

LEGAL NOTICE NO. [INSERT]

Pursuant to section 55 of the Communications Act, 2012, I

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Minister of Communications, Science and Technology make the following regulations:

COMMUNICATIONS (SUBSCRIBER IDENTITY MODULE AND MOBILE DEVICE REGISTRATION) REGULATIONS, 2021

PART I - PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Communications (Subscriber Identity Module and Mobile Device Registration) Regulations, 2021 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Regulations unless the context otherwise requires:

“**Act**” means the Communications Act, 2012;

“**Authority**” means the Lesotho Communications Authority established under the Communications Act, 2012;

“**activate**” means causing a SIM to function on a mobile network by allowing full access, including the ability to make and receive calls, to send and receive short message services and other range of services usually provided by licensed communication service provider and the words “activated”,

“activation”, “deactivate” and “deactivation” shall be read and construed accordingly;

“**activation window**” means the period of seven days from the day a subscriber acquires a new line on the network of a licensee, within which a new subscriber is required to register with the relevant licensee and during which, the new subscriber will be granted limited access;

“**active SIM**” means a SIM that is functioning on a mobile network;

“**batch of SIM**” means a group of SIM registered at the same time for electronic communications and requiring a single representative’s NICR identity with a single biometric verification excluding additional SIM;

“**biometric information**” refers to finger prints and facial image of subscriber in accordance with the registration specifications issued by the Authority for the registration of subscribers;

“**categories of biometric SIM registration**” includes a company, diplomat, individual, institution, foreigner, minor, refugees, visitor or any other categories as may be determined by the Authority from time to time;

“**Central Database**” means subscriber information database, containing the biometric and other registration information of all Subscribers;

“**child**” means a person below the age of eighteen years;

“**child biometric SIM registration category**” means biometric registration of SIM to be used solely by a child;

“**company biometric SIM registration category**” means biometric registration of SIM to be used solely by company;

“**Constitution**” means the Constitution of the Kingdom of Lesotho, 1993;

“**customer**” means any person who obtains or seeks to obtain services of any kind from a person undertaking activities pursuant to these Regulations and includes subscribers;

“**contract of services**” means an agreement entered into between a licensee and a customer for the provision of the licensed services to the customer;

“**diplomat**” means a person who is in a diplomatic mission to Lesotho as recognised under the Diplomatic Privileges Act, 1969;

“**diplomat SIM registration category**” means biometric registration of SIM to be used solely by diplomats;

“diplomatic institution” means a diplomatic accredited international institution in Lesotho;

“diplomatic institution SIM registration category” means biometric registration of SIM to be used solely by diplomatic institutions;

“existing subscriber” means a person who is a subscriber prior to the commencement of these Regulations;

“foreigner” means a non-citizen who is not a diplomat residing in Lesotho for period of more than six (6) months;

“foreigner biometric SIM registration category” means biometric registration of SIM to be used solely by foreigners;

“foreign licensee” refers to a Network Service provider licensed by a telecommunications regulator other than the Authority, to provide telecommunication services in a country other than Lesotho;

“Global System for Mobile Communications Association” (GSMA) means an international association of service providers of Global Mobile Communication Systems devoted to supporting, standardising, deployment and promotion of these communications systems;

“guardian” means a person who has a charge or control over a child or a person appointed by customary rights, deed, will or order of the court, vested with a duty of taking care and managing the property and rights of the child;

“individual biometric SIM registration category” means biometric registration of SIM to be used solely by a customer for personal use;

“institution” means a government or non-government institution which is registered and operates within Lesotho;

“institution biometric SIM registration category” means biometric registration of SIM to be used solely by an institution;

“Integrated Circuit Card Identifier” means a unique serial number that is printed and stored in the SIM of a subscriber, and is an internationally standardised way of identifying a SIM;

“International Mobile Equipment Identity” which is also known by its acronym as “IMEI” means a unique code used to identify an individual mobile device in Global Systems for Mobile Communications networks;

“International Mobile Subscriber Identity” which is also known by its acronym as “IMSI” means a unique code used to identify a subscriber on Global System for Mobile Communication network;

“licensee” means an entity licensed by the Authority to provide and facilitate provision of communications services, also known as a network operator or service provider;

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

“machine to machine communications” means a direct communication between devices to exchange information and perform actions without the manual intervention of humans;

“mobile device” means a device used for mobile communication services including devices which support data services in the mobile networks;

“Mobile Subscriber Integrated Services Digital Network” which is also known by its acronym as “MSISDN” means a number or telephone number that uniquely identifies a subscription in the service providers’ network;

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

“NICR” is an acronym of the National Identity & Civil Registry;

“NICR ID” means the National Identity Card issued in terms of the National Identity Cards Act, 2011;

“personal information” refers to the full names (including mother’s maiden name), gender, date of birth, residential address, nationality, district of origin, occupation and such other personal information and contact details of subscribers specified in the Registration Specifications;

“PIN” is an acronym of Personal Identification Number;

“refugee biometric SIM registration category” means biometric registration of SIM to be used solely by a refugee;

“Registration Specifications” means the Data Dictionary, Guidelines on Fingerprint Quality, specifications for Digital Image Standards and Quality, the XML Schema, Transmission protocol and the Technical Interface specifications and such other specifications and amendments thereto that may be made or issued by the Authority, from time to time, to guide the registration

of subscribers and the interaction of Licensees' database with the Central Database;

“Subscriber” means a person who subscribes to mobile telecommunication services by purchasing a mobile device and SIM or entering into a subscription contract with a licensee;

“SIM” means subscriber identity module which is an independent electronically activated device designed for use in conjunction with a mobile device to enable the user of the mobile device to transmit and receive indirect communications by providing access to telecommunications systems and enabling such telecommunications system identify the particular subscriber identity module and its installed information;

“Security Agency” or “Security Agencies” refers to any or all of the following law enforcement and security agencies: (a) Lesotho Mounted Police Service (b) the Directorate on Corruption & Economic Offences (c) the National Security Service and (d) any other law enforcement or Security Agency established by the government of Lesotho;

“Subscribers Registration Solution Provider” refers to a company contracted by the Authority for the conceptualisation, design, development and delivery of registration solutions covering all licensees and providing detailed subscriber information in a manner facilitating seamless integration into the central database;

“subscriber information” refers to the biometrics and other personal information of subscriber recorded and stored by licensees;

“subscriber registration period” means the six months period from the commencement of these regulations or such other date as the Authority may specify and any extensions thereto that may be announced by the Authority, within which existing subscribers are required to register their mobile devices and SIM pursuant to these Regulations.

“visitor” means a non-citizen who is not a diplomat and intends to stay in Lesotho for period of not more than four (4) months; and

“visitor biometric SIM registration category” means biometric Registration of SIM to be used solely by a visitor;

Application

3. These Regulations shall apply to all licensees and users of Mobile Devices and SIM in Lesotho including –
 - (a) corporate, private and commercial subscribers of mobile telecommunications services utilising SIM in the Kingdom of Lesotho; and
 - (b) subscribers of foreign licensees who are roaming on the network of a licensee in the Kingdom of Lesotho, provided that subscribers of foreign licensees shall not be required to register where they have registered their subscriber information in the jurisdiction of the relevant foreign licensee and there exists necessary arrangements between the Authority and the relevant regulatory authority of the foreign licensee to access such subscriber information.

Objectives

4. The objectives of these Regulations are to provide –
 - (a) a regulatory framework for the registration of subscribers of mobile telecommunications services utilising SIM and mobile devices in Lesotho; and
 - (b) for the establishment, control, administration and management of the Central Database.

PART II - CENTRAL DATABASE

Establishment and Maintenance of a Central Database

5. (1) The Authority shall establish and maintain a database of all registered subscriber information to be known as “the central database”.
 - (2) The central database shall be domiciled within the Authority and shall provide a platform for the central processing and storage of subscribers’ information.
 - (3) The central database shall be segregated across network services in such a manner as to ensure easy access to data by authorised persons in respect of subscribers’ information of the different licensees.

Ownership and Management of the Central Database

6. (1) The central database shall be the property of the Government of Lesotho.
- (2) The management, care and control of the central database shall be vested in the Authority subject to the provisions of these Regulations.

Operations of the Central Database

7. (1) Licensees shall transmit all subscriber Information captured and registered within the preceding month or such other period as may be stipulated by the Authority, to the Central Database.
- (2) The administration of the central database shall be in accordance with the latest standards issued from time to time by the International Organisation for Standardization in relation to security and management of electronics and persona data.

Licensees Right to Use Subscriber Information

8. A licensee shall have the right to retain and use its subscriber information on its network in accordance with applicable laws and the provisions of the license conditions and any other instrument issued from time to time by the Authority.

Access to subscriber information on the Central Database by the Security Agencies

9. (1) Notwithstanding the provisions of these Regulations restricting access to subscriber information on the central database and subject to the provisions of any Act, subscriber information on the central database shall be provided only to Security Agencies; provided that a prior written request is received by the Authority from an official of the requesting Security Agency who is not below the rank of an Assistant Commissioner of Police or an equivalent rank in any other Security Agency.

(2) The written notice by the Security Agency pursuant to sub-regulation (1) of this regulation shall indicate the rank of the official of the requesting Security Agency and the purpose for which the information is required.

Data Protection and Confidentiality

10. (1) In furtherance of the rights guaranteed by section 14 of the Constitution and subject to any guidelines issued by the Authority including terms and conditions that may from time to time be issued either by the Authority or a licensee, any subscriber whose personal information is stored in the central database or a licensee's database, shall be entitled to view the said information and to request updates and amendments thereto.

(2) The subscriber information contained in the central database shall be held on a strictly confidential basis and no person or entity shall be allowed access to any subscriber information on the central database except as provided in these Regulations.

(3) Licensees shall not under any circumstances retain, duplicate, deal in or make copies of any subscriber information or store in whatever form any copies of the subscriber information for any purpose other than as stipulated in these Regulations or in any other law.

(4) Licensees, Subscriber Registration Solution Providers and the Authority shall each take all reasonable precautions in accordance with international practise to preserve the integrity and prevent any corruption, loss or unauthorised disclosure of subscriber information obtained pursuant to these Regulations and shall take steps to restrict unauthorised use of the subscriber information by their employees who may be involved in the capturing of such subscriber information.

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

(6) Licensees and subscriber registration solution providers shall not retain the biometrics of any subscriber after transmission thereof to the central database.

Release of personal information of a subscriber

11. (1) Release of personal information to Security Agents shall be in accordance with the provisions of the applicable laws, the Act, these Regulations and any directives, guidelines or instrument issued from time to time by the Authority and in a format to be determined by the Authority.

(2) Subscriber information shall not be released to a licensee, Security Agency or any other person, where such release of subscriber information would constitute a breach of the Constitution or any other law for the time being in force

in Lesotho or where such release of subscriber information would constitute a threat to national security.

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

(4) No subscriber information shall be transferred outside Lesotho without the prior written consent of the Authority.

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

PART III – REGISTRATION

Registration of new subscribers

12. (1) Every licensee shall register subscriber information as specified under sub-regulation (2) of this regulation.

(2) From the commencement of these regulations, licensees shall in accordance with registration specifications and at no cost to the subscriber, capture, register and transmit to the central database the –

(a) biometrics and other personal information of subscribers who request for registration of mobile devices and the activation of a SIM; and

(b) in the case of an institution, corporate or other juristic person, the biometrics and other personal information of the authorised representative of the institution, corporate or other juristic person and the name, address and where applicable, the registration number of the juristic person issued by the relevant authority.

Activation of new subscriptions

13. (1) Upon the commencement of these Regulations, licensees shall only provide new subscribers with a SIM enabled for limited access to their network services and such limited access shall last for the duration of the activation window.

(2) It shall be the responsibility of a new subscriber to, at any time within the activation window, present personal information to the licensee from whom the SIM is obtained for registration in accordance with the requirements of these Regulations.

(3) Upon the capturing and registration of the mobile device, biometrics and the personal information of a new subscriber, the licensee shall activate the SIM on its network service and transmit the subscriber information to the central database.

Registration of existing subscribers

14. (1) Subject to the terms of any contractual arrangement with the Authority, the Licensees shall carry out the capturing and registration of the mobile device, biometrics and other personal information of existing subscribers within the subscribers' registration period in accordance with the provisions of regulation 12 (2) of these regulations and the registration specifications.

(2) Licensees shall support and promote the registration of existing subscribers and shall promptly deactivate any subscription where the mobile device and personal information of the subscriber has not been entered into the central database by the end of the subscriber registration period or such extensions thereof as the Authority may prescribe.

(3) A deactivated subscription shall be reactivated upon the registration of the Biometric Information and other personal information of the relevant subscriber in accordance with the relevant provisions of these Regulations and confirmation by the Authority of the entry thereof into the central database.

Registration of foreign subscribers

15. (1) Subject to the provisions of Regulation 3(b) of these regulations and any directive, instrument or guidelines issued from time to time by the Authority, a licensee who is providing roaming services in Lesotho to a subscriber of a foreign licensee shall register the personal information of such subscriber in accordance with the provisions of these regulations and any directive, instrument or guideline issued from time to time by the Authority, before providing such subscriber with roaming services.

(2) For the purposes of sub-regulation (1) of this regulation, the activation window shall be a period of 48 hours.

Deactivation and deregistration of a mobile device and SIM

16. (1) A licensee may deactivate and deregister a mobile device or SIM upon request by a subscriber after verification and confirmation of the subscriber information on the mobile device and SIM.

(2) Records of any deactivation or deregistration shall be transmitted to the central database by the licensee in accordance with specifications issued by the Authority.

Prohibition of proxy registration

17. There shall be no proxy registration of any mobile device or SIM.

Number of registrable SIM

18. A person may register any number of mobile devices and SIM with any licensee.

Liability for activities using a SIM

19. A subscriber shall be liable for activities carried out using a mobile device or SIM registered with that subscriber's personal information.

PART IV - REQUIREMENTS FOR REGISTRATION OF SIM

Obligation to register SIM

20. (1) Any person who owns, controls or intends to use a mobile device, detachable SIM, built-in SIM mobile telephone or SIM enabled mobile communications equipment or device shall-

(a) register biometrically the mobile device, SIM or built-in SIM mobile telephone or SIM enabled mobile communication equipment or device with the respective licensee or authorised agent in manner set out in these Regulations.

(b) ensure that the PIN of the mobile device or SIM is not shared with any other person; and

(c) notify the licensee of the change of user or usage for each mobile device or SIM under his possession.

(2) Any person who sells or in any other manner provides detachable SIM or built-in SIM mobile telephone or SIM enabled mobile communication equipment or device to any customer shall –

(a) register customers using procedures as prescribed in these Regulations; and

- (b) keep record of the customers details in the central database as retrieved electronically from NICR.
- (3) Every licensee shall ensure –
 - (a) connectivity to NICR is available and working at all times;
 - (b) connectivity to the central database is available and working at all times;
 - (c) NICR verified SIM registration details are submitted to the central database automatically during the registration process; and
 - (d) replacement of a damaged SIM upon verification of original registration and ownership through biometric verification.
- (4) A person shall not register a mobile device or SIM using the National Identity of another person, except as specified in these Regulations.

Procedure for registration of mobile devices and SIM

21 (1) The procedure for registration of mobile devices and SIM to different categories shall be as follows:

- (a) Where a customer is an individual, the mobile device and SIM shall be registered under an individual biometric SIM registration category as follows:
 - (i) an individual shall present to the licensee NICR identity document or number.
 - (ii) an individual shall present to the licensee the mobile device and proof of ownership;
 - (iii) a licensee shall conduct online or electronic fingerprint verification of an individual with NICR for biometric SIM registration.
 - (iv) a licensee shall keep subscriber records as per details electronically retrieved from NICR; and
 - (v) the registered mobile device and SIM shall bear the name of the individual;
- (b) Where a customer is a company, the mobile device and SIM shall be registered under company biometric SIM registration category as follows:

- (i) a company shall be required to present valid traders license and incorporation certificate;
- (ii) an authorised company representative shall present his NICR identity to the licensee;
- (iii) an authorised company representative shall present the mobile device and proof of ownership to the licensee;
- (iv) a licensee shall conduct fingerprint verification of an authorised company representative with NICR once, for a batch of SIM for biometric SIM registration;
- (v) a licensee shall keep the details of the company and the company authorised representative;
- (vi) the registered mobile device and SIM shall bear the name of the company.
- (vii) a company shall notify the licensee upon change of authorised company representative for the licensee to register a new representative in accordance with these Regulations;

(c) Where a customer is a company employee, the mobile device and SIM shall be registered under company Biometric SIM registration category as follows-

- (i) a company shall be required to present valid traders license and incorporation certificate;
- (ii) a company employee who is authorised to use the SIM shall be required to present to the licensee his NICR identity;
- (iii) a company employee who is authorised to use a mobile device shall be required to present it to the licensee together with proof of ownership;
- (iv) a licensee shall conduct fingerprint verification of the company employee with NICR for biometric SIM registration;
- (v) a licensee shall keep the details of the company and the employee;
- (vi) registered mobile device and SIM shall bear the name of the employee; and
- (vii) a company shall notify the licensee upon change of ownership of mobile device and SIM for the licensee to register a new authorised employee in accordance with these Regulations;

(d) Where a customer is an institution, the mobile device and SIM shall be registered under institution biometric SIM registration category as follows:

- (i) the institution representative shall be required to present an authorisation letter of the respective institution;
- (ii) the institution representative shall be required to present to the licensee his NICR identity;
- (iii) the institution representative who is authorised to use a mobile device shall be required to present it to the licensee together with proof of ownership;
- (iv) licensee shall conduct fingerprint verification of the institution representative with NICR once for a batch of SIM for biometric registration;
- (v) the licensee shall keep details of the institution and of the representative; and
- (vi) the registered SIM shall be in the name of institution.

(e) Where a customer is a child, the mobile device and SIM shall be registered under child biometric SIM registration category as follows:

- (i) a parent or guardian shall be required to present the mobile device and proof of ownership, certified copy of birth certificate of the child or adoption document or valid passport with valid visa or residence permit and portrait photo;
- (ii) for a child who is a national or foreigner, his parent or guardian shall be required to present NICR identity and a licensee shall conduct fingerprint verification of the parent or guardian with NICR for biometric SIM registration.
- (iii) for a child who is a visitor, his parent or guardian shall be required to present valid passport with valid visa and a licensee shall conduct fingerprint verification of the parent or guardian with NICR for biometric SIM registration.
- (iv) for a child who is a diplomat, his parent or guardian shall be required to present a valid diplomatic passport and diplomatic ID for SIM registration.
- (v) for a child who is a refugee, his parent or guardian shall be required to present refugee identity document issued by NICR

and a licensee shall conduct fingerprint verification with NICR for biometric SIM registration.

- (vi) a licensee shall keep electronically the details of the child and parent or guardian,
 - (vii) the registered mobile device and SIM shall bear the name of a child,
 - (viii) after attaining the age of majority, the child shall be required to re-register using his NICR identity;
 - (ix) a licensee shall notify the child three (3) months before attaining the age of majority and shall give three (3) months grace period for re-registration; and
 - (x) in the event where a child fails to re-register within the period of three months after attaining the age of majority, a licensee shall deactivate the mobile device and SIM from its network.
- (f) Where a customer is a visitor, SIM shall be registered under visitor biometric SIM registration category as follows:
- (i) visitors shall be required to present the mobile device, certified copies of valid passports with valid visa;
 - (ii) visa exempt visitors shall be required to present a certified copy of a valid passport;
 - (iii) a licensee shall keep the details of visitors; and
 - (iv) the registered mobile device and SIM shall bear the name of the visitor.
- (g) Where a customer is a foreigner, the mobile device and SIM shall be registered under foreigner biometric SIM registration category as follows:
- (i) a foreigner shall be required to present the mobile device, a certified copy of valid passport with valid residence permit;
 - (ii) a licensee shall keep the details of the foreigner; and
 - (iii) the registered mobile device and SIM shall bear the name of the foreigner.
- (h) Where a customer is a refugee, the mobile device and SIM shall be registered under refugee biometric SIM registration category as follows:
- (i) a refugee shall be required to present the mobile device and NICR identity;

- (ii) a licensee shall conduct fingerprint verification of a refugee with NICR for biometric SIM registration,
 - (iii) a licensee shall keep details of the refugee; and
 - (iv) the registered mobile device and SIM shall bear the name of the refugee.

- (i) Where a customer is a diplomat, SIM shall be registered under diplomat biometric SIM registration category as follows:
 - (i) the diplomat shall be required to present his certified copies of valid passport and valid diplomatic identity for SIM registration;
 - (ii) no fingerprint shall be taken during SIM registration
 - (iii) a licensee shall keep the details of the diplomat; and
 - (iv) the registered mobile device and SIM shall bear the name of the diplomat; and

- (j) Where a customer is a diplomatic institution, the mobile device and SIM shall be registered under diplomatic institution biometric SIM registration category as follows:
 - (i) the diplomatic institution shall be required to present authorisation letters from the institution and from the Ministry responsible for foreign affairs,
 - (ii) the diplomatic institution representative shall be required to present the mobile devices, certified copies of valid passport and valid diplomatic identity for a batch of SIM registration;
 - (iii) no fingerprints shall be taken during SIM registration;
 - (iv) a licensee shall keep details of the diplomatic institution and the representative; and
 - (v) the registered mobile devices and SIM shall bear the name of the diplomatic institution.

- (2) Where a SIM is used or intended to be used by machines and other electronic communication equipment, such SIM shall be registered under company biometric SIM registration category.

- (3) The procedures for registration under sub regulation (2) shall be as prescribed under sub-regulation (1)(b).

- (4) In circumstances, where electronic appliances and other electronic communication equipment is owned by an individual, registration of SIM shall be under individual biometric SIM registration category as prescribed under sub-regulation (1)(a).

(5) In case of batch of SIM under sub-regulation (3) fingerprint verification shall be conducted once by a licensee regarding such a batch.

(6) Where a customer has a defaced fingerprint or has no fingers the procedure for mobile device and SIM registration shall be as follows:

- a) the customer shall be required to present the mobile device and his NICR identity;
- b) a licensee shall request NICR to provide clearance to customer for defaced method of SIM registration;
- c) upon clearance, NICR shall enable multiple question verification option for that customer;
- d) a licensee shall apply the multiple question to verify the customer and shall ask questions as prompted from NICR database;
- e) upon answering correctly 2/3 (66%) of the questions, verification shall be considered successful;
- f) a licensee shall be required to keep NICR verified records; and
- g) in the event where NICR deploys other verification mechanism, the Authority shall provide procedures for such verification as appropriate.

(7) Where a customer whose name is registered by NICR, changes names, the customer shall be required to avail such changes to NICR for rectification of such names and re-register in accordance with sub-regulation (1).

Right to obtain and use additional information

22 A customer from the Government or Government institution who requires exemption from biometric mobile device and SIM registration shall apply the following procedure:

- a) an authorised representative of the Government or Government institution shall write a letter to the Authority to obtain approval for fingerprint exemption and shall provide details for such exemption,
- b) a customer shall be required to present his NICR identity and the approval of the Authority to a licensee for SIM registration; and
- c) a licensee shall register SIM as per the approval of the Authority.

Submission of Information

23 Any licensee who sells, registers or, in any other manner provides detachable SIM or built-in SIM mobile telephone or SIM enabled mobile

communication equipment or device may obtain from the customer any information related to mobile device and SIM registration.

PART V - ACTIVATION AND DEACTIVATION OF MOBILE DEVICE AND SIM

Active SIM

24 (1). A licensee shall not activate a mobile device, SIM, built-in SIM mobile telephone or SIM enabled mobile communication equipment or device on its network unless the licensee has registered the customer details pursuant to these Regulations.

(2). The details of a registered mobile device, SIM, built-in SIM mobile telephone or SIM enabled mobile communication equipment or device shall be kept active in the licensee database after registration has been verified through NICR database or as stipulated in these Regulations.

(3). Any active mobile device, SIM, built-in SIM mobile telephone or SIM enabled mobile communication equipment or device that is not verified through NICR database or as stipulated in these Regulations shall be considered as unregistered and shall be deactivated by the licensee.

(4). A licensee shall implement a default unlock PIN on a SIM, built-in SIM mobile telephone or SIM enabled mobile communication equipment or device based on random digits which may only be changed by SIM owner or customer.

(5) Where a SIM, built in SIM mobile telephone or SIM enabled mobile communication equipment or device is not used for communication for more than ninety days consecutively such SIM shall be deactivated.

(6) A licensee shall not deactivate a SIM, built in SIM, mobile telephone or SIM enabled mobile communication equipment or device where the customer has notified the licensee in writing that, such SIM will remain idle for more than ninety days consecutively but not exceeding a period of twelve months from the date of notification.

(7) A customer whose SIM, built in SIM, telephone or SIM enabled mobile communication equipment or device has been deactivated shall resubmit a fresh request for registration of the same number subject to availability.

(8) A licensee shall establish a mechanism for handling, safekeeping and refunding customer monetary balances of SIM, built in SIM, mobile telephone or SIM enabled mobile communication equipment or device, which is deactivated in accordance with the these Regulations or the Payment Systems Act, 2014.

(9) A licensee shall submit to the Authority quarterly reports on deactivated and de-registered mobile devices and SIM, built in SIM, mobile telephone or SIM enabled mobile communication equipment or device in a format to be determined by the Authority.

PART VI - SALE OF SIM BY AUTHORISED AGENT

Use of Authorised Agent

25 (1) A licensee may use an authorised agent to sell or distribute SIM or built in SIM, mobile telephone or SIM enabled mobile communication equipment or device.

(2) An authorised agent who sells and distributes a detachable SIM or built in SIM mobile telephone or SIM enabled mobile communication equipment or device shall have a written evidence of authorisation from the respective licensee.

Requirements for Authorised Agent

26 Every licensee shall ensure that authorized agent referred to under sub-regulation 25(2) provides the following information:

- a) traders license;
- b) tax identification number;
- c) physical location;
- d) mobile phone numbers, email address and any other means of contact; and
- e) NICR identity of contact person.

Submission of Quarterly Reports by Licensee

27 Every licensee shall, on a quarterly basis, submit to the Authority a verified list of nationwide authorized agents.

PART VII -CHANGE OF INFORMATION OR OWNERSHIP

Change of Information and ownership to be reported

28 (1) Any change of information submitted for the purposes of registering a mobile device, SIM, built-in SIM, mobile telephone or SIM enabled mobile communication equipment or device shall, within fifteen days of occurrence of such change, be registered with a licensee.

(2) Every customer shall report any change of ownership or possession of a registered mobile device, SIM, built-in SIM mobile telephone or SIM enabled communications equipment or device to the licensee.

(3) The owner of a mobile device or SIM which was previously owned by another person shall register the mobile device or SIM within fifteen days of owning the mobile device, SIM, built in SIM mobile telephone or SIM enabled mobile communications device.

(4) In the event of death of a customer, the next of kin shall present a certified copy of the death certificate to a licensee or authorised agent within thirty days of death to report change of possession and ownership of the mobile device or SIM.

Duty to report loss of SIM

29 The owner of a registered mobile device, SIM, built in SIM mobile telephone or SIM enabled communication equipment or device shall be obliged to –

- a) report loss, theft or destruction of mobile device, SIM, built in SIM mobile telephone or SIM enabled mobile communication equipment or device to the police station and obtain a loss report within seven days from the date of loss, theft or destruction; and
- b) present the loss report to the licensee when requesting re-registration of alternative mobile device and replacement of a SIM, built in SIM mobile telephone or SIM enabled mobile communication equipment or device.

Replacement of SIM

30 (1) a licensee shall replace a lost, stolen or damaged SIM upon verification of the original registration and ownership of the SIM and

- (i) submission of the damaged SIM; or
- (ii) presentation of loss report from the police station.

(2) a licensee shall ensure that surrendered damaged SIM are kept for a period of not less than twelve months.

SIM swap information

31 A licensee shall:

- a) file with the Authority its SIM swap procedure;
- b) retain SIM swap information;
- c) keep in custody the surrendered damaged SIM;
- d) capture and retain credentials and logs of swapping agents and of any person accessing the SIM swap database;
- e) keep information captured under this sub-regulation in a traceable database for such period as may be prescribed by the Authority from time to time or the Payment Systems Act, 2014.

PART VIII- GENERAL PROVISIONS

Requirement on inspection of authorised agent

32 Every licensee shall inspect its authorised agent on monthly basis to ensure compliance to mobile device and SIM registration requirements and submit quarterly reports to the Authority.

Fraud Prevention

33 In case of fraud, every licensee shall be required to:

- a) cooperate in good faith to prevent, whenever possible, instances of fraudulent or unauthorized activities during biometric mobile device and SIM registration;
- b) cooperate to identify and pursue action against the perpetrators of fraud;
- c) ensure prevailing data protection and privacy laws are complied with;
- d) compensate a victim of any material loss suffered from fraudulent activity associated with biometric mobile device

- and SIM registration of which the licensee failed to identify the responsible customers;
- e) where the national identity document is identified to be involved in fraudulent activities, the licensee shall notify NICR; and
 - f) upon notification under paragraph (e) the identified national identity document shall be flagged by NICR for ninety (90) days to prevent its further use in fraudulent activities.

PART IX – PENALTIES AND OFFENCES

34 (1) Any licensee who fails to capture, register, deregister or transmit the details of any individual or corporate subscribers to the central database as specified in these regulations or as may be stipulated from time to time by the Authority is liable to a penalty of M10,000 for each mobile device or SIM.

(2) A licensee who activates any SIM without capturing, registering and transmitting the personal information to the central database shall be liable to a penalty of M10, 000 for each unregistered activated SIM.

(3) Any licensee who fails to deactivate a mobile device or SIM in violation of any provision of these regulations is liable to a penalty of M10, 000 for each unregistered but activated mobile device or SIM.

(4) Where the Authority is satisfied that a licensee has breached the provisions of these regulations, an Officer, Director, Chief Executive Officer, Manager or Secretary of the licensee shall also be liable to pay a penalty of M10,000 unless, having regard to the nature of his functions such capacity and to all the surrounding circumstances, he proves that:

- (i) the breach was committed without his knowledge, consent or connivance; and
- (ii) he took all reasonable precautions and exercised due diligence to prevent the commission of the breach.

Dealing with subscriber information in a manner inconsistent with the Regulations

35. (1) Any person or entity including a licensee who retains, duplicates or deals with subscriber information in contravention of any of the provisions of these Regulations is liable to a penalty of M10, 000 per SIM.

(2) Where any person, entity, including licensees, is found to have utilised subscriber information in any business, commercial or other transaction, in contravention of any of the provisions of the Regulations, is liable to a penalty of M50,000 per SIM.

Misuse of Information

36 Any licensee that misuses information of a customer for SIM registration shall be liable to a penalty of not more than M500 000 per customer.

Offences

37 Any person who contravenes any provision of these Regulations for which no specific penalty is provided, commits an offence and shall on conviction be liable to a fine prescribed under the Act.

DATED:

**SAMUEL TŠOINYANE RAPAPA
MINISTER OF COMMUNICATIONS, SCIENCE AND TECHNOLOGY**