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## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

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### INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 7364

10 April 2026



### **ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)**

#### **DRAFT REGULATIONS ON RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES, 2026**

The Independent Communications Authority of South Africa (“the Authority”) hereby publishes the Draft Regulations on Rapid Deployment of Electronic Communication Networks and Facilities (“Draft Regulations”) in terms of section 4 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended, for public comments.

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.

Written representations must be submitted to the Authority within thirty (30) working days from the date of the publication of this Notice in the Gazette, by no later than 16h00. The submissions can be made electronically to [RapidDeployment@icasa.org.za](mailto:RapidDeployment@icasa.org.za) (in PDF or Microsoft Word), or by hand delivery, and must be marked specifically for the attention of:

Chairperson: Rapid Deployment Council Committee  
Block C  
350 Witch-Hazel Avenue  
Centurion  
2146

Enquiries may be directed to Mr Phillip Ramalata, telephonically on 012-568-3829, or via email to [pramalata@icasa.org.za](mailto:pramalata@icasa.org.za) or [rapiddeployment@icasa.org.za](mailto:rapiddeployment@icasa.org.za)

When a person makes submissions to the Authority, such a person may request that specific information to be treated as confidential in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"). The 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. Persons requesting confidentiality are thus urged to acquaint themselves with the ICASA Guidelines for Confidentiality Request published in Government Gazette No. 41839 of 17 August 2019.

Where a request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such information. The information that is withdrawn will not form part of the submission.

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

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.



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**MOTHIBI RAMUSI**

**CHAIRPERSON**

**DATE:** 30 / 03 / **2026**

The Authority has, under section 4(3)(k) of the ICASA Act, 2000 (Act No. 13 of 2000), read with sections 4, 21, 22 and 23 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), made the regulations in the Schedule.

## SCHEDULE

### 1. DEFINITIONS

In these Regulations, any word or expression to which a meaning has been assigned in the Electronic Communications Act or the ICASA Act shall have that meaning, unless the context otherwise indicates:

**"Affected Parties"** means any person, including the landowner, with a registered or recognised legal interest in the land or property affected by the deployment activities, including but not limited to usufructuaries, leaseholders, holders of servitude rights, and occupiers as defined in the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997), or persons in possession of land in terms of the Interim Protection of Informal Land Rights Act, 1996 (Act No. 31 of 1996).

**"Access Agreement"** means a legally binding contract between a Licensee and a landowner or relevant authority (where the authority has the power to grant access) governing the terms of entry, installation, maintenance, alteration, removal, and compensation for an electronic communications facility or electronic communications network deployment.

**"Complaints and Compliance Committee (CCC)"** means the Committee established by the Authority in terms of section 17A of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000).

**"Competent Court"** means a Magistrate's Court or High Court within the Republic of South Africa having jurisdiction pursuant to the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) or the Superior Courts Act, 2013 (Act No. 10 of 2013), respectively.

**"Compensation"** means a monetary remedy payable to a landowner or affected party for direct, reasonable and demonstrable patrimonial loss, determined by agreement between the parties or in accordance with applicable law, arising from the deployment of electronic communications networks or facilities, including, where applicable, physical damage to property or depreciation in property value, physical damage, and other patrimonial loss.

**"GIS Database"** means the Geographical Information System Information as specified by the Authority about the type and location of Electronic Communications Network Service deployed.

**"Landowner"** means the person registered in a deeds registry as the owner of the land or property, or where land is held in trust, the trustee(s), or, in the case of state land, the Relevant Authority having control over that land.

**"Licensee"** means a person issued with an Electronic Communications Network Service licence in terms of section 5(2)(a) of the Act.

**"Public Utility"** means an entity legally mandated to provide essential services (including but not limited to electricity, water, sanitation, or transport infrastructure) under South African law, including state-owned enterprises (e.g. Eskom, Transnet, SANRAL) and municipal service providers.

**"Property"** means immovable property registered in the name of a person; any movable property intended to be acquired in connection with the relevant immovable property; and a right in or to such property, including an unregistered right recognised and protected by law;

**"Property Owner"** has the same meaning as "Landowner" and may be used interchangeably, unless the context clearly indicates otherwise.

**"Relevant Authorities"** means municipal, provincial, or national entities with jurisdiction over the land or property in question.

**"The Act"** means the Electronic Communications Act, 2005 (No 36, 2005), as amended from time to time.

**"The Authority"** means the Independent Communications Authority of South Africa (ICASA), established under the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000).

**"Wayleave Certificate"** means a formal authorisation issued by a relevant authority (municipal, provincial, or national) permitting a Licensee to deploy, maintain, or alter electronic communications infrastructure on or beneath public or private land, subject to compliance with applicable bylaws and conditions.

## **2. PURPOSE OF THE REGULATIONS**

- (1) The purpose of these Regulations is to:
  - (a) provide procedures and processes for obtaining any necessary permit, authorisation, and/or statutory approval, including the criteria necessary to qualify for such permit, authorisation, and/or approval;
  - (b) set out the rights and responsibilities of Licensees;
  - (c) prescribe processes and procedures for entry upon public and private property for deploying, maintaining, altering, or removing Electronic Communications Facilities;
  - (d) establish a framework for compensation;
  - (e) provide a dispute resolution mechanism for disputes between Licensees and landowners, and other affected parties, including public utilities; and
  - (f) provide for a Geographic Information System (GIS) database and specify Licensee responsibilities in relation thereto.

## **3. RESPONSIBILITIES OF LICENSEES**

- (1) A Licensee must:
  - (a) exercise due diligence, care, and take all reasonable measures to prevent and mitigate damages to land and property during deployment, maintenance, alteration or removal activities;
  - (b) repair damages after deployment, maintenance, alteration or removal activities;
  - (c) restore property to its former state after removal;
  - (d) submit GIS data to the Authority in accordance with regulation 6 of these Regulations; and
  - (e) take all reasonable steps to ensure that their activities do not compromise or impede the ability of a public utility to exercise its powers or perform its function.

#### **4. THE PROCESS AND PROCEDURE FOR ENTRY ONTO LAND OR PROPERTY**

##### **Approval and Entry Requirements for Deployment**

- (1) A Licensee must obtain all necessary approvals from the relevant local authorities, national authorities, and affected parties, including but not limited to:
  - (a) environmental impact assessment approvals, where required by law;
  - (b) civil aviation approval;
  - (c) town-planning schemes/rezoning approval;
  - (d) traditional land rights approvals, where applicable; and
  - (e) wayleave certificate obtained following the by-laws of the relevant authority.
  
- (2) A Licensee must conduct public consultations with affected communities to ensure transparency and address concerns.

##### **Mandatory Consultation**

- (3) A Licensee intending to deploy electronic communications networks and facilities must consult the landowner and affected person(s) and/or communities before the commencement of any deployment activity.
  
- (4) In conducting consultation in sub-regulation 4 (3), Licensee must:
  - (a) provide reasonable written notice to the landowner and affected person(s) and/or communities and provide the details of the proposed project, its scope, intended timelines, and expected impacts;
  - (b) allow the landowner and affected person(s) and/or communities a reasonable opportunity to consider the proposal and respond;
  - (c) engage in good-faith discussions to address concerns relating to land access, cultural sites, environmental effects, local economic participation, and community safety;

- (d) record outcomes of the consultation, including any agreed-upon conditions, access arrangements, and mitigation measures; and
  - (e) conclude an access agreement with the landowner or property owner.
- (5) The agreement contemplated in sub-regulation 4 (4)(e) should, at a minimum, include: access conditions and times, safety, environmental and heritage protection measures, reinstatement standards, and compensation for disturbance or damage, where applicable.
- (6) In the event that the consultation contemplated in sub-regulation (3) does not result in the conclusion of an agreement as contemplated in sub-regulation (5), the parties may initiate the dispute resolution process contemplated in regulation 8.

### **Notice of entry for deployment and construction**

- (7) A Licensee must give at least thirty (30) days' notice, in writing, of its proposed access activity to the landowner and/or affected parties, specifying:
  - (a) The reasons for entry;
  - (b) The date of commencement;
  - (c) The location of the electronic communications networks and facilities;
  - (d) Environmental, water, health and safety information as may be applicable;
  - (e) Confirmations of the approvals required and/or obtained; and
  - (f) Outline the dispute resolution mechanism in the case of a dispute relating to its plans.
- (8) If a Licensee changes the planned location of the electronic communications networks and facilities, a Licensee must:

- (a) update the location of its electronic communications network on its plans; and
- (b) notify the affected land/property owner of the changes within fourteen (14) days.

**Notice of entry for scheduled maintenance, or alteration of an electronic communications network and facilities**

- (9) A Licensee must provide fourteen (14) days' written notice for maintenance, repair or alteration of the electronic communications network and facilities.
- (10) Where the land/property belongs to a local authority or utility providers' prior written notice must include:
  - (a) Detailed plans of proposed works (e.g. location, depth, duration);
  - (b) Traffic management plans;
  - (c) Emergency contact information; and
  - (d) Proposed restoration methods.
- (11) A Licensee must, before commencement of work and upon request by a local authority, allow for a joint site inspection.
- (12) In case of private land or property, the Licensee must consult with the landowner regarding the process of entry onto the land, including the proposed timeline, methods, and any potential impacts of the activities.
- (13) The Licensee must include a clause on emergency maintenance or repair procedures with the facility provider or the landlord in the access agreement.
- (14) The Licensee must ensure that all employees and/or contractors entering the premises have:
  - (a) a letter of authorisation from the Licensee; and
  - (b) valid identification.

### **Duplication and Coordination of Deployments**

- (15) A Licensee must take reasonable and practicable measures to promote cooperation with other Licensees when undertaking the installation and deployment of an electronic communications network and facilities on the same land to minimise duplication, inconvenience and damage. Such measures may include, but are not limited to, notifications to other licensees.
- (16) Where directed by the relevant authority, a Licensee must participate in trench-sharing or co-build arrangements on reasonable terms, subject to safety and technical feasibility.

## **5. REMOVAL OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES**

### **Cost Recovery for Alterations or Deviations**

- (1) A Licensee claiming recovery of costs under section 25 (1) or 25 (6) of the Act must submit an itemised invoice for expenses to the responsible local authority or person.
- (2) Invoices in terms of sub-regulation (1) must be submitted within thirty (30) days after the completion of the alteration, removal and/or deviation.
- (3) Any dispute regarding the quantum or reasonableness of such costs must be resolved by agreement between the parties or, failing which, by a court of competent jurisdiction.
- (4) A Licensee electing to bear the whole or part of the costs in terms of section 25 (7) of the Act must communicate that election in writing.

### **Removal of Obsolete and Redundant Facilities**

- (5) A Licensee must decommission and remove electronic communications networks or facilities that have been formally decommissioned and removed from its operational network records, within sixty (60) days of such decommissioning.
- (6) Electronic communications networks and facilities that are not actively in use but remain part of a Licensee's registered operational network and are maintained in a safe condition shall not be regarded as obsolete or redundant for purposes of sub-regulation (5).
- (7) The Authority may require a Licensee to demonstrate that infrastructure retained for future use remains operationally planned and does not pose a safety or environmental risk.

## **6. COMPENSATION**

- (1) A landowner/property owner has the right to claim compensation for any loss incurred from the entry of his/her land by a Licensee subject to sub-regulations (5) to (7).
- (2) The determination of compensation must be undertaken through negotiations made in good faith between the parties concerned, with due regard to ensuring a just and equitable balance of interests.
- (3) In determining compensation, due consideration must be given to, but not limited to:
  - (a) the market value of the affected land or property, as determined by a registered and independent valuer; and
  - (a) any loss or damage sustained by the land owner arising from the severance of such land from other land owned by the same person, or from any injurious affection to such other land resulting from the granting of a right of way.
- (4) Compensation must be paid within the agreed terms between the parties.

### **Compensation for Damages**

- (5) A Licensee must pay compensation to the affected party for incidental damages arising from the Licensee's deployment, maintenance, alteration or removal of electronic communications networks and facilities.
- (6) Subject to sub-regulation (5), an assessment of the damages sustained must be undertaken jointly by the Licensee and the affected party to determine the value of the damages.

### **Compensation for Use of Land**

- (7) The Licensee must pay compensation where the installation of an electronic communications networks and facilities restricts or inhibits the owner's ability to use the land or any part thereof for its intended purpose;
- (8) An assessment of the nature and extent of the compensation must be undertaken jointly by the Licensee and the affected party, and an agreement to conduct the assessment jointly must be concluded between the parties; and
- (9) In case of a dispute between the parties, the Licensee must follow the dispute resolution process outlined in regulation 8.

## **7. RAPID DEPLOYMENT GIS DATABASE**

- (1) A Licensee must submit accurate and complete geographical information system (GIS) data to the Authority on a bi-annual basis, or as requested by the Authority, in accordance with the technical specifications in Appendix A.

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- (2) The data in terms of sub-regulation (1) must, at a minimum, include information pertaining to the following categories, where applicable:
- (a) Georeferenced data on passive physical infrastructure, including:
    - (i) The location and type of infrastructure (e.g. fibre optic cables routes, copper lines, ducts, poles, manholes, and base stations);
    - (ii) The owner or operator of the infrastructure; and
    - (iii) Available physical space or capacity.
  - (b) Data on service availability, including:
    - (i) Geographical reach of fixed and mobile broadband services, mapped to the lowest possible granularity at the address level; and
    - (ii) The technology used to provide the services (e.g. Fibre, DSL, 2G, 3G, 4G, 5G or any other technology).
  - (c) Information on planned investments in network deployment, including:
    - (i) Georeferenced data on areas designated for new or upgraded network rollouts;
    - (ii) The estimated date for the start and completion of works; and
    - (iii) The technology to be deployed.
- (3) The GIS Data should follow the following standards:
- (a) All files must contain valid GIS data in a supported file format (i.e., ESRI Shapefile, ESRI Filed, GeoJSON, or GeoPackage);
  - (b) For ESRI Shapefile or ESRI Filed data, GIS data must be submitted as a single Zip archive file;
  - (c) GIS data must use the unprojected (geographic) WGS84 / EPSG:4326 coordinate reference system;
  - (d) GIS data must contain well-formed 2D vector polygon data according to the Open Geospatial Consortium (OGC) rules;
  - (e) GIS data must contain only closed, non-overlapping polygons; and

- (f) Each polygon must have a single value for each of the following fields: technology code ("technology").

## **8. DISPUTE RESOLUTION**

- (1) In the event of a dispute:
  - (a) Between a Licensee and a landowner, a Licensee must first attempt to resolve the dispute through negotiation, failing which, within fourteen (14) days, the Licensee may appoint an independent mediator to facilitate voluntary mediation, and ICASA or any other industry representative may act as a mediator, subject to agreement between parties.
  - (b) Between Licensees who have an existing access agreement with the same landowner, the Licensees must first attempt to resolve the dispute through negotiation, failing which, within fourteen (14) days, the dispute must be referred to the CCC in accordance with the ICASA Act, or parties may refer the dispute to a court of competent jurisdiction.
- (2) Any agreement concluded pursuant to regulation 8 (1)(a) or (b) shall be reduced to writing and shall be duly executed by both parties.
- (3) If a dispute remains unresolved following mediation, or where mediation is not undertaken, the Licensee may:
  - (a) by agreement between the parties, refer the dispute to arbitration;
  - or
  - (b) refer the matter to a court of competent jurisdiction.

## **9. CONTRAVENTION AND PENALTIES**

- (1) A Licensee that contravenes regulations 3 and 4 is liable to a fine not exceeding R150 000.00 (One Hundred and Fifty Thousand Rand).

- (2) A Licensee that contravenes regulation 6 and 7 is liable to a fine not exceeding R1 000 000.00 (One million Rands).

#### **10. SHORT TITLE AND COMMENCEMENT**

- (1) These Regulations are called "The Rapid Deployment Regulations, 2026" and will come into force upon publication in the Government Gazette.
- (2) Regulation 7 will be effective six (6) months from the date of publication of these Regulations.

**APPENDIX A: GIS DATA SUBMISSION FORMAT**

**TABLE 1: FIXED BROADBAND DATA FORMAT**

NODES	
Field	Description
Node address – province	
Node address – commune	
Node address – unique identifier of commune (if possible)	
Node address – name of town	
Node address - unique identifier for town name (if possible)	
Node address - street name	
Node address - unique identifier of street (if possible)	
Node address - number of the building	
Node geometric center coordinates	Geographical coordinates: longitude and latitude in the WGS-84 coordinate system with an accuracy of 1 m
Building type or structure where the node is located	Location of node: <ul style="list-style-type: none"> <li>• office building.</li> <li>• residential building.</li> <li>• industrial building.</li> <li>• service building.</li> <li>• public building.</li> <li>• sacred object.</li> <li>• power grid object.</li> <li>• tower.</li> <li>• mast.</li> <li>• container;</li> </ul>
	<ul style="list-style-type: none"> <li>• pole.</li> <li>• cable well</li> </ul>
The possibility of sharing surface area in the facility where a node is located	Yes/No

Layers of the telecommunications node	Layer: <ul style="list-style-type: none"> <li>• backbone.</li> <li>• distribution.</li> <li>• access</li> </ul>
Transmission medium	Transmission medium: <ul style="list-style-type: none"> <li>• fiber optic.</li> <li>• coax, copper.</li> <li>• radio</li> </ul>
Technology for mediums	<ul style="list-style-type: none"> <li>• GPON.</li> <li>• EPON.</li> <li>• DWDM.</li> <li>• CWDM.</li> <li>• SDH.</li> <li>• PDH.</li> <li>• VDSL.</li> <li>• ADSL.</li> <li>• HDSL.</li> <li>• coax, copper:</li> <li>• Fiber PDH.</li> <li>• POTS/</li> <li>• Wi-Fi</li> </ul>

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TABLE 2: MOBILE BROADBAND DATA FORMAT

MOBILE TOWERS	
Object geometric Centre coordinates	Geographical coordinates: longitude and latitude in the WGS-84 coordinate system with an accuracy of 1 m.
GSM cell technology	<ul style="list-style-type: none"> <li>• 2G.</li> <li>• 3G.</li> <li>• 4G.</li> <li>• 5G.</li> </ul>

<sup>1</sup> ITU Guidelines Establishing or Strengthening National Broadband Mapping Systems

	<ul style="list-style-type: none"><li>• Others (specify)</li></ul>
GSM cell identifier	Unique identifier of the corresponding GSM cell

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<sup>2</sup> ITU Guidelines Establishing or Strengthening National Broadband Mapping Systems



**EXPLANATORY MEMORANDUM ON THE RAPID DEPLOYMENT OF  
ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES  
REGULATIONS, 2026**

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## LIST OF ACRONYMS

ACT	Association of Comms and Technology
DCA	Digital Council Africa
ECA	Electronic Communications Act, 2005 (Act No. 36 of 2005)
ICASA	Independent Communications Authority of South Africa
ICT	Information, Communication and Technology
ISPA	Service Providers' Association
SACF	South African Communications Forum

## 1. INTRODUCTION AND BACKGROUND

- 1.1. On 31 March 2023, the Minister issued the National Policy and Policy Direction on Rapid Deployment of Electronic Communications Networks and Facilities<sup>1</sup> ("Rapid Deployment Policy"). The Rapid Deployment Policy recognises broadband networks as key socio-economic infrastructure necessary for national developmental objectives and highlights that non-uniform processes, fragmented approvals, and administrative delays increase costs and slow the deployment. The Policy calls for a coordinated approach across spheres of government and supports the development of a clear framework for access to land, dispute resolution, and the availability of deployment information to enable coordinated planning and infrastructure sharing.
- 1.2. The Rapid Deployment Policy is issued within the framework of section 21 of the ECA and directs ICASA to develop regulations that:
  - 1.2.1. establish procedures and processes for obtaining necessary permits, authorisations, approvals and other governmental authorities for deployment;
  - 1.2.2. prescribe the manner in which licensees are to exercise rights of entry, deployment and maintenance; and
  - 1.2.3. Provide a dispute resolution mechanism for disputes that may arise between licensees and landowners or other affected parties.
- 1.3. Pursuant to the Rapid Deployment Policy, the Authority has prepared the Draft Regulations on the Rapid Deployment of Electronic Communications Networks and Facilities, 2026 ("Draft Regulations"). The Draft Regulations are intended to provide practical, operational guidance that supports the public interest in rapid rollout while ensuring procedural fairness and lawful engagement with affected parties.

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<sup>1</sup> Government Gazette No. 48346 of 31 March 2023.

- 1.4. These Draft Regulations are therefore intended to provide practical and operational guidance that supports the public interest in the rapid rollout of electronic communications networks and facilities while ensuring procedural fairness and lawful engagement with affected parties.
  
- 1.5. The Council Committee on the Rapid Deployment of Electronic Communications Networks and Facilities undertook internal research to identify recurring barriers to broadband deployment and the regulatory interventions most likely to reduce delays without compromising safety, property protection, or administrative law principles. The findings highlighted several recurring challenges:
  - 1.5.1. inconsistent and unpredictable municipal wayleave processes;
  - 1.5.2. excessive, non-cost-based application fees and deposits;
  - 1.5.3. long approval timelines across state entities;
  - 1.5.4. difficulties accessing state-owned servitudes and infrastructure;
  - 1.5.5. wayleave “hoarding” or speculative applications;
  - 1.5.6. lack of visibility of existing infrastructure, contributing to duplication and accidental damage;
  - 1.5.7. unclear expectations around landowner engagement; and
  - 1.5.8. absence of a structured dispute-resolution pathway for property-related conflicts.
  
- 1.6. In fulfilment of its mandate to develop a framework informed by comparative best practice, the Authority undertook benchmarking studies (between March and June 2025) in India, Mauritius, the United Kingdom, and Ghana. The purpose was to evaluate approaches to rights of way, approvals, infrastructure coordination, dispute resolution, and the utilisation of Geographic Information Systems (GIS). The benchmarking revealed common regulatory principles that underpin efficient, lawful and predictable deployment frameworks. These principles have directly informed the Draft Regulations:

- 1.6.1. Formal coordination mechanisms between national, provincial and local authorities are a critical enabler of efficient deployment. Structured interaction between entities with overlapping mandates (land-use, environmental oversight, municipal approvals) materially reduces delays and inter-governmental conflict.
- 1.6.2. Jurisdictions have introduced standardised procedures governing applications for rights of way, land entry and deployment, with explicit timelines, uniform documentation and prescribed processes. Predictability improves certainty for operators and reduces approval bottlenecks.
- 1.6.3. Comprehensive, accurate and interoperable GIS systems are essential to:
  - 1.6.3.1. support coordinated planning;
  - 1.6.3.2. reduce duplication of civil works;
  - 1.6.3.3. prevent accidental damage to existing infrastructure;
  - 1.6.3.4. enable evidence-based national broadband strategies; and
  - 1.6.3.5. facilitate infrastructure sharing (e.g., tower co-location and access to ducts and poles).
- 1.6.4. Clear and predictable dispute-resolution mechanisms mitigate delays and prevent escalation. While institutional models vary, a common principle is that statutory rights of access must be accompanied by structured processes for resolving disputes with landowners, municipalities and other affected parties.
- 1.6.5. Regulatory attention to the lifecycle of facilities, including safe decommissioning and removal of obsolete infrastructure, prevents environmental, safety and land-use risks.
- 1.7. This Explanatory Memorandum accompanies the Draft Regulations and sets out the rationale, objectives and intended effects of the proposed regulatory

framework, with stakeholders invited to provide representations to strengthen the final Regulations.

## **2. LEGISLATIVE AND POLICY FRAMEWORK**

2.1. The Draft Regulations are made within the framework of Chapter 4 of the ECA and, specifically, section 21 (2) of the ECA. Section 21 (2) obliges the Authority to prescribe the procedures and processes applicable to:

2.1.1. obtaining of permits, authorisations and approvals required for deployment of electronic communications networks and facilities; and

2.1.2. The resolution of disputes arising from the exercise of rights of entry under section 22.

2.2. The Draft Regulations therefore derive directly from this mandatory statutory duty and are further guided by:

2.2.1. The Rapid Deployment Policy, which emphasises that broadband deployment is of national importance and that the regulatory framework should reduce avoidable administrative burdens, improve predictability, enable coordinated planning and sharing, and provide dispute-resolution pathways;

2.2.2. SA Connect (2013), which seeks accessible, quality and affordable broadband, including connectivity to government facilities and underserved communities, and is supported by regulatory measures that reduce deployment delays and improve coordination; and

2.2.3. The National Integrated ICT Policy White Paper (2016), which sets policy principles for rapid deployment that balance network rollout with legitimate public and private property interests.

### **3. REGULATIONS**

#### **3.1 REGULATION 1: DEFINITIONS**

- 3.1.1. The Draft Regulations include defined terms to promote uniform interpretation and consistent application in the regulation of licensees, while providing clarity to landowners, relevant authorities and other affected parties regarding the procedural framework applicable to the deployment of electronic communications networks and facilities.
- 3.1.2. The definitions also clarify the scope of the parties and interests that may be affected by deployment activities and support procedural fairness in the exercise of rights of entry and deployment by licensees.

#### **3.2 REGULATION 2: PURPOSE OF THE REGULATIONS**

- 3.2.1. The purpose aligns with the Authority's mandate under section 4 of the ECA to regulate licensees and prescribe procedural measures, supporting the public interest in the rapid rollout of electronic communications networks and facilities, while balancing the rights of affected parties.
- 3.2.2. These purposes are grounded in section 21 (2) of the ECA, which requires the Authority to prescribe the procedures and processes governing the manner in which licensees exercise the rights conferred in section 22.
- 3.2.3. The inclusion of approvals, access procedures, compensation engagement, dispute-resolution pathways and GIS obligations responds directly to the recurring barriers identified through research, including:

- 3.2.3.1. delays caused by inconsistent municipal and governmental approvals,
- 3.2.3.2. uncertainty regarding engagement obligations with landowners and affected parties,
- 3.2.3.3. disputes arising from damages or compensation expectations,
- 3.2.3.4. duplication of civil works due to lack of information sharing, and
- 3.2.3.5. absence of structured mechanisms for resolving deployment conflicts.

### **3.3 REGULATION 3: RESPONSIBILITIES OF LICENSEES**

- 3.3.1. Regulation 3 provides for the general duty of care that accompanies the statutory right of entry under section 22 of the ECA. These responsibilities of licensees are intended to ensure that deployment occurs in an orderly manner such that the rights of land and property owners are protected.
- 3.3.2. The responsibilities of licensees while deploying electronic communication networks and facilities include licensees exercising due diligence, care, and taking reasonable measures to prevent and mitigate damage to land and property during deployment, maintenance, alteration or removal activities, and to restore property and repair damages after such activities.

### **3.4 REGULATION 4: THE PROCESS AND PROCEDURE FOR ENTRY ONTO LAND OR PROPERTY**

- 3.4.1. Regulation 4 operationalises the Authority's duty under section 21 (2) of the ECA to prescribe the procedures and processes governing the

exercise of section 22 rights. These procedures provide clarity, predictability and fairness for both licensees and landowners, addressing challenges raised in stakeholder consultations relating to inconsistent notice periods, fragmented municipal processes, and uncertainty in engagements.

- 3.4.2. Regulation 4 requires licensees to obtain necessary approvals from relevant authorities and affected parties, including environmental approvals where required by law, civil aviation approval, town-planning or rezoning, traditional land rights approvals where applicable, and a wayleave certificate obtained in accordance with the bylaws of the relevant authority/municipality. References to planning, environmental, aviation and other statutory approvals do not expand the Authority's mandate but simply ensure that deployment occurs within South Africa's existing legal and regulatory framework.
- 3.4.3. Consultation is included to address situations where deployment may affect property owners and landowners. This is to give the landowner and affected parties detailed information to enable them to make an informed decision and to assure them that their rights to the land are protected.
- 3.4.4. The notice periods reflect a balance between operational needs and the legitimate expectations of affected parties. These timeframes are consistent with international experience showing that predictable and standardised approval processes are essential to reducing deployment delays.
- 3.4.5. Sub-regulation 5 is aimed at coordination and lifecycle management of infrastructure to reduce duplication, minimise inconvenience, and manage the consequences of alteration, deviation and redundancy of facilities. The duplication and coordination provision requires

licensees to take the necessary measures to promote cooperation with other licensees when undertaking installation and deployment on the same land, to minimise duplication of infrastructure and deployment activities, and to avoid inconvenience and damage by providing notifications to other licensees. This is intended to reduce the need for repeated civil works and associated disruption, and to support a more efficient rollout.

### **3.5 REGULATION 5: REMOVAL OF ELECTRONIC COMMUNICATIONS NETWORKS AND FACILITIES**

- 3.5.1. The cost recovery for any alterations of electronic communication facilities is intended to give effect to and must be consistent with, section 25 of the ECA.
- 3.5.2. Regulation 5 requires the removal of obsolete facilities within sixty (60) days of decommissioning, which reflects international best practice in the lifecycle management of infrastructure. Ghana's guidelines for tower deployment include provisions to prevent unsafe or abandoned structures, thereby managing safety and land-use impact concerns effectively.
- 3.5.3. Sub-regulations (6) and (7) provide clarity to avoid unnecessary removal of infrastructure that remains part of a licensee's planned network, while ensuring that licensees do not indefinitely designate unused assets as "future use." The disposal of obsolete infrastructure shall be done in accordance with applicable laws and regulations.

### **3.6 REGULATION 6: COMPENSATION**

- 3.6.1. Regulation 6 establishes a procedural framework for compensation negotiations arising from deployment related activities. The Authority does not determine compensation amounts; instead, it facilitates

structured engagement and provides a predictable process aligned with its mandate under section 21 (2) of the ECA.

- 3.6.2. To promote consistency and transparency in negotiations, the regulation identifies factors that must be given due consideration, including the market value of the affected land or property as determined by a registered and independent valuer, as well as any loss or damage sustained by the landowner arising from severance or injurious affection resulting from the granting of a right of way.
- 3.6.3. The compensation framework in regulation 6 is intended to facilitate rapid deployment while ensuring that landowners and other affected parties are protected against demonstrable loss arising from deployment, maintenance, alteration or removal activities of the electronic communications network and facilities.
- 3.6.4. This regulation recognises that compensation is an important element in balancing the public interest in the rapid rollout of electronic communications networks and facilities with the protections afforded to property rights. This regulation requires the parties to determine compensation through good-faith negotiations aimed at achieving a just and equitable balance of interests.
- 3.6.5. The approach adopted in regulation 6 is therefore aligned with international best practice by ensuring fairness and consistency without overstepping the Authority's statutory mandate.

### **3.7 REGULATION 7: RAPID DEPLOYMENT GIS DATABASE**

- 3.7.1. Regulation 7 introduces comprehensive GIS obligations to improve coordinated planning, reduce duplication, minimise civil-works conflicts, and enable evidence-based policy implementation. This

responds directly to stakeholder findings that the absence of accurate infrastructure information contributes to repeated trenching, accidental damage and inefficient deployment processes.

- 3.7.2. Regulation 7 requires licensees to submit accurate and complete GIS data to the Authority on a bi-annual basis, or as requested, in accordance with the technical specifications set out in the Draft Regulations and Appendix A.
- 3.7.3. In addition to data on current service availability, the regulation also mandates submission of information on planned network investments. licensees must provide details of designated rollout areas, projected start and completion dates, and the specific technologies to be deployed in future network expansions. This forward-looking information improves regulatory visibility into upcoming infrastructure developments and assists in tracking progress against national broadband objectives.
- 3.7.4. Overall, these requirements strengthen regulatory oversight, facilitate evidence-based policy decisions, and support the efficient planning of interventions aimed at improving broadband access, quality, and competition across the sector.
- 3.7.5. These GIS requirements are designed to make it easier for stakeholders to plan infrastructure in a coordinated way, to pinpoint areas that remain underserved or unserved, and to minimise unnecessary duplication or accidental damage to existing networks. By improving the availability and consistency of location-based information, the regulation aims to support smarter, safer, and more efficient broadband deployment.

### **3.8 REGULATION 8: DISPUTE RESOLUTION**

- 3.8.1. Regulation 8 gives effect to section 21 (2)(b) of the ECA by establishing a structured dispute-resolution pathway for disputes arising during the exercise of section 22 rights.
- 3.8.2. The dispute resolution framework is intended to promote early resolution of disputes and to provide structured escalation pathways where disputes cannot be resolved through engagement.
- 3.8.3. The purpose aligns with the Authority's mandate under section 4 of the ECA to regulate licensees and prescribe procedural measures, supporting the public interest in the rapid rollout of electronic communications networks and facilities, while balancing the rights of affected parties.

### **3.9 REGULATION 9: CONTRAVENTION AND PENALTIES**

- 3.9.1. The Draft Regulations include contravention and penalty provisions intended to promote compliance with key obligations, including entry procedures and GIS obligations.
- 3.9.2. These provisions are intended to support regulatory effectiveness by creating consequences for non-compliance with requirements that are material to rapid deployment, coordination and lawful access to electronic communication networks and facilities deployment.

## **4. APPENDIX A: GIS DATA SUBMISSION FORMAT**

- 4.1. Appendix A prescribes the GIS data submission formats for fixed and mobile broadband datasets and specifies required fields and coordinate requirements. Appendix A should be read together with regulation 7 to

ensure consistent submissions across licensees and to support the Authority's effective use of GIS information for planning and coordination.