

STATUTORY INSTRUMENTS SUPPLEMENT
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STATUTORY INSTRUMENTS.

2004 No. 41.

THE UGANDA COMMUNICATIONS (ENFORCEMENT PROCEDURES)
REGULATIONS, 2004.

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STATUTORY INSTRUMENTS.

2004 No. 41.

The Uganda Communications (Enforcement Procedures) Regulations, 2004.

(Under sections 5(1) (f) and 94 (1) of the Uganda Communications Act Cap. 106)

IN EXERCISE of the powers conferred on the Uganda Communications Commission by sections 5(1) (f) and 94 (1) of the Uganda Communications Act, these Regulations are made this 17th day of May, 2004.

PRELIMINARY.

1. Citation

These Regulations may be cited as the Uganda Communications (Enforcement Procedures) Regulations, 2004.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Uganda Communications Act;

“Commission” means the Uganda Communications Commission established by the Act;

“Court” means a court of competent jurisdiction;

“Executive Director” means the Executive Director of the Commission;

“guidelines” means guidelines published from time to time by the Commission in the *Gazette*;

“licence” means a licence issued under the Act;

“licensee” means a holder of a licence issued under the Act;

“regulations” means regulations made under the Act.

3. Purpose

The purpose of these Regulations is to ensure compliance in the communications sector by all people in Uganda, to spell out the tools for investigations of violations and to prescribe the penalties for non-compliance with these Regulations.

INVESTIGATION OF VIOLATIONS.

4. Duty of Commission to ensure compliance

It is the duty of the Commission to use the best practicable means to ensure that the provisions of the Act, regulations and licences are complied with.

5. Investigations

(1) In carrying out investigations in respect of non-compliance under the Act, regulations and licences, the Commission shall employ the following tools—

- (a) letters of inquiry to initiate an investigation into a matter or to gather more information during the course of an ongoing investigation;
- (b) initiated surveillance, field inspection and investigations by the Commission which shall be carried out in response to a complaint or at the Commission’s own motion.

(2) The recipient of a letter of inquiry under subregulation (1) (a) shall be required to respond to the inquiry within ten working days after receipt of that letter.

(3) The results of an investigation under subregulation (1) (b) shall lead to any of the following actions—

- (a) no further action but advice to the owner of the inspected facilities;
- (b) issuing a further letter of inquiry requesting for additional information;
- (c) issuing a notice of violation requiring an explanation in respect of the violation; or
- (d) imposition of monetary fines under section 5(1) (f) of the Act.

ENFORCEMENT.

6. Complaints

(1) Any person may lodge a complaint with the Executive Director on grounds that a licensee, competitor, consumer or other interested party has violated the provisions of the Act, the regulations or a licence.

(2) When lodging a complaint under subregulation (1), it shall not be necessary for the complainant to show or prove any personal loss or injury or discomfort caused by the violation.

(3) On receiving a complaint under subregulation (1), the Executive Director shall take all reasonable steps to ensure that the violation is abated or controlled, and that these Regulations are complied.

7. Action by Commission

Where the Commission has established that a violation of the provisions of the Act, regulations or a licence has occurred, the Commission shall do all or any of the following—

- (a) issue a warning where the violation warrants a warning, informing the party to take steps to ensure compliance in future, failure of which may lead to a more severe enforcement action;
- (b) impose monetary fines under section 5(1) (f) of the Act for violations according to the guidelines and the party concerned shall be notified of the fine and be required to pay the fine within thirty days from the date of the order requiring the party to pay the fine;
- (c) enter into a consent agreement in lieu of a fine, under which the offending party shall take steps to ensure compliance;
- (d) issue an order requiring a party to cease any act of non-compliance with the Act, regulations and licence provisions.

8. Revocation of licence

The Executive Director may at any time, commence proceedings to revoke the licence of a licensee that has violated the provisions of the Act, regulations or a licence if he or she is satisfied that those provisions have not been complied with, or where, despite warnings, the offending licensee continues to violate the Act, regulations or relevant provision of the licence.

9. Confiscation of equipment, etc

(1) The Executive Director may seize, impound or confiscate any property, tool, equipment or other instrument that is unlawfully possessed, installed, connected or operated in accordance with the Act.

(2) The owner of any property seized, impounded or confiscated under these Regulations shall be responsible for the costs incurred in the confiscation.

10. Return of seized equipment

(1) Where any property, tool, equipment or other instrument is seized, impounded or confiscated under regulation 9, the owner or person using that property, tool, equipment or other instrument may at any time, in writing, apply to the Executive Director requesting for the return of the property, tool, equipment or other instrument to him or her.

(2) Upon receipt of an application under subregulation (1), the Executive Director may return the property, tool, equipment or other instrument or part of it upon being satisfied that the prescribed fine has been paid to the Commission and the return of the equipment is not likely to lead to a further violation of the provisions of the Act, regulations or licence.

(3) Nothing in this regulation prevents the Executive Director from returning the property, tool, equipment or other instrument to which this regulation applies without being requested to do so.

PENALTIES.

11. Minor violations

For the purposes of imposing fines under section 5(1) *(f)* of the Act and the guidelines, the following constitute minor violations—

- (a)* failing to furnish the Commission with the required records or information;
- (b)* failing to keep proper accounting records;
- (c)* ceasing operations without notice to the Commission.

12. Major violations

For the purposes of imposing fines under section 5(1) *(f)* of the Act and the guidelines, the following constitute major violations—

- (a)* exceeding the authorized antennae height;
- (b)* exceeding the authorized power limits;
- (c)* failing to engage in the required frequency coordination.

13. Serious violations

For the purposes of imposing fines under section 5(1) *(f)*, of the Act and the guidelines, the following constitute serious violations—

- (a)* operating any communications services without a licence;
- (b)* advertising or placing a notice, mark or word which may reasonably lead the public to believe that the advertiser is the holder of a licence;
- (c)* violating the provisions of the Act relating to equality of treatment and non denial of service;
- (d)* using unauthorized frequencies or equipment; and

(e) importing or marketing unauthorized communications equipment.

ABEL KATAHOIRE,
Chairperson,

Uganda Communications Commission.