

13. Substitution of Form H of the Regulations

The following Form of Schedule 1 is hereby substituted for Form H of the Regulations:

FORM H
APPLICATION TO TRANSFER A CLASS LICENCE

(Regulation 10)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note

- (a) Applicants must refer to the *Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act")* and any regulations published under that Act with regard to the requirements to be fulfilled by applicants.
- (b) Information required in terms of this Form which does not fit into the space provided may be contained in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.
- (c) Where any information in this Form does not apply to the applicant, the applicant must indicate that the relevant information in the Form is not applicable.

1 PARTICULARS OF LICENCE	
1.1.	Licence number:
1.2.	Nature of services authorised to be provided in terms of the licence:
1.3.	Attach a copy of the licence that is the subject of this application marked clearly as Appendix 1.3. of FORM H.

2. PARTICULARS OF THE APPLICANT (LICENSEE)	
2.1.	Full name of the applicant:
2.2.	Designated contact person:

2.3. Applicant's street address:	
2.4. Applicant's principal place of business (if different from street address):	
2.5. Applicant's postal address:	
2.6. Designated contact person's telephone number/s (including mobile):	
2.7. Designated contact person's telefax number/s:	
2.8. E-mail address of designated contact person:	

3. PARTICULARS OF TRANSFEREE	
3.1. Full name of transferee:	
3.2. Transferee's street address:	
3.3. Transferee's principal place of business (if different from street address):	
3.4. Transferee's postal address:	

3.5. Telephone number/s:	
3.6. Telefax number/s:	
3.7. E-mail address of designated contact person:	

4. LEGAL FORM OF APPLICANT (LICENSEE)	
4.1. Indicate if the applicant is:	
i. natural person	
ii. partnership	
iii. juristic person	
iv. other (specify)	
4.2. If the applicant is a natural person or a partnership:	
4.2.1. Provide the identity number of the applicant or each partner in the applicant:	
4.2.2 Attach a certified copy of the identity document of the applicant or certified copies of the identity document of each partner in the applicant marked clearly as Appendix 4.2.2 of FORM H, indicating that he or she is a citizen of the Republic, as required by section 5(8)(a) of the Act.	
4.3. If the applicant is a juristic person:	
4.3.1. Indicate the legal form of the applicant (e.g. private company incorporated in terms of the Companies Act, 1973):	
4.3.2. Registration number of applicant:	
4.3.3. Attach certified copies of the applicant's certificate of incorporation and memorandum and articles of association or other constitutive documents of the applicant	

(e.g. memorandum and articles of association, association agreement, constitution) marked clearly as Appendix 4.3.3 of FORM H, indicating the applicant's compliance with the requirements of section 5(8)(b) of the Act.	
4.4. Where the applicant has been liquidated or sequestrated, provide:	
4.4.1 Liquidator/ Executor's postal address:	
4.4.2. Liquidator/Executor's telephone number/s:	
4.4.3. Liquidator/Executor's telefax number/s:	
4.4.4. Liquidator'/Executor's E-mail address:	
4.4.5. Attach an affidavit deposed to by the liquidator, indicating the liquidator's consent to the transfer of the licence, marked clearly as Appendix 4.4.5 of FORM H ,	

5. LEGAL FORM OF TRANSFEREE
5.1. Indicate if the transferee is:
i. a natural person
ii. a partnership
iii. a juristic person
iv. other (specify)
5.2. If the transferee is a natural person or a partnership:
5.2.1. Provide the identity number of the transferee or each partner in the transferee:

5.2.2. Attach a certified copy of the identity document of the transferee or certified copies of the identity document of each partner in the transferee marked clearly as Appendix 5.2.2 of FORM H, indicating that he or she is a citizen of the Republic, as required by section 5(8)(a) of the Act.
5.3. If the transferee is a juristic person:
5.3.1 Indicate the legal form of the transferee (e.g. private company incorporated in terms of the Companies Act, 1973):
5.3.2. Registration number of the transferee:
5.3.3. Attach certified copies of the transferee's certificate of incorporation and memorandum and articles of association or other constitutive documents of the transferee (e.g. memorandum and articles of association, association agreement, constitution) marked clearly as Appendix 5.3.3 of FORM H , indicating the transferee's compliance with the requirements of section 5(8)(b) of the Act.
5.4. If the transferee is not a juristic person but intends to operate as one if this application is granted:
5.5. Provide a written undertaking that the transferee will comply with section 5(8)(b) of the Act marked clearly as Appendix 5.4.1 of FORM H.
5.6. Indicate when and how the transferee will comply with section 5(8) (b) of the Act.

6. OWNERSHIP AND MANAGEMENT OF APPLICANT

- 6.1. Provide details of all ownership interests in the applicant and the identity and address of each holder of an ownership interest in the applicant. Where an applicant is a juristic person, only shareholdings (or equivalent) of 5% or more of the total issued shares (or equivalent) in the applicant are relevant.

6.2. Indicate whether the applicant is listed on any stock exchange, and provide details of any such listing:
6.3. In respect of each holder of any ownership interest in any person holding an ownership interest in the applicant, provide the details required in 6.1 in respect of each such holder:
6.4. Indicate the extent to which any ownership interest referred to above is held by historically disadvantaged person or group.
6.5. Indicate whether the holder of any ownership interest in the applicant is a foreign citizen or an entity registered or incorporated in any country other than South Africa:

<p>6.6. Indicate whether any person holding an ownership interest in the applicant holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this application relates:</p>
<p>6.7. Provide particulars of any interest held by the applicant in another licensee licensed in terms of the Act:</p>
<p>6.8. Provide details (including name, nationality, identification or passport number, position and address) of each member of the applicant's:</p> <p>6.8.1. board of directors or similar body;</p> <p>6.8.2. senior management.</p>

7. OWNERSHIP AND MANAGEMENT OF TRANSFEREE	
7.1.	Provide details of all ownership interests in the transferee and the identity and address of each holder of an ownership interest in the transferee. Where a transferee is a juristic person, only shareholdings (or equivalent) of 5% or more of the total issued shares (or equivalent) in the transferee are relevant.
7.2.	Indicate whether the transferee is listed on any stock exchange, and provide details of any such listing:
7.3.	In respect of each holder of any ownership interest in any person holding an ownership interest in the transferee, provide the details required in 7.1 in respect of each such holder:
7.4.	Indicate the extent to which any ownership interest referred to above is held by a historically disadvantaged person or group

<p>7.5. Indicate whether the holder of any ownership interest in the transferee is a foreign citizen or an entity registered or incorporated in any country other than South Africa:</p>
<p>7.6. Indicate whether any person holding an ownership interest in the transferee holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this application relates:</p>
<p>7.7. Provide particulars of any interest held by the transferee in another licensee licensed in terms of the Act:</p>
<p>7.8. Provide details (including name, nationality, identification or passport number, position and address) of each member of the transferee's:</p> <p>7.8.1. board of directors or similar body;</p> <p>7.8.2. senior management.</p>

8. SUITABILITY OF TRANSFEREE
8.1. Provide particulars of any licence held by the transferee in terms of the Act which has been revoked:
8.2. Provide particulars of any application or registration submitted by the transferee for a licence in terms of the Act, which was rejected:
8.3. Provide particulars of any application or registration submitted by the transferee for a licence in terms of the Act which is pending before the Authority:
8.4. Provide details of any action taken in relation to the transferee by the Authority or any other person due to a breach of the Act, any regulations published under the Act or any terms and conditions applicable to any licence issued in terms of the Act:

8.5. Provide details of the transferee's business plan in respect of the licensed service
Attach as **Appendix 8.5 of FORM H**

8.6. Provide separately and mark clearly as **Appendix 8.6 of FORM H**, copies of the transferee's audited annual financial statements for the last three years:

9. OWNERSHIP AND CONTROL BY HISTORICALLY DISADVANTAGED PERSONS

9.1. Indicate details of ownership and control by historically disadvantaged persons.
Attach as Appendix 9.1 of FORM H

10. MOTIVATION FOR PROPOSED TRANSFER

10.1. Provide the motivation for the proposed transfer indicating the reasons for the transfer: **Attach as Appendix 10.1 of FORM H**

11. APPLICANT'S LICENCE OBLIGATIONS

11.1. Indicate those obligations of the applicant in terms of the licence which have been discharged and those which will assumed by the transferee, should this application be granted: **Attach as Appendix 11.1 of FORM H**

11.2. Provide marked clearly as **Appendix 11.2 of FORM H**, a written undertaking given by the transferee, through its duly authorised representative, that it will comply with the applicant's licence obligations in the event of the transfer application being approved by the Authority.

12. COMPLIANCE WITH CHAPTER 9 OF THE ACT

This section is only applicable where the licence to be transferred is in respect a broadcasting service.

12.1. Indicate whether the transferee is a member of the Advertising Standards Authority or intends to become a member:

12.2. Indicate whether the transferee is a member of a body contemplated in section 54(3) of the Act or intends to become a member:

12.3. Indicate whether the transferee is a party, movement, organisation, body or alliance which is of a party-political nature.

13. GENERAL

13.1. Provide details of any matter or undertaking which, in the applicants' view, the Authority should consider:

13.2. Attach a resolution authorising the persons signing this application. The resolution must be marked clearly as **Appendix 13.2.of FORM H**.

The persons signing the application on behalf of the applicant and the transferee must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence transferred pursuant to this application set aside should any material statement made herein, at any time, be found to be false.

Signed
(APPLICANT)

I certify that this declaration was signed and sworn to before me at on the day of 20..., by the deponent who acknowledged that he/she:

- 1. knows and understands the contents hereof;
- 2. has no objection to taking the prescribed oath or affirmation; and
- 3. considers this oath or affirmation to be truthful and binding on his/her conscience.

Signed
(TRANSFEREE)

I certify that this declaration was signed and sworn to before me at on the day of 20..., by the deponent who acknowledged that he/she:

- 1. knows and understands the contents hereof;
- 2. has no objection to taking the prescribed oath or affirmation; and
- 3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

(...end of substitution)"