b)confirm in such notice as may be determined by the Authority that there are no changes in relation to that activity. If there are any changes, specify in such notice the details of the changes and provide the amended documents and/or plans as may be required.

(6) The Authority shall issue to the person or entity to whom the particulars relate, a notice confirming that such particulars have been so registered and giving the date of entry of such particulars on the register.

## **7.0 SAFETY MEASURES**

A person exempt from licensing shall , in respect of all apparatus, equipment and installations that it owns, leases or uses, take such safety measures as may be determined and in any event such reasonable and necessary safety measures to safeguard life or property, and limit exposure to electronic magnetic emission, radiation and related risks.