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Comments on No. 33590 GOVERNMENT GAZETTE, 29 SEPTEMBER 2010

Dear Sir

I have noted the contents of this gazette and agree with the contents except for part **29 Amateur Communications** to be amended by the addition of the ZR call as displayed in **BLUE** to the simplification of the ICASA administration process in an economical and practical manner. See the recommended transitional measures for the Class B license holders as well.

Please see following pages of this letter as the historical problems of the present regulations.

Kind regards

I.Roux

29 Amateur Communications

Conditions for the issuing of amateur radio station radio frequency spectrum licences

- (1) The Authority may, subject to these regulations and on the conditions that are set out in this Chapter, issue a Class A or Class B licence for the use of an amateur radio station.
- (2) A Class A licence (ZS **and ZR — CEPT Class**) may be issued to a person who-
- (a) has furnished proof of his or her ability to correctly set up, adjust and operate an amateur HF transceiver; and
 - (b) is in possession of a HAREC issued or recognised by the Authority.
- (3) A Class B licence (ZU - **Non CEPT**) may be issued to a person who-
- (a) has furnished proof of his or her ability to correctly set up, adjust and operate an amateur HF transceiver; and
 - (b) is in possession of a radio operator certificate specified for a class-B licence.
 - (c) is under the age of twenty (20) years.
- (4) A Holder of a Class B novice licence should write and pass the Class A examination before his/her 25th birthday after which the Class B novice licence will be cancelled.

Transitional Regulations for Class B Licence (ZU – Non CEPT) Holders:

If any holder of a Class B is older than 25 years of age at promulgation date of this amendment , he/she has one (1) calendar year to obtain an Class A licence, after this period his/her Class B licence will be cancelled as per (4).

Addendum to previously submitted comments

We as non-members of the SARL disagree with the following SARL submissions for the following number of reasons namely;

- 1) They do not represent all Amateur Radio licenses holder except for their members.
- 2) They represent the minority of amateur license holders, ±1300 members as opposed to the ICASA data base of Amateur License Holders ± 6000.
- 3) Their proposed comments can be viewed as a “Hidden Plan” to force ALL Amateur License Holders to their membership.
- 4) Their proposed comments can also be viewed as a “Hidden Plan” take over the licensing and administration of Amateur Licensing from ICASA.
- 5) Their “Hidden Plan” is deemed un-constitutional and restricts our “Freedom of Choice”.

Our comments on the proposed Radio Frequency Spectrum Regulations

The concept of “National Body for Amateur Radio in South Africa” should be removed from the Act and Regulations with ICASA taking over the Radio Amateur Examinations (RAE) administration, this will promote a “neutral” foundation for non-members and members of representative bodies whoever they may be now and in the future.

----- ditto -----

Comments by the SARL we disagree with:-

Comments on the proposed Radio Frequency Spectrum Regulations

1. Definitions

The SARL proposes the following addition

HAMNET Emergency Communications division of the South African Radio League

SARL The South African Radio League, the National Body for Amateur Radio in South Africa

National Body for Amateur Radio

That ICASA reaffirms that the South African Radio League is the National Body for Amateur Radio as appointed by the Minister of Communication in 2005 (Government Gazette no 27711)

Current Class B License holders

The SARL proposes that current class B license holders retain all privileges of class B irrespective of age.

---- Final ----

The history of Amateur Radio Licensing

This report was drafted to provide some interesting facts concerning the history of licensing and present day regulatory errors in this hobby. The report was constructed as follows:

1. Amateur Licensing before 2004 amendment.
2. Amateur Licensing after 2004 amendment.
3. Deductions.
4. Conclusions.

1. Amateur Licensing before 2004 amendment.

1.1 The ITU specified in it's Article 25 that Morse Code at 12 wpm as requirement to operate on HF bands.

1.2 RSA Radio regulations (Act 3 of 1952) specified two classes of licenses namely; Class A with associated call sign ZS and ZR, Class B with associated call sign ZU.

1.2.1 This regulation clearly stated that Class A license holders could operate unrestricted on amateur frequency bands with the proviso that if the license holder wanted to operate on HF he/she would be required to pass a Morse Code test with the ability to send and receive at 12 wpm.

1.2.2 The Class B license holder was restricted to certain portions of the HF bands with power limit of 20 watt and a 5 wpm Morse Code test.

1.3 The Class A license with Morse Code 12wpm had CEPT Class 1 status and with no Morse Code CEPT Class 2 status respectively.

1.3.1 The Class B license had a non- CEPT status.

1.4 In this period the SARL had a MOU (Memorandum of Understanding) with the then SATRA who became ICASA to manage the RAE on be half of them and to represent it's members with this government organization.

1.5 The SARL president Mr Hans Potgieter proposed the new class of license associated with the ZT call which was a non- CEPT class.

1.5.1 This license allowed Class A license holder with no Morse Code to operate on the HF bands limited to certain frequency bands at 100 Watts.

1.5.2 This proposal was not promulgated in to law because it had not complied with the requirements' of wider public participation rules of law making.

1.6 On the 8th Feb 1998 we became a signatory to the CEPT agreement allowing amateurs to travel worldwide without the problem of guest licensing with the proviso we complied with the TR 61-01 license classes and TR61-02 HAREC standards for our RAE.

1.6.1 ICASA and DOC confirm that RSA is a member country of the African Telecommunications' Union (ATU) with full reciprocal MOU with CEPT.

2. Amateur Licensing after 2004 amendment.

2.1 In October 2003 the WRC (World Radio Conference) of the ITU took place and amended article 25 and removed compulsory Morse Code requirement to operate on HF and revised this to voluntary status by the individual administration to apply if they still require it.

2.2 The CEPT Recommendation as revised in 2003 reflects the outcome of WRC-03 concerning Article 25 of the ITU Radio Regulations. "The mandatory Morse code requirement has been removed and the number of **amateur classes has been reduced from two to one.**"

2.3 Majority of the CEPT country signatory's granted immediate unrestricted access to full HF to their CEPT Class – 2 license holders without any prerequisites such as assessments.

2.4 The SARL presented the old ZT license class **1.5** with modified elements to it's members and ICASA/DOC as their view of what the new regulations should contain.

2.4.1 This proposal was published in the Gov Gaz for public comment and eventually promulgated in to law in 2004 as it still appears today.

2.4.2 The new regulations (Act 103 of 1996) chapter 3 allowed for Class A1 (unrestricted) license (ZS CEPT – 1), Class A2 (Restricted) license (ZR CEPT -2) and Class B a Non –CEPT license.

2.4.2.1 License Class A2 (ZR CEPT – 2) had complete various assessments to upgrade to Class A1 (ZS CEPT -1).

2.5 The new regulations also appointed the SARL as ONE (Only one at this time) of the national bodies to manage the RAE and Upgrade assessments' on behalf of ICASA.

3. Deductions.

- 3.1** The new regulations clearly make mention of ZS CEPT -1 and ZR CEPT – 2 when CEPT amended it's classes from two to one in Oct 2003 thus **CEPT – 2 does not exist.**
- 3.2** The RSA is clearly a country signatory to CEPT as this is even quoted in the new regulations.
- 3.3** It cannot be reasoned that the RSA is not a CEPT member signatory but we only have an agreement on the HAREC standards as some will say in defence of the SARL.
- 3.4** It would appear that the Morse Code requirement was hung onto in order that the SARL could improve it's MOU with ICASA to something with higher legal status.

4. Conclusions.

In conclusion the following may be deducted from facts gleamed.

- 4.1** The new regulations were not thoroughly worked through before promulgation.
- 4.2** Wonder what a full bench of the High/Constitutional Court finding would be on these new regulations.
- 4.3** *The new regulations should have only reflected Class A (ZS & ZR) CEPT License and Class B Non CEPT License with no assessments of any kind, only the RAE exam as required for each Class A or B.*
- 4.4** The reasonable person can see that a mistake was made somewhere in these regulations and there are reasonable grounds for an **ultra virus** finding.
- 4.5** The SARL only have a mandate to **represent their members in legislative matters**, they have **no mandate to represent non-members** thus the SARL was acting in bad faith pretending to represent non-members.
- 4.6** There is one last opportunity to **correct the error** as provided for in **Section 95 of the ELECTRONIC COMMUNICATIONS ACT 36 OF 2005** when ICASA write the Radio Regulations to accompany the ECA (Act 36 of 2005) which will re-appeal the Radio Act 103 of 1996.