



Independent Communications Authority of South Africa Amendment Bill, 2013

Presentation to Portfolio Committee on Communications

26 February 2014

Delegation



- Rosey Sekese : Director - General
- Themba Phiri : Deputy Director – General
- Collin Mashile : Chief Director
- Alf Wiltz : Director
- Ephraim Adom : Director

Presentation Outline



the doc

Department:
Communications
REPUBLIC OF SOUTH AFRICA

- Background
- Amendments
- Conclusion

Background



- ❑ The Department recently presented the ICASA Amendment Bill to the Select Committee on Labour and Public Enterprise that concluded their deliberations on the Bill on 12 February 2014.
- ❑ The Select Committee proposed amendments to clauses 6 and 9 of the Bill and subsequently adopted the Bill with these amendments.
- ❑ The Portfolio Committee on Communications subsequently invited the Department to present the amendments to the honourable Committee.

Amendments



□ **CLAUSE 6: AMENDMENT OF SECTION 5 OF THE ACT**

“CLAUSE 6”

Clause rejected.

NEW CLAUSE

–That the following be a new clause:

6. Section 5 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) [(a) The chairperson must, in writing, appoint a councillor as acting chairperson to perform the functions of the chairperson in his or her absence.]”

Amendments



(b) Where the chairperson is unable to make an appointment] In the absence of the chairperson, the remaining councillors must from their number elect an acting chairperson, who, while he or she acts, may perform all the functions of the chairperson.”; and

(b) by the substitution in subsection (3)(b) for subparagraph (ii) of the following subparagraph:

“(ii) possess suitable qualifications, expertise and experience in the fields of, amongst others, broadcasting, electronic communications and postal policy or operations, public policy development, electronic engineering, law,

Amendments



[marketing, journalism, entertainment] information technology, content in any form, consumer protection, education, economics, finance or any other relevant expertise or qualifications.”.

CLAUSE 9: AMENDMENT OF SECTION 11(3) OF THE ACT

On page 7, from line 9, to omit “subsection (3)” and to substitute the following:

“(3) The quorum for any meeting of the Council is a majority of the councillors **[in office at the time]** presently serving as councillors, including the chairperson or an acting chairperson referred to in section 5(2).”.

Amendments: Clause 6



Section 5(2) of the ICASA Act will be amended as follows and is a new amendment in the Bill:

“5(2) [(a) The chairperson must, in writing, appoint a councillor as acting chairperson to perform the functions of the chairperson in his or her absence.

(b) Where the chairperson is unable to make an appointment] In the absence of the chairperson, the remaining councillors must from their number elect an acting chairperson, who, while he or she acts, may perform all the functions of the chairperson.”;

Reasons for the Amendments: Clause 6



- ❑ The Council as a collective should appoint the acting chairperson. This collective action will ensure greater support for the acting chairperson as well as collective ownership of decisions taken.
- ❑ The amendments will ensure that all the functions of the chairperson is performed by the acting chairperson, and not delegated functions that may be limiting.
- ❑ The office of the chairperson is strengthened since the change moves away from individual decision-making.
- ❑ The amendment will also contribute to more effective performance of the council as a collective.

Amendments: Clause 9



Section 11(3) is an amendment of the existing clause 9(b) of the Bill that provides as follows:

“(3) The quorum for any meeting of the Council is a majority of the councillors in office at the time, including the chairperson or an acting chairperson who is a councillor and appointed by the chairperson to perform the functions of the chairperson, which functions include the power to preside at a meeting in the absence of the chairperson.”

Amendments: Clause 9



the doc

Department:
Communications
REPUBLIC OF SOUTH AFRICA

Section 11(3) of the ICASA Act will be amended as follows as proposed by the Select Committee:

“11(3) The quorum for any meeting of the Council is a majority of the councillors **[in office at the time]** presently serving as councillors, including the chairperson or an acting chairperson referred to in section 5(2).”

Reasons for the Amendments: Clause 9



The reasons for this amendment proposed by the Select Committee include –

- ❑ Simplification of the language used since the ordinary person may not understand the meaning of ‘in office at the time’ that has been replaced with ‘presently serving as councillors’;
- ❑ The improved language will therefore simplify interpretation and reduce disputes about the correct meaning;
- ❑ The new wording also avoids repetition by referring to section 5(2) instead of repeating what is provided in section 5(2).



I THANK YOU