

THE GAMBIA PUBLIC UTILITIES REGULATORY AUTHORITY (REGISTRATION OF TELEPHONE SUBSCRIBERS) REGULATIONS, 2012

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(REGISTRATION OF TELEPHONE SUBSCRIBERS REGULATIONS),
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INFORMATION AND COMMUNICATIONS ACT 2009 REGISTRATION OF TELEPHONE SUBSCRIBERS REGULATIONS, 2012

In exercise of the powers conferred on the Minister by section 250 of the Information and Communications Act 2009 these regulations are made:

() Commencement

PART I

PRELIMINARY

1. Citation. These regulations may be cited as the SIM card registration regulations.

2 . Interpretations

(1) The terms and expressions used in these Regulations which are defined in the Act shall have the same meaning as in the Act unless the context otherwise requires

(2) In these Regulations, unless the context otherwise indicates -

“**Act**” means the Information and Communications Act 2009;

“**activate**” means to allow full access to a Licensee’s Network Service, including the ability to make and receive calls, to send and receive short message services and other range of services usually provided by Mobile Telecommunication Service providers and the words “**activated**”, “**activation**”, “**deactivate**” and

“**deactivation**” shall be read and construed accordingly;

“**Authority**” shall have the same meaning as in the Act;

“**Constitution**” means the Constitution of the Republic of The Gambia.

“**Effective date**” means the date on which these Regulations come into force;

“Existing subscriber” means a person who is a subscriber prior to the effective date of these Regulations;

“Foreign Licensee” refers to a Network Service provider licensed by a telecommunications regulator other than the Authority, to provide telecommunication services in a country other than The Gambia;

“Licensee” means a provider of Mobile Telephone Service that utilises a subscription Medium in the Republic of The Gambia;

“limited access” means the limitation by a licensee of services available to a subscriber to receipt of calls and short message service and making of calls to emergency centre numbers and the licensee’s call centre only;

“National Assembly” means the National Assembly of the Republic of the Gambia as established by the Constitution of the Republic of the Gambia;

“New subscriber” means a person who becomes a subscriber after the commencement of these Regulations;

“Network service” shall have the same meaning as in the Act;

“Personal information” refers to the full names, gender, date of birth, residential address, nationality, and such other personal information and contact details of subscribers specified in the Registration Specifications;

“Mobile Telephone Services” mean telephone services that utilise a subscription medium;

“Security Agency” or **“Security Agencies”** refers to either or all of the Gambian Police Force, the State Security Service, the National Intelligence Agency, the and any other Security Agency established by the Government of the Gambia;

“Subscription Medium” means a Subscriber Identity Module (**SIM**) smart card, a Removable User Identity Module (**R-UIM**) smart card, a CDMA Subscriber Identity Module (**CSIM**) smart card, a Universal Subscriber Identity Module (**USIM**) smart card or any other mobile phone subscription medium marketed from time to time by Licensees, containing the telephone number of a subscriber, encoded network identification details, the personal identification number and other user data normally provided by a licensee for the provision of Network Services;

“Subscriber” means a person who subscribes to Mobile Telecommunication Services by purchasing a subscription medium or entering into a subscription contract with a Licensee;

“Subscriber information” refers to the Biometrics and other Personal Information of a Subscriber recorded and stored by licensees

“Subscriber Registration Period” means the six months period from the Effective Date or such other date as the Authority may specify, and any extensions thereto that may be announced by the Authority, within which existing subscribers will be required to register their subscription mediums pursuant to these Regulations.

(3). Where in these Regulations the context so requires, words in the singular include the plural and words in the plural include the singular.

2. Objectives

The objectives of these Regulations are to provide –

- (a) a regulatory framework for the registration of subscribers to Mobile Telephone Services utilising subscription medium in the Republic of The Gambia and
- (b) for the establishment, control, administration and management of the subscriber information

3. Scope

These Regulations shall apply to all persons and licensees including –

- (a) corporate, private and commercial subscribers to Mobile Telephone Services utilising Subscription Medium in the Republic of The Gambia; and
- (b) Subscribers *of* foreign licensees who are roaming on the network of a licensee in The Gambia;

Provided that subscribers *of* foreign licensees shall not be required to register where they have registered their subscriber information in the jurisdiction of the relevant foreign licensee and there exists necessary arrangements between the Authority and the relevant regulatory authority of the foreign licensee to access such subscriber information

6. VERIFICATION OF SUBSCRIBER INFORMATION

- (1) Licensees shall, on a monthly basis or at such regular intervals as the Authority may from time to time specify, transmit all subscriber Information captured and registered within the preceding month or such other period as may be stipulated by the Authority, to the Authority for verification.
- (2) The Administration and handling of the data shall be in accordance with the latest standards issued from time to time by the International Organisation for Standardization in relation to security and management of electronics and personal data.

7. Licensees' right to use subscriber information

A licensee shall have the right to retain and use its subscribers' information on its network in accordance with the provisions of the Information and Communications Act 2009 and any other instrument issued from time to time by the Authority

9. Data protection and confidentiality

(1) In furtherance of the rights guaranteed by section 23 of the Constitution of the Republic of The Gambia, 1999 and subject to any guidelines issued by the Authority including terms and conditions that may from time to time be issued either by the Authority or a licensee, any subscriber whose personal information is stored on a licensee's database, shall be entitled to view the said information and to request updates and amendments thereto.

(2) The subscriber information contained by the Licensee shall be held on a strictly confidential basis and no person or entity shall be allowed access to any subscriber information except as provided in the relevant legislation.

(3) Licensees, and Subscriber Registration Solution Providers shall not under any circumstances retain, duplicate, deal in or make copies of any Subscriber Information or store in whatever form any copies of the subscriber information for any purpose other than as stipulated in these Regulations or by an Act of the National Assembly.

(4) Licensees, Subscriber Registration Solution Providers and the Authority shall each take all reasonable precautions in accordance with the IC Act 2009 to preserve the integrity and prevent any corruption, loss or unauthorised disclosure

of subscriber information obtained pursuant to these Regulations and shall take steps to restrict unauthorized use of the Subscriber Information by their employees who may be involved in the capture and/or processing of such subscriber information.

(5) Licensees shall utilise personal information retained pursuant to these Regulations, solely for their operations and in accordance with the provisions of IC Act 2009 and any other instruments of the Authority or any Act of the National Assembly regulating the specific purposes for which the personal information may be used.

10. Release of personal information of a subscriber

(1). Release of Personal Information to Security Agents shall be in accordance with the provisions of the Act, Regulations and any guidelines or instrument issued from time to time by the Authority and in a format to be determined by the Authority

(2). Subscriber information shall not be released to a licensee, Security Agency or any other person, where such release of Subscriber Information would constitute a breach of the Constitution or any other Act of the National Assembly, for the time being in force in The Gambia or where such release of subscriber information would constitute a threat to national security.

(3) Licensees shall not release personal information of a subscriber to any third party without obtaining the prior written consent of the subscriber.

(5) For the purpose of sub-regulation (3) of this regulation, the term “third party” shall exclude Security Agencies as defined in these Regulations.

PART III REGISTRATION

11. Registration of new subscribers

(1) Every Licensee shall register a subscribers' information as specified under sub-regulation (2) of this regulation

(2) From the commencement of these Regulations, licensees shall in accordance with the registration specifications and at no cost to the Authority or the subscriber, capture, register and transmit the following -

(a) the name, age, gender, nationality, address, Identification type and Identification number of new and

- (b) 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 person and the name, address and where applicable, the registration number or enacting legislation of the juristic person

13. Registration of existing subscribers

(1) The Licensee shall capture, register and transmit the personal information of the existing subscribers within the subscribers' registration period in accordance with the provisions of these regulation and the registration specifications as follows -

- (a) the name, age, gender, nationality, address, Identification type and Identification number of existing subscribers and

- (b) 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 person and the name, address and where applicable, the registration number or enacting legislation of the juristic person.

(3) Licensees shall support and promote the registration of existing subscribers and shall promptly, upon being notified by the Authority, deactivate any subscription where the Personal Information of the Subscriber has not been entered or verified by the end of the Subscriber registration period or such extensions thereof as the Authority may prescribe.

(4) A deactivated subscription shall be reactivated upon the registration of personal information of the relevant subscriber in accordance with the relevant provisions of these Regulations and confirmation by the Authority of the entry and verification thereof.

14. Registration of foreign subscribers

(1) a licensee who is providing roaming services in The Gambia to a subscriber of a foreign licensee shall register the personal information of such subscriber in accordance with the provisions of these Regulations before providing such subscriber with roaming services.

15. Deactivation and deregistration of a Subscription Medium

- (1) A licensee may deactivate and deregister a subscription medium upon a request by a subscriber after verification and confirmation of the subscriber information on the subscription medium.
- (2) Records on any deactivation or deregistration shall be transmitted by the licensee in accordance with specifications issued by the Authority.

16. Prohibition of proxy registration

There shall be no proxy registration of any subscription medium.

17. Number of Registrable Subscription Mediums

A person may register a maximum of five SIM cards per Licensee.

18. Liability for Subscription Mediums

A subscriber shall be liable for any activity carried out using a Subscription Medium registered with that subscriber's personal information.

PART IV PENALTIES

19. Failure to capture, register, deregister or transmit subscriber information

(1) Any licensee who fails to capture, register, deregister or transmit the details of any individual or corporate subscribers to the Authority as specified in these Regulations or as may be stipulated from time to time by the Authority is liable to a maximum fine of GMD 50, 0000 for each subscription medium.

(2) A licensee who provides any Subscription Medium whose subscriber's Personal information is not captured, registered and verified is liable to a fine of GMD 50, 000 for each unregistered activated Subscription Medium.

20. Non-compliance with activation and deactivation requirements

(1) Any licensee who activates or fails to deactivate a subscription medium in violation of any provision of these Regulations is liable to a maximum fine of GMD 50, 000 for each activated subscription medium

(2) Where the Authority is satisfied that a body corporate is culpable, the Director, Chief Executive Officer, Manager or Secretary shall also be liable to pay a fine of GMD 50, 000 ; unless, having regard to the nature of his functions in that capacity and to all the surrounding circumstances, he proves that –

(i) the offence was committed without his knowledge, consent or connivance; and

(ii) he took all reasonable precautions and exercised due diligence to prevent the Authority of the breach.

21. Dealing with subscriber information in a manner inconsistent with the provisions of these Regulations

(1). Any entity including licensees who retains, duplicates or deals with Subscriber's information in contravention of any of the provisions of these Regulations is liable to a penalty of GMD 500, 000 per Subscription Medium.

(2) Where an entity, including licensees is found to have utilised a subscriber's information in any business, commercial or other transactions, such entity is liable to a penalty as provided for in the IC Act 2009.

PART V

MISCELLANEOUS

22. Application of the Business Rules and Registration Specifications of the Authority

The Registration Specifications made or issued by the Authority which may be amended from time to time, shall apply as part of these Regulations.

23. Citation

These Regulations may be cited as the The Gambia Public Utilities Regulatory Authority (Registration of Telephone Subscribers) Regulations, 2012.