

LAWS OF SOUTH SUDAN

National Communications Frequency Regulations, 2016



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Directorate of Legislation
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**LAWS OF SOUTH SUDAN
NATIONAL COMMUNICATIONS FREQUENCY
REGULATIONS, 2016**

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In accordance with the provisions of Sections 56 and 57 read together with Section 92 of the National Communications Act, 2012, the Authority with the approval of the Competent Minister, issue and promulgate the following into Regulations:

CHAPTER I

Preliminary Provisions

1. Title and Commencement

These Regulations shall be cited as the National Communications Frequency Regulations, 2016, and shall come into force on the date of its signature.

2. Repeal and Saving

Any existing regulations or orders, directives, rules and guidelines governing the subject of these Regulations is hereby repealed; provided that any orders issued or regulations made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with provisions of these Regulations shall continue in force and effect until repealed or amended by these Regulations.

3. Purpose and Object

The purpose and objective of these Regulations is to:

- a. promote and support orderly development and efficient operation of radio communications systems and services to meet the country socio-economic, security and cultural needs;
- b. ensure proper planning, utilisation and spectrum resource in accordance with the provisions of the Act, Government Policy and international standard;
- c. promote efficient use of frequency spectrum resources through adoption of latest technical advances and efficient spectrum allocation and management of technology, based on operational requirements and technical viability;
- d. ensure equitable and fair allocation and assignment of spectrum to benefit the maximum number of users.

4. Interpretation

In these regulations, all words and expressions that are defined under the Communications Act, 2012, shall have the same meanings herein, unless the context otherwise requires:

“Act”	means the National Communications Act, 2012.
“Authorised Frequency”	means the frequency assigned to any station by the Authority.
“Harmful Interference”	means radiation or induction which: <ul style="list-style-type: none">a. endangers functioning of radio-navigation service or of safety service; orb. obstructs or repeatedly interrupts an authorised radio or communication service.
“Network”	means two or more stations operated by any person and used or intended to be used in communication with one another.
“Radio Emission”	means any emission of electromagnetic energy of frequencies currently less than three hundred Gigahertz without continuous artificial guide or such other frequencies, as the Authority may from time to time publish in the Public Media.
“Spectrum assignment”	means the authorization by the Authority to any licensee
specific frequencies or frequency pairs for, use within given allocation, at specified geographic location.	
“Station”	means any transmitter, receiver, combination of transmitters and receivers or any accessory thereto used or intended to be used for radio communication.
“Transmitter”	means anything, irrespective of its use, function or the purpose of its design is to be capable of radio emission.
“User”	means any person or body of persons who uses or Operates Radio Communications Services.

CHAPTER II

FREQUENCY SPECTRUM LICENSING CONDITIONS

5. Eligibility for License

The Authority shall, publish guidelines specifying persons eligible and eligibility criteria for grant of spectrum licences from time to time.

6. General Licensing Conditions

1. A person shall not possess, establish, install or use radio communication station, which requires licensing under these Regulations in any place or on board of any local vessel, aircraft or vehicle, unless that person has valid licence granted by the Authority.
2. A radio communication licence shall not confer ownership rights of frequency on the licensee.
3. Licensee shall not transfer frequencies assigned and rights therein without written consent of the Authority.
4. Licensee shall comply with provisions of the International Telecommunications Convention.
5. When the authorization is requested for a period not exceeding one month, the Authority may grant temporary authorization for utilisation of frequency spectrum and the minimum applicable fee shall be for a period of one month.

7. Application Criteria for Frequency

1. The Authority shall, when considering application for frequency assignment, take into consideration the following factors:
 - a. spectrum availability for the type of service and proposed location;
 - b. whether the proposed service may be offered by any other means of communication;
 - c. distress and safety radio communication services which require protection from harmful interference; and
 - d. current technical advances that ensure most efficient spectrum use.
2. The Authority may assign frequency or frequencies to any applicant, and shall for that purpose take into account all technical data of equipment and associated accessories that the applicant is proposing to use.

8. Assignment of Frequencies

1. The Authority may assign frequencies when satisfied that such assignment shall not cause harmful interference to any station or licensee operating in accordance with the South Sudan table of frequency allocations.
2. Any person licensed to operate and provide radio communication systems and services shall apply to the Authority for assignment of necessary frequencies.
3. When the Authority is satisfied with application, it may assign the frequency, which applicant shall use in accordance with the prescribed technical and operating parameters.
4. When frequencies applied for may not be available, the Authority may assign frequencies in an alternative frequency band.
5. The Authority may impose conditions, as it may consider necessary, for use of assigned frequencies.

9. Obligations of Licensees

1. Any licensee, that has been assigned frequencies bands for use shall:
 - a. maintain and provide, at Authority request, inventory of frequencies assigned;
 - b. keep licence in force by regular payment of annual fees set by the Authority from time to time;
 - c. put into use assigned frequencies within period specified by the Authority;
 - d. follow measures as may be set by the Authority, to eliminate unauthorised emissions, harmful interference or illegal use of spectrum;
 - e. optimise utilisation of frequency spectrum resource in manner prescribed by the Authority from time to time; and implement all measures set by the Authority.
2. The Authority may, where necessary, direct any licensee to migrate to a new frequency band.
3. The Authority shall implement migration through arrangement that shall not impose unreasonable burden to licensee involved.
4. Licensee shall not make material change to any licensed station or change station parameters specified in the licence, without written authorization from the Authority.
5. Licensee shall request written consent of the Authority, when licensee proposes to:
 - a. increase height of structure supporting the radiating portion of the antenna;
 - b. relocate an antenna and such relocation may involve change in geographic coordinates of latitude or longitude, by at least one second, or relocation involves change in street address:

- c. change in antenna parameters, including height, number of antenna elements, radiation pattern or polarisation.
6. All licensees shall, unless exempted by terms of authorization, transmit assigned call sign at the end of each complete transmission.
7. Transmission of call sign at end of each transmission shall not be obligatory in cases of projects requiring continuous frequent or extended use of transmitting apparatus, if, during periods and in connection with use, the call sign is transmitted at least once every thirty minutes.

10. Sharing of Frequencies

1. The Authority may, where necessary, compel any licensee to share frequency.
2. The Authority shall implement sharing through arrangement that shall not impose unreasonable burden to the licensee involved.

CHAPTER III FREQUENCY SPECTRUM PRICING, INSPECTION AND MONITORING

11. Frequency Spectrum Pricing

1. The Authority may, from time to time, set methods of determining frequency spectrum pricing.
2. The Authority shall not avail frequency spectrum licences to licensee, unless the licensee has paid frequency spectrum licence fees and complies with conditions set by the Authority.
3. The Authority may recall frequencies assigned that have not been utilised within the period specified in the licence.
4. When assigned frequency is recalled for non-utilization, the licence fee paid in accordance with sub-regulation (2) of this Regulation shall not be refunded.

12. Pricing Parameters

1. The Authority shall adopt a pricing formula that reflects the economic value of frequency spectrum, to encourage efficient use of frequency spectrum and stimulate growth in the media sector.
2. The pricing formula adopted under sub-regulation (1) of this Regulation, shall take into account the following factors:
 - a. size of spectrum assigned;
 - b. frequency band and level of congestion within the band;
 - c. market demand;
 - d. power output and;
 - e. geographical usage; and
 - f. such other factors as the Authority may, from time to time determine
3. The Authority shall review and publish pricing formulas for frequency spectrum, at least once every three years.

13. Type Approval and Inspection

1. Licensee shall not use frequency spectrum, unless the radio equipment in respect of which assignment is sought has been duly type approved or type accepted by the Authority.
2. Upon installation of the radio communication system, the licensee shall ensure that the system is inspected and certified by the Authority to be operational in accordance with the Act and regulations made thereunder.

14. Monitoring and Inspection

1. The Authority shall monitor all emissions from licensed stations, to ensure efficient utilisation and compliance with licensed parameters.
2. The licensee shall permit unlimited access by the Authority authorised officers, to licensee installations at reasonable times, for purposes of inspection and verification of operational parameters.
3. The owners and management agents of buildings shall:
 - a. demand proof of licences and authorization from the Authority, before authorising installation of any radio communication systems in their premises;
 - b. keep records of all equipment installations; and
 - c. permit unlimited access by the Authority authorised officers, to licensee installations for the purposes of inspection and verification of operational parameters.
4. Licensee shall, when requested, make available all records that relate to stations operations to the Authority authorised officers.
5. Licensee shall report any interference experienced to the Authority in writing.
6. When the Authority, pursuant to report made or on its own initiative, is of the view that certain measures need to be undertaken to avoid or mitigate interference, the Authority may require licensee or class of licensee, in writing, to take specified measures.

15. Siting and Maintenance of Illuminated Towers and Control Equipment

1. Licensee of radio station that has antenna structure shall paint and illuminate the tower, perform routine inspections and maintenance of the tower, to ensure that it is properly marked and illuminated and on any other associated control equipment, required.
2. All licensees shall comply with directives given by the Authority, in consultation with the government agency responsible for civil aviation, in matters relating to antenna towers.
3. All licensees shall ensure that siting of antennas and towers comply with all applicable laws.

4. All licensees shall ensure that, sitting and installation of transmitters, antennas and towers comply with applicable laws and guidelines relating to radiation limits in force from time to time.

16. Radio Spectrum Management and Monitoring Facilities

Where the Authority is of opinion that radio operation or structure may cause harmful interference to its operation, the Authority may restrict installation or operation of radio communications apparatus or erection of structures within specified area from the Authority radio monitoring facilities.

CHAPTER IV

Miscellaneous Provisions

17. Disposal of Uncollected Goods

1. The Authority may disable or confiscate any radio communication apparatus or stations operated in contravention of conditions of its licence or in contravention of the Act and these Regulations.
2. Confiscated equipment or apparatus may, if not collected by licensee, be disposed off in accordance with applicable laws governing disposal of uncollected goods.

18. Offences and Penalties

1. Any licensee that uses any radio communication station for or in furtherance of unlawful conduct, commits an offence and shall upon conviction, be punishable with fine not exceeding **South Sudanese Pounds equivalent of US Dollars One Million (USD 1,000,000)** or imprisonment for period not exceeding five (5) years or both.
2. Any person, upon receiving request for information concerning use of frequency spectrum from the Authority, fails to disclose information or gives false or misleading information commits an offence and shall on conviction, be punishable with fine not exceeding **South Sudanese Pounds equivalent of US Dollars Five Hundred Thousand (USD 500,000)** or imprisonment for period not exceeding three (3) years or both.

19. Number of Frequencies

The Authority may set the minimum or maximum number of radio communications channels or frequencies, which any user or licensee may be granted.



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