

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE 162 OF 2021



DRAFT EQUIPMENT AUTHORISATION REGULATIONS

The Independent Communications Authority of South Africa ("the Authority"), in terms of section 4(1) and section 35 of the Electronic Communications Act, 2005 (Act No 36 of 2005) ("ECA"), read with section 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No 13 of 2000) ("ICASA Act"), hereby declares its intention to make regulations for the approval of type.

A copy of the Draft Regulations will be made available on the Authority's website at <http://www.icasa.org.za> and in the Authority's Library at Eco Point Office Park, 350 Witch-Hazel Avenue, Centurion, between 09h00 and 16h00, Monday to Friday.

Interested persons are hereby invited to submit written representations regarding the proposed Regulations to the Authority within thirty (30) working days from the date of the publication of this notice. Written submissions can be submitted electronically (in Microsoft Word or PDF), by post or hand delivery and marked specifically for the attention of:

Mr Lumkile Qabaka
Project Leader
350 Witch-Hazel Avenue
Eco Point Office Park
Eco Park, **CENTURION**
Gauteng

E-mail: LQabaka@icasa.org.za, Tel: 012 568 4106

Any person making submissions to the Authority, may request that specific information be treated as confidential information in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No 13 of 2000) the ICASA Act.

Any such request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential in terms of section 4D(4)(a) to (e) of the ICASA Act.

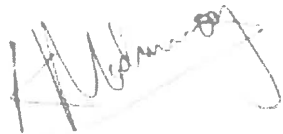
The Authority may then determine that such representations, or any portion(s) thereof, are to be treated as confidential.

Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portion(s) thereof.

Persons requesting confidentiality are thus urged to acquaint themselves with the ICASA Guidelines for Confidentiality Request¹.

Persons submitting written representations are further invited to indicate, as part of their submissions, whether they require an opportunity to make oral presentations to the Authority.

Written representation(s) received by the Authority pursuant to this notice, will be made available for inspection by interested persons at the Authority's library.



Dr KEABETSWE MODIMOENG
CHAIRPERSON

¹ 'ICASA Guidelines for Confidentiality Request', Notice No 849, *Government Gazette* No 41839, 17 August 2019.

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Equipment Authorisation Regulations

These Regulations are for the Equipment Authorisation of the electronic communications equipment, electronic communications facilities and subscriber equipment.

1. Definitions

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the ECA or the ICASA Act has the meaning so assigned;

"Accredited Test Laboratory" or "ATL" means any laboratory accredited by its own national Accreditation Body and/or other recognised accreditation body in terms of ISO/IEC 17025;

"Authority" or "ICASA" means the Independent Communications Authority of South Africa established by section 3 of the Independent Communications Authority of South Africa Act, 2000 (Act No 13 of 2000);

"Certificate of Conformity" or "CoC" means a Certificate issued by the designated Certification Body confirming conformance of the electronic communications equipment, electronic communications facilities or subscriber equipment with the prescribed standards determined by the Authority;

"Certification Body" or "CB" means an organisation accredited by a recognised Accreditation Body for its competence to audit and issue certification confirming that an organisation meets the requirements of ISO/IEC 17065;

"Conformity Assessment" means a process that is used to verify that electronic communications equipment, electronic communications facilities and subscriber equipment meets specified requirements in relation to Equipment Authorisation;

"ECA" means the Electronic Communications Act, 2005 (No 36 of 2005), as amended;

"Electronic Communications Equipment" means Radio Equipment, Telecommunications Line Terminal Equipment (TLTE) or a combination thereof;

"Equipment Authorisation" means a process by which electronic communications equipment, electronic communications facility or subscriber equipment is approved, by its type, by the Authority, to be used, supplied, sold, offered for sale or lease or hire in the South African marketplace;

"Equipment Authorisation Fees" means fees relating to Equipment Authorisation as set out in Schedule 1 of these Regulations;

"Equipment Exclusion" means electronic communications equipment or electronic communications facilities that are not covered by these regulations;

"Homologation" means a process by which electronic communications equipment, electronic communications facility, or subscriber equipment, or a device or system, is authorised by the Authority to be used, supplied, sold, offered for sale or lease or hire in South Africa, or imported into the South African marketplace, and involves verification of the compliance of the said electronic communications equipment, electronic communications facilities, or subscriber equipment, or devices, or systems, with the applicable regulatory requirements;

"Homologation Certificate" means a Certificate issued by the Authority confirming compliance of the electronic communications equipment, electronic communications facility or subscriber equipment with the essential requirements of these regulations;

"Homologation Register" means a register that contains the trademark/brand, name, model and type of all electronic communications equipment, electronic communications facility or subscriber equipment, authorised, revoked or suspended by the Authority for use, import and supply in South Africa;

"ICASA Act" means the Independent Communications Authority of South Africa Act, 2000 (No 13 of 2000), as amended;

"ICASA Logo" means the logo of the Independent Communications Authority of South Africa registered in terms of the patent laws of the Republic;

"Local Supplier" means a Supplier that is registered with the Companies and Intellectual Property Commission (CIPC);

"Mark of Compliance" means a fixed identifier bearing the ICASA Logo and the ICASA-issued certificate number, to mark that the electronic communications equipment, electronic communications facility or subscriber equipment has been authorised;

"Market Surveillance" means activities carried out and measures taken by the Authority to ensure that the authorised electronic communications equipment, electronic communications facilities and subscriber equipment already in the market continues to conform with the minimum technical requirements of the prescribed standards in the published Official List of Regulated Standards for Technical Equipment and Electronic Communications Facilities;

“Official List” means the regulations regarding the Official List of Regulated Standards for Technical Equipment and Electronic Communications Facilities as published in Notice 896 under Government Gazette No 39182 of 2015, as amended by the Authority from time to time;

“Provisional Certificate” means a temporary Certificate issued by the Authority in terms of regulation 11 of these regulations;

“Radio” means electromagnetic waves of frequencies from 8.3 kHz to 3,000 GHz, propagated in space without an artificial guide;

“Radio Equipment” means a product or relevant component thereof, capable of communication by means of the emission and/or reception of radio, utilising spectrum allocated to terrestrial/space radio communication;

“Supplier” means a manufacturer, importer, distributor, retailer or local representative of electronic communications equipment, electronic communications facility or subscriber equipment, authorised by the Authority for the purposes of Equipment Authorisation;

“Telecommunications Line Terminal Equipment” (also referred to as Customer Premises Equipment) means equipment installed on a subscriber's premises, and that interfaces to the telecommunication network. Such equipment includes, but is not necessarily limited to: data- and text-processing equipment; data preparation equipment; data terminal equipment; data circuit terminating equipment (e.g. modems); automatic telephone answering machines; facsimile transceivers; call restriction devices; cordless telephones; digital and analogue feature telephones; lightning protection devices; line monitoring equipment; speech recorders; etc.;

“Test Report” means the full report confirming conformance with the relevant standards, issued by an ATL;

2. Purpose

The purpose of these Regulations is to:

- (1) Streamline the Equipment Authorisation process in accordance with the ECA;
- (2) Protect the integrity of the electronic communications networks;
- (3) Ensure proper functioning of connected electronic communications equipment, electronic communications facilities and subscriber equipment;
- (4) Ensure interoperability, interconnectability and harmonisation; and

- (5) Avoid harmful interference with the electronic communications network by prescribing electronic communications equipment, electronic communications facilities and subscriber equipment conformance requirements.

3. Equipment Requiring Authorisation

Any electronic communications equipment, electronic communications facility or subscriber equipment used or to be used in connection with the provision of electronic communications, unless explicitly exempted by the Authority, is subject to Equipment Authorisation by the Authority;

4. Essential Requirements

Electronic communications equipment, electronic communications facility or subscriber equipment shall be constructed in such a manner so as to ensure that it:

- (1) uses the radio frequency in a manner that avoids causing harmful interference to other spectrum applications/services by complying with the standards as contained in the Official List;
- (2) maintains adequate levels of electromagnetic emissions and immunity as set out in the electromagnetic compatibility standards/specifications as contained in the Official List; and
- (3) ensures the protection of the health and safety of persons and of domestic animals, and the protection of property, including the requirements of applicable standards/specification as contained in the Official List.

5. Equipment Exclusion

The electronic communications equipment or electronic communications facilities in Table 1 are excluded from the application of these regulations and are not required to be registered with the Authority.

Table 1: Equipment Categories that are excluded from the Regulations

Equipment Category	Description
Test and measurement equipment	Any test and measurement equipment used by professionals and engineers of a licensed entity in the provision of telecommunications or broadcast services

Equipment Category	Description
Amateur radios	Radiocommunication services for the purpose of self-training, intercommunication and technical investigations carried out by amateurs on a non-commercial basis
Equipment used by Government Services	Equipment used for the purposes of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, including video surveillance
Equipment produced or imported for the purposes of exporting	Not for use, supply, sale, offer for sale or lease or hire in South Africa
Spare parts, components to be used for repairs	An interchangeable part that is kept in an inventory and used for the repairs or replacement of failed units in authorised equipment
Wire	As used in an electrical system, device, or circuit
Cable (including undersea and land-based fibre optic cables)	Used to carry telephone traffic, data communications traffic
Antenna	Passive antennas used with a transmitter or receiver as the interface between radio waves propagating through space and electric currents moving in metal conductors, used with a transmitter or receiver
Mast	Used to support antennas at a height for the purposes of establishing electronic communications
Circuit	Composed of individual electronic components, such as resistors, transistors, capacitors, inductors and diodes, etc., connected by conductive wires or traces through which electric current can flow
Cable landing station	Facility that terminates an international cable or spur off an international cable
International gateway	Facility that provides an interface to send and receive electronic communications (i.e. voice, data and multimedia images/video) traffic between one

Equipment Category	Description
	country's domestic network facilities and those in another country
Space on or within poles, ducts, cable trays, manholes, handholds and conduits	Used to protect and route electrical wiring in a building or structure

6. Authorised Suppliers

- (1) A Local Supplier who is granted Equipment Authorisation shall assume responsibilities associated with the compliance of the authorised electronic communications equipment, electronic communications facilities or subscriber equipment.
- (2) In a case where a Local Supplier opts to appoint a local legal representative for purposes of Equipment Authorisation, the Local Supplier which is granted such Equipment Authorisation will assume all responsibilities associated with the compliance of the authorised electronic communications equipment, electronic communications facilities and subscriber equipment.
- (3) A Supplier, whether foreign or local, interested in Equipment Authorisation may opt, by written mandate, to appoint a local legal representative who is granted such Equipment Authorisation and who will assume all responsibilities associated with the compliance of the authorised electronic communications equipment, electronic communications facilities and subscriber equipment.

7. Conformity Assessment Approaches

- (1) The following classification categories are applicable for purposes of Conformity Assessment:
 - (i) Classification 1 – Low Risk Equipment;
 - (ii) Classification 2 – Medium Risk Equipment; and
 - (iii) Classification 3 – High Risk Equipment.
- (2) Classification 1 equipment is exempted from Equipment Authorisation. However, such equipment must conform with the mandatory technical standards in the Official List and must be registered with the Authority.

- (3) Classification 2 and 3 equipment shall be subjected to the applicable conformity assessment approach that involves the Certification and the Equipment Authorisation processes.

8. Certification Application Process

- (1) The electronic communications equipment, electronic communications facility and subscriber equipment shall be subject to the following certification process prior to Equipment Authorisation:
 - (a) submission of Technical Documentation, in accordance with regulation 12; and
 - (b) submission of a representative sample or additional supporting documents where required by the Authority.
- (2) A successful certification process in terms of sub-regulation (1) will result in the issuance of a CoC. However, if conformity has not been demonstrated, a recommendation note may be issued by the Authority, listing the nonconformities identified during the conformity assessment process and which must be corrected to fulfil conformance.
- (3) A CoC is valid for three (3) years for Equipment Classification 3 and five (5) years for Equipment Classification 2.
- (4) The provisions of sub-regulation (1) will apply with respect to renewal of a CoC.

9. Equipment Authorisation Process

- (1) An application for equipment authorisation must be submitted using the Authority's online system².
- (2) An Equipment Authorisation application must be accompanied by the following documentation:
 - (i) Classification 2 Equipment – a Certification of Conformity;
 - (ii) Classification 3 Equipment – a Certification of Conformity with the accompanying Technical Documentation.

² <https://online.icasa.org.za/>

- (3) The Authority may, where it deems necessary, request a representative sample and/or additional supporting documents.
- (4) A successful authorisation process will result in the Authority issuing a Homologation Certificate, and registering the electronic communications equipment, electronic communications facilities or subscriber equipment on the Homologation Registry.
- (5) An unsuccessful outcome will result in the Authority issuing a rejection letter, stating the reasons for rejection.
- (6) Rejected applications may be resubmitted, following the undertaking of corrections as stipulated in the rejection letter.
- (7) Electronic communications equipment, electronic communications facility and subscriber equipment issued with a Homologation Certificate must comply with regulation 19 before being made available on the market.

10. Equipment Authorisation Exemptions

- (1) Classification 1 equipment in Table 2 below is exempted from Equipment Authorisation.
- (2) Classification 1 equipment is still required to conform to the mandatory technical standards as contained in the Official List and to be registered with the Authority.

Table 2: (Otherwise Annexure A) Classification 1 (Low Risk Equipment)

Equipment Category	Conditions
Systems and equipment used for the production and distribution of broadcast and content services	Approved for use by the European Telecommunications Standards Associations or other competent regulatory body, where the equipment conforms to mandatory technical standards prescribed by the Authority
Satellite communications equipment, including satellite transponders, ground stations, earth stations, or earth terminals	For use only in a controlled environment, and if such equipment is used solely for the purpose specified herein, including uses for research and development, demonstrations of prototypes and testing
Radio telescope receivers and calibration equipment	
Radio telescope array and radio astronomy facilities	
Earth Station	
Equipment for Maritime or Aeronautical operations with the exception of the drones/RPAS (Unmanned Aircraft)	

11. Provisional Authorisation

- (1) The Authority may award a Provisional Authorisation permit for a period of up to eight (8) months for the following purposes:
 - (a) Use of electronic communications equipment, electronic communications facility or subscriber equipment for trial, demonstration or research purposes on a non-commercial basis; or
 - (b) Testing of electronic communications equipment, electronic communications facility or subscriber equipment in an ATL in South Africa.
- (2) Applications for Provisional Authorisation must be accompanied by the following:

- (a) Purpose of the test, trial, research or demonstration;
 - (b) Details of the units to be used or tested, including the quantity;
 - (c) Duration of the test, trial, research or demonstration; and
 - (d) The Global Positioning System coordinates of the location where the tests, trial, research or demonstration are to be performed.
- (3) The term of the Provisional Authorisation permit may be extended, for good reasons given, for a period which does not exceed four (4) months.
- (4) All research and development, demonstrations of prototypes, exhibitions and trials will allow for the participation of the Authority's personnel according to mutually agreed upon principles.
- (5) The holder of a Provisional Authorisation permit must furnish the Authority with a report of the test, trial, research or demonstration, within thirty (30) days after the lapse of the test, trial, research or demonstration period.
- (6) In the event that the Provisional Authorisation permit holder does not wish to apply for Equipment Authorisation within or after the period of test, trial, research or demonstration, the holder of the Provisional Authorisation permit is obliged to ensure that all the units that were deployed or used are withdrawn at the Provisional Authorisation permit holder's own cost, within thirty (30) days after the lapse of the test, trial, research or demonstration period.

12. Technical Documentation

The Technical Documentation, required in terms of regulation 8, must contain at least the following elements:

- (1) a general description of the electronic communications equipment, electronic communications facility or subscriber equipment including:
 - (a) photographs or illustrations showing external features, marking and internal layout;
 - (b) versions of software or firmware affecting conformity with the essential requirements;
 - (c) user information and installation instructions;

- (2) conceptual design and manufacturing drawings and schematics of components, subassemblies, PCB and other relevant similar elements;
- (3) functional descriptions and explanations necessary for the understanding of those drawings and schematics and the operation of the electronic communications equipment, electronic communications facility or subscriber equipment or a device or system;
- (4) test reports which confirm conformance with the applicable standards prescribed in the Official List; and
- (5) a Test Plan detailing the requirements that must be assessed.

13. Retention of Technical Documentation

Technical Documents must be kept for five (5) years from the day the electronic communications equipment, electronic communications facility or subscriber equipment was authorised, and must be made available to the Authority on request.

14. Applicable Standards

- (1) The applicable technical standards for electronic communications equipment, electronic communications facility or subscriber equipment are found in the Official List published by the Authority.
- (2) In the event where electronic communications equipment, electronic communications facility or subscriber equipment requiring Equipment Authorisation was tested to a standard which is not in the Official List, such a standard must be technically identical to that determined by the Authority for such electronic communications equipment, electronic communications facility or subscriber equipment.
- (3) In a case where a standard does not exist for a specific application, the Authority shall advise of an alternative conformity assessment approach.

15. Test Reports

- (1) The test reports must be issued by an ATL.
- (2) A test report must be in full, and issued without any modification of any portion of the test report.
- (3) A test report is only valid if it was prepared for the electronic communications equipment, electronic communications facility or subscriber equipment for which Equipment Authorisation is sought, and

provided no modifications have been made to the equipment following the completion of the test report.

- (4) The test report must not be older than 3 years for equipment classification 3, or 5 years for equipment classification 2.

16. Equipment Authorisation Fees

- (1) The Authority will charge Equipment Authorisation Fees, as published in the Notice of ICASA Administrative Fees.
- (2) Equipment Authorisation Fees are payable in advance and are non-refundable.

17. Validity of the Homologation Certificate

For equipment classification 2 and 3, a Homologation Certificate is valid indefinitely provided that:

- (1) No modifications may be made with respect to the brand/trademark, electronic communications equipment, electronic communications facility or subscriber equipment name or model recorded on the Homologation Certificate;
- (2) There are no changes to the technical specifications of the electronic communications equipment, electronic communications facility or subscriber equipment;
- (3) The standard under which Equipment Authorisation was obtained does not change so as to render the Homologation Certificate invalid;
- (4) The renewal of a CoC is performed prior to the expiry of such CoC.

18. Change of Information

A written request can be made to the Authority to have the issued certificate transferred and/or the details thereof updated within fourteen (14) days of the change of details or transfer.

19. Mark of Compliance Requirements

- (1) All electronic communications equipment, electronic communications facility and subscriber equipment that has been authorised and received a homologation certificate must have a legible Mark of Compliance permanently affixed to such equipment/facility.

- (2) The packaging and/or container of the electronic communications equipment, electronic communications facility or subscriber equipment referred to in sub-regulation (1) must bear a Mark of Compliance as described in terms of regulation 20;
- (3) The Mark of Compliance must be affixed to the electronic communications equipment, electronic communications facility or subscriber equipment before such equipment/facility is made available for use, supply, sale, offer for sale or lease or hire in any other manner.
- (4) In an instance where a Supplier is of the view that a permanently affixed Mark of Compliance is not feasible, a written request for an alternative method of displaying the mark must be made to the Authority prior to the supply or use of such equipment/facility.
- (5) Where an alternative marking method is used, the documentation accompanying the electronic communications equipment, electronic communications facility or subscriber equipment must clearly explain how the user can access the Mark of Compliance;
- (6) The Mark of Compliance must be indelible against damage, such as scratching or ultraviolet (UV) exposure that may lead to the information on the marking becoming illegible.

20. Mark of Compliance Design

- (1) No Supplier shall use, supply, sell, offer for sale or lease or hire any authorised electronic communications equipment, electronic communications facility or subscriber equipment without displaying and/or affixing a Mark of Compliance in terms of regulation 19.
- (2) The Mark of Compliance shall bear the following information:
 - (a) The ICASA logo;
 - (b) The ICASA-issued certificate number; and
 - (c) The equipment class.
- (3) The minimum size of the ICASA logo shall be 3 mm high and 3 mm wide and the issued certificate number shall be 1 mm high.
- (4) The ICASA issued certificate number referred to in sub-regulation 22(2)(b) shall comply with the following format: EA-XXXX/YYYY where:
 - (a) EA stands for Equipment Authorisation;

- (b) XXXX is the year in which the homologation certificate was issued (e.g. 2021);
 - (c) YYYY is a sequential number issued by the Authority.
- (5) The height to width ratio of the overall ICASA Mark must be 1:2, e.g. 10 × 20 mm.

Sample logo:**21. Acquiring Marks of Compliance**

- (1) Printed Marks of Compliance may be obtained from ICASA after payment of the prescribed fee as stipulated in the Notice of ICASA Administrative Fees.
- (2) In the event that a Certificate holder prefers not to obtain printed Marks as outlined in sub-regulation (1), the Certificate holder must self-print the ICASA Mark of Compliance in terms of the specifications outlined in regulation 19.

22. Market Surveillance

- (1) The Authority may conduct Market Surveillance on all electronic communications equipment, electronic communications facilities and subscriber equipment that are authorised under the following conditions:
 - (a) In the event that a complaint is made by an affected party, whether indirectly or directly; and/or
 - (b) As a part of a random audit conducted by the Authority to ensure compliance with the ECA and the Regulations.
- (2) In carrying out such Market Surveillance, the Supplier must provide the Authority with a representative sample for the purposes of conformity assessment;

- (3) Where the outcome of the market surveillance demonstrates that the authorised equipment fails the conformity assessment or essential requirements, the Authority may request the Supplier to verify compliance with essential requirements at the expense of the Supplier.

23. Revocation of the Homologation Certificate

- (1) Homologation Certificate may be revoked in the event that:
 - (a) modifications are made to the electronic communications equipment, electronic communications facility or subscriber equipment with respect to the brand, name, model number, function or any other information recorded on the Homologation Certificate;
 - (b) any item of authorised electronic communications equipment, electronic communications facility or subscriber equipment fails market surveillance;
 - (c) the authorised equipment fails a conformity assessment; and
 - (d) the Homologation Certificate holder violated a condition in the Homologation Certificate.
- (2) The Authority will notify the relevant Supplier in writing of the revocation of their Homologation Certificate and the reasons thereof.
- (3) All revoked Homologation Certificates will be removed from the Homologation Register.
- (4) Electronic communications equipment, electronic communications facilities and subscriber equipment that is the subject of a revoked Homologation Certificate must be withdrawn from the market, at the Supplier's own cost, within ninety (90) days from the date of notification by the Authority.

24. Offences

- (1) It is an offence to offer for sale or to possess, with the intention to sell, any electronic communications equipment, electronic communications facility or subscriber equipment that is not authorised in terms of these Regulations.
- (2) It is an offence to affix a Mark of Compliance to any electronic communications equipment, electronic communications facility or subscriber equipment that is not authorised.

25. Penalties

- (1) Any person who offers for sale or has in their possession, with the intention to sell, any electronic communications equipment, electronic communications facility or subscriber equipment that is not authorised is guilty of an offence and is liable, on conviction, to a term of imprisonment not exceeding six (6) months and/or a fine not exceeding one million Rands (R 1,000,000.00).
- (2) A Supplier that fails to comply with the provision of regulation 19 is guilty of an offence, and is liable, on conviction, to a term of imprisonment not exceeding six (6) months and/or a fine not exceeding One Hundred Thousand Rands (R 100,000.00).

26. Transitional Provisions

- (1) ICASA Type Approval Certificates issued prior to these Regulations coming into force will remain valid.
- (2) Type Approval Labels that were issued by the Authority prior to the promulgation of these Regulations are no longer valid.

27. Repealed Regulations

The Enactment of these Regulations repeals the following in their entirety:

- (1) Type Approval Regulations, 2013;
- (2) Labelling Regulations, 2013.

28. Short Title and Commencement

These regulations are called the Equipment Authorisation Regulations, 2021 and shall come into effect upon publication in the Government Gazette.