



**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 Facilities¹ ("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.

¹ 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.