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**REPUBLIC OF SOUTH AFRICA
ELECTRONIC COMMUNICATIONS AMENDMENT BILL**

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. of) (The English text is the official text of the
Bill)*

(MINISTER OF TELECOMMUNICATIONS AND POSTAL SERVICES)
[B – 2017] CONFIDENTIAL
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It231116

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.
_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the...;

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Substitution of Chapter 4 of Act 36 of 2005

10. The following chapter is hereby substituted for chapter 4 of the principal Act:

"CHAPTER 4

RAPID DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND

ELECTRONIC COMMUNICATIONS FACILITIES CONFIDENTIAL

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Definition

20. In this Chapter, unless the context indicates otherwise "land" means any property or premises, street, road, footpath, railway or waterway in the Republic of South Africa.

Role of the Minister of Telecommunications and Postal Services

20A. (1) The Minister of Telecommunications and Postal Services must provide oversight over the implementation of Chapter 4 of this Act and liaise with other Ministries responsible for aspects of rapid deployment of electronic communications networks and facilities.

(2) The Minister of Telecommunications and Postal Services must establishment a Rapid Deployment National Coordinating Centre and a Rapid Deployment Steering Committee to oversee the activities of the Centre.

Role of the National Co-ordinating Centre

20B. (1) The Rapid Deployment National Co-ordinating Centre must support rapid deployment of electronic communications networks and facilities and must work with the SIP 15 infrastructure team.

(2) The Rapid Deployment National Co-ordinating Centre must interface with local municipalities to fast track rights of way and way-leave approvals.

CONFIDENTIAL

- (3) The Rapid Deployment National Co-ordinating Centre must—
- (a) oversee the establishment of common automated wayleave application system or systems based on an understanding of common information requests across various bodies;
 - (b) oversee the creation of a geographic information system database and mapping of all fibre deployments and other electronic communication network and facility deployments; The database must include the requirement to prevent damages to networks and facilities as contemplated in section 29(1)(a);
 - (c) oversee the coordination of infrastructure rollout and participation in other infrastructure coordination fora such as SIP 15;
 - (d) oversee the engagement with relevant industry bodies dealing with rapid deployment or any aspect thereof; and
 - (e) provide advice to electronic communications network service licensees on the provision of electronic communications networks and facilities.

Role of the Authority

- 20C.** (1) The Authority must prescribe rapid deployment regulations and align any other regulations prescribed by the Authority as well as licence terms and conditions to ensure a coherent regulatory framework for rapid deployment of electronic communications networks and facilities.
- (2) The regulations must provide for procedures and processes for resolving disputes that may arise between an electronic communications network service licensee and any landowner on an expedited basis, in order to satisfy the public interest in the rapid rollout of electronic communications networks and electronic communications facilities.
- (3) The regulations must, among other things, ensure that electronic communications network service licensees—
- (a) provide information on existing and planned electronic communications networks and facilities, including alterations or removal thereof as contemplated in this Chapter, to the National Coordinating Centre for inclusion into the geographic information system database;
 - (b) provide information on existing and planned electronic communications networks and facilities to the Authority and other electronic communications network service licensees;
 - (c) seek out alternatives to new deployment of electronic communications networks and facilities, notably through the sharing or leasing of existing facilities;
 - (d) contribute to research and development on new deployment methods;
 - (e) comply with environmental requirements;
 - (f) co-ordinate activities wherever appropriate, avoiding anti-competitive behaviour; and
 - (g) advise landholders in writing of their right to recourse through the Authority.

Role of South African Local Government Association and Municipalities

20D. (1) Approvals for rapid deployment of electronic communications networks and facilities take place at municipal level.

(2) Approvals of wayleave applications for the deployment of electronic communications networks and facilities must be done at cost.

(3) The South African Local Government Association must promote uniformity in process and prices charged by municipalities for wayleave applications.

(4) Municipalities must, when planning municipal infrastructure, at their own expense make provision for the installation of electronic communications networks and facilities including without limitation ducts for fibre optic cabling, conduit pipes and space for radio equipment.

(5) Municipalities must provide information on existing and planned municipal infrastructure including ICT infrastructure to the National Coordinating Centre in a digitised format for inclusion into the geographic information system database.

Obligations of landowners at municipal, provincial and national levels

20E. Landowners at municipal, provincial and national levels must—

(a) co-ordinate activities wherever appropriate, to avoid anti-competitive behaviour;

(b) provide information on existing and planned infrastructure including ICT infrastructure to the National Coordinating Centre in a digitised format for inclusion into the geographic information system database;

Commented [SJ1]: Co-ordination plans of telecom deployments should included within municipal spatial development frameworks and IDP as a requirement.

(c) provide clear rules and guidelines relating to access to their facilities, and comply with any national policy and rules published in that regard;

(d) when developing infrastructure deployment strategies and plans, make provision for the installation of electronic communications networks and facilities including without limitation fibre ducts;

(e) act on all similar requests to access their land or other property within a reasonable time, subject to the 30 calendar day requirement in section 200, taking into account the nature and scope of the request and must treat electronic communications network service licensees equally; and

(f) ensure that non-discrimination applies to imposition of technical standards and are not allowed to impose different setback, height, or safety restrictions in residential and commercial zones.

Commented [WU2]: Environmental and aesthetic requirements need to be considered.

Other Authorities

20F. (1) The Rapid Deployment National Co-ordinating Centre must within 24 months of its establishment, develop coordinated, efficient and streamlined processes for the granting of an approval, authorisation, licence, permission or exemption, in consultation with environment, health, safety, security, heritage, building, aviation or any other authorities, to enable rapid deployment of electronic communications networks and facilities.

(2) The Rapid Deployment National Co-ordinating Centre must consult with relevant authorities to ensure that legislation is amended to enable the said processes.

(3) There must be consistency in the time taken by authorities to grant approvals for the deployment of electronic communications networks and facilities.

(4) Any request and decision accepting or denying a request must be in writing and substantiated by evidence contained in the written record of the authority.

(5) The Department of Environmental Affairs must consider the amendment of the environmental management legislation to simplify and reduce the periods relevant to environmental approvals to enable rapid deployment of electronic communications networks and facilities, with due regard to the protection and conservation of the environment.

ECNS right to enter and use property

20G. (1) Electronic communications network service licensees have the right to enter upon and use public and private land for the deployment of electronic communications networks and facilities, subject to subsection (5).

(2) Electronic communications network service licensees are entitled to select appropriate land and gain access to such land for the purposes of constructing, maintaining, altering or removing their electronic communications networks or facilities.

(3) Electronic communications network service licensees retain ownership of any electronic communications networks and facilities constructed.

Commented [SJ3]: Permission should be granted on condition:

Objective 1. To Improve and maintain communication

Objective 2. To insure that the infrastructure is placed in the best possible location

Objective 3. To ensure the co-location or sharing of infrastructure wherever possible

Objective 4. To retain the visual integrity, special character and amenity of the City.

Objective 5. To design with the landscape and use modern mitigation measures to reduce impact.

Objective 6. To retain and improve the environmental and heritage quality of the public arena.

Objective 7. To ensure that wherever possible, infrastructure is not situated within an area of environmental or heritage significance

Objective 8. infrastructure must be situated and operated in a manner so as not to interfere with any other utility function

Objective 9. Where possible infrastructure should be placed on other structures such as light posts, road signs etc.

Objective 10. To protect the health, safety and wellbeing of the inhabitants of the city.

(4) Property owners have a duty of care to electronic communications network service licensees and may not intentionally cause damage to electronic communications networks or facilities.

(5) (a) An electronic communications network service licensee must give written notice of its proposed property access activity to an owner and if applicable, occupier of the affected land which must specify the reasons for engaging in the activity and the date of commencement of such activity, outline the objection process to its plans and provide environmental, health and safety information, as may be applicable.

(b) Notwithstanding the rights of licensees to enter upon and use any land, licensees must make an application to the landowner, provide all information required by the automated application process, if any, and obtain a wayleave certificate from the relevant authority which must specify information such as the presence, height and depth of other infrastructure such as water pipes, electricity cables and gas pipes in the area.

(c) A landowner may object to the Authority in the prescribed manner at least 14 days before the electronic communications network service licensee commence with the activity and only if the proposed electronic communication network or facility will cause significant interference with the land.

(d) Electronic communications network service licensees must exercise due care and diligence to minimise damage which must include, act according to good engineering practice, and take all reasonable steps to restore the property to its former state including the repair of damages caused.

(e) Electronic communications network service licensees must ensure the design, planning and installation of the electronic communications network or facility follow best practice and comply with regulatory or industry standards.

(f) Electronic communications network service licensees should take all reasonable steps to ensure the activity interferes as little as practicable with the operations of a public utility.

(g) Electronic communications network service licensees must update the geographic information system database about the type and location of electronic communications networks and facilities deployed as contemplated in section...;

(h) Electronic communications network service licensees must uphold the principle of open access and infrastructure sharing and seek out alternatives to new deployment of electronic communications networks and facilities in accordance with the rapid deployment regulations prescribed by the Authority, in order to use suitable existing electronic communications networks and facilities.

Access to high sites for radio-based systems

20H. (1) For the purpose of this section 'high site' means any structure or feature, constructed or natural, including buildings, which is suitable for radio-based systems.

(2) An electronic communications network service licensee may access and use any high site for the deployment of electronic communications networks and facilities that promote broadband. CONFIDENTIAL

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Commented [WU4]: Designs to be signed off by registered professional engineer for accountability in line with engineering profession act.

(3) An owner of a high site may not refuse access to an electronic communications network service licensee for the installation of electronic communications networks and facilities that promote broadband except in accordance with the rapid deployment regulations prescribed by the Authority.

(4) All spheres of government that own high sites must upon request make such high sites available for the installation of electronic communications networks and facilities that promote broadband, at a cost-based rental in accordance with the rapid deployment regulations prescribed by the Authority.

Access to trenches

20l. (1) The Authority must, in order to ensure a single trench for fibre in each geographic location where it is technically feasible to do so, make provision for processes and procedures that enable a single trench for fibre in the rapid deployment regulations prescribed by the Authority.

(2) The regulations contemplated in subsection (1) must specify, among other things—

(a) that electronic communications network service licensees must consult with other parties in the interest of the single trench policy;

(b) how other electronic communications network service licensees can get access or capacity at a later stage if they are unable to participate at the time of trenching;

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Commented [SJ5]: Installation to be conducted in line with owners guidelines. Aesthetics needs to be taken into account.

(c) obligations on electronic communications network service licensees to include excess capacity in their deployment and to lease spare capacity to other licensees at reasonable rates or such rates as prescribed under the open access policy regulatory framework contemplated in section... , whichever is lower;

(d) procedures and processes for resolving disputes that may arise between an electronic communications network service licensee, any landowner or other stakeholder; and

(e) the role of Rapid Deployment National Co-ordinating Centre to coordinate with key stakeholders.

Access to infrastructure

20J. (1) Government entities in all spheres of government that have rights of way for the construction of infrastructure such as roads, power lines, water pipes, sewer pipes and railways, must permit electronic communications network service licensees to use such rights of way to deploy electronic communications networks and facilities.

(2) The Rapid Deployment National Co-ordinating Centre must coordinate with key stakeholders and ensure dialogue between electronic communications network service licensees and roads authorities, power suppliers, and other entities that deploy infrastructure, to ensure that electronic communications networks and facilities are taken into account when deploying new infrastructure such as roads, power lines, water pipes, sewer pipes and railways. CONFIDENTIAL

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Commented [SJ6]: This is approval must be on condition that the installation will not hamper maintenance of critical infrastructure.

Access to buildings

20K. Electronic communications network service licensees may access any building with multiple tenants—

- (a) to inspect the building to determine whether it is suitable for deployment of electronic communications networks and facilities;
- (b) to deploy electronic communications networks and facilities for such building or subscribers outside the building;
- (c) to maintain electronic communications networks and facilities located in or on the building; or
- (d) to provide electronic communications services.

New property developments and buildings

20L. (1) New property developments and buildings must provide for the installation of electronic communications facilities such as ducts for fibre optic cabling, conduit pipes and space for radio equipment that will enable electronic communication services including voice services and broadband services at the quality and speeds provided in SA Connect.

(2) Entities responsible for approval of new property developments and buildings at all three spheres of government must make such approvals conditional on compliance with subsection (1) above.

(3) The Minister of Trade and Industry must consider amending the regulations issued under the National Building Regulations and CONFIDENTIAL
CONFIDENTIAL

Building Standards Act, 1977 (Act No. 103 of 1977), or any other relevant regulations, to give effect to the provisions of this section within 24 months of the date of commencement of this Act.

Adequately served

20M. (1) For the purposes of this section "adequately served" means—

- (a) an electronic communications network or facilities that enables electronic communications services including voice services and broadband services at the quality and speeds provided in SA Connect, has already been deployed to and within a set of premises such as a gated complex, an office park, a shopping mall, a government building or a block of flats by an electronic communications network service licensee ("in this clause referred to as the access provider"); and
- (b) the access provider has the ability to connect each and every occupant or user within such premises.

(2) The Authority must ensure that the access provider complies with the following rules when premises are 'adequately served':

- (a) the electronic communications network or facilities or elements thereof should be available from the access provider to access seeking licensees on an open-access basis as contemplated in section... Such electronic communications network or facilities or elements thereof are deemed essential facilities. CONFIDENTIAL

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(b) an occupant within the premises is not obliged to receive an electronic communications service from the access provider and may select and receive a service from any electronic communication service provider of choice; and

(c) the access provider must establish a "meet-me" facility at a suitable point within the premises at which all access seeking licensees may install their own electronic communications facilities or equipment so as to interconnect with the electronic communications network of the access provider, or that the access seeking licensee may use those facilities of the access provider as would enable it to provide services as requested.

(3) No electronic communications networks or facilities may be deployed in adequately served premises except with the approval of the Authority, if such deployment will not discourage service-based competition.

Emergency

20N. No entity may refuse access to any site or charge a fee for access to any site for the deployment of electronic communications network or facilities during emergency situations.

Application process / procedure

20O. (1) All applications and related processes for approval, authorisation, licence, permission or exemption and processes relating to any consultation and participation required by the relevant laws, required for the CONFIDENTIAL
CONFIDENTIAL

deployment of electronic communications networks and facilities including, without limitation, environmental authorizations, civil aviation authority permission for erection of masts, town planning approval and building plan approval must, in order to expedite the matter, run concurrently.

(2) The Rapid Deployment National Co-ordinating Centre must keep updated information on the application processes and minimum information requirements for an approval, authorisation, licence, permission or exemption and processes relating to any consultation and participation required by the relevant laws, required for the deployment of electronic communications networks and facilities.

(3) Any authority responsible for an approval, authorisation, licence, permission or exemption contemplated herein—

(a) must ensure that its employees are familiar with the requirements of the rapid deployment provisions in this Act and the rapid deployment regulations;

(b) must acknowledge receipt of an application within a week, and immediately indicate any outstanding information;

(c) must, notwithstanding any other law, process and provide a final decision within 30 calendar days of the date of the application, except if not possible in which event the relevant authority must provide written reasons for the delay to the applicant;

(d) may only impose reasonable conditions and standards on the deployment of electronic communications networks and facilities; CONFIDENTIAL

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(e) may not prohibit an electronic communications network service licensee from deploying electronic communications networks or facilities.

Fees, charges and levies

20P. (1) No access fee may be charged by landholders to electronic communications network service licensees for deploying electronic communications networks or facilities in cases where the electronic communications networks or facilities are not intrusive, such as buried or overhead cabling, that does not constitute a cost to the landholder, or deprive the landholder of its own use of the land.

(2) (a) Reasonable access fees may be charged in cases where more intrusive electronic communications networks or facilities, such as masts, are erected on property.

(b) In such cases any access fee must be reasonable in proportion to the disadvantage suffered and must not enrich the landowner or exploit the electronic communications network service licensee.

(3) In the case of any dispute on access fees, the reasonability of the access fees must be determined by the Authority on an expedited basis.

(4) An electronic communications network service licensee may continue to deploy electronic communications networks and facilities while awaiting the resolution of the dispute by the Authority. CONFIDENTIAL

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(5) If access to land involves an administrative process, a once-off administrative fee may be charged by the landholder that is based on the administrative cost of dealing with the application.

(6) A landholder is entitled to reasonable compensation agreed to between the landholder and the electronic communications network service licensee, for any financial loss or damage, whether permanent or temporary, caused by an electronic communications network service licensee entering and inspecting land, or installing, deploying or maintaining electronic communications networks or facilities.

(7) In the case of any dispute on compensation, the reasonability of the compensation must be determined by the Authority on an expedited basis.

(8) An electronic communications network service licensee may continue to deploy electronic communications networks and facilities while awaiting the resolution of the dispute by the Authority.

[Rapid deployment of electronic communications facilities

21. (1) The Minister must, in consultation with the Minister of Cooperative Governance and Traditional Affairs, the Minister of Rural Development and Land Reform, the Minister of Water and Environmental Affairs, the Authority and other relevant institutions, develop a policy and policy directions for the rapid deployment and provisioning of electronic communications facilities, following which the Authority must prescribe regulations. CONFIDENTIAL

CONFIDENTIAL

(2) The regulations must provide procedures and processes for—
(a) obtaining any necessary permit, authorisation, approval or other governmental authority including the criteria necessary to qualify for such permit, authorisation, approval or other governmental authority; and
(b) resolving disputes that may arise between an electronic communications network service licensee and any landowner, in order to satisfy the public interest in the rapid rollout of electronic communications networks and electronic communications facilities.
(3) The policy and policy directions contemplated in subsection (1) must be made within twelve (12) months of the coming into operation of the Electronic Communications Amendment Act, 2014.

Entry upon and construction of lines across land and waterways

22. (1) An electronic communications network service licensee may—
(a) enter upon any land, including any street, road, footpath or land reserved for public purposes, any railway and any waterway of the Republic;
(b) construct and maintain an electronic communications network or electronic communications facilities upon, under, over, along or across any land, including any street, road, footpath or land CONFIDENTIAL
CONFIDENTIAL

reserved for public purposes, any railway and any waterway of the Republic; and
(c) alter or remove its electronic communications network or electronic communications facilities, and may for that purpose attach wires, stays or any other kind of support to any building or other structure.

(2) In taking any action in terms of subsection (1), due regard must be had to applicable law and the environmental policy of the Republic.

Underground pipes for purposes of electronic communications network service
23. (1) If any local authority and an electronic communications network service licensee agree that the provision of the electricity supply and electronic communications network services to a particular area must be provided by means of an underground cable, that local authority may on any premises within the said area, when installing such cable for an underground electricity supply line on the said premises, provide a conduit pipe or other facility for the installation of an underground electronic communications facility from a point of connection on the street boundary to a building on those premises, in accordance with the requirements of the electronic communications network services licensee.

(2) The cost of the provision of the said conduit pipe or CONFIDENTIAL
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other facility—

(a) is payable to the local authority in question; and

(b) is, for the purpose of any law, considered to be fees payable by the owner of the premises in question to the local authority in respect of the installation of the electricity supply line.]".

Pipes under streets

24. (1) An electronic communications network service licensee may, after **[providing thirty (30) days]** prior written notice to the local authority or person owning or responsible for the care and maintenance of any street, road or footpath—

(a) construct and maintain in the manner specified in that notice any pipes, tunnels or tubes required for electronic communications network facilities under any such street, road or footpath;

(b) alter or remove any pipes, tunnels or tubes required for electronic communications network facilities under any such street, road or footpath and may for such purposes break or open up any street, road or footpath; and

(c) alter the position of any pipe, not being a sewer drain or main, for the supply of water, gas or electricity.

(2) The local authority or person to whom any such water, gas or electricity pipe belongs or by whom it is used is entitled, at all times while any work in connection with the alteration in the position of that pipe is in progress, to supervise that work.

CONFIDENTIAL

CONFIDENTIAL

(3) The licensee must pay all reasonable cost-based expenses incurred by any such local authority or person in connection with any alteration of water, gas or electricity pipes **[or removal]** under this section or any supervision of work relating to such alteration.

Removal of electronic communications network facilities

25. (1) If an electronic communications network service licensee finds it necessary to move any electronic communications facility, pipe, tunnel or tube constructed upon, in, over, along, across or under any land, railway, street, road, footpath or waterway, owing to any alteration of alignment or level or any other work on the part of any public authority or person, the reasonable cost-based expenses of the alteration or removal must be borne by that local authority or person.

(2) Where any electronic communications network facility passes over any private property or interferes with any building about to be erected on that property, the licensee must, on receiving satisfactory proof that a building is actually to be erected, deviate or alter the positioning of the electronic communications facility in such manner as to remove all obstacles to building operations.

(3) The owner of the property must, in writing, give notice that any such deviation or alteration is required to the electronic communications network service licensee, not less than 28 days before the alteration or deviation is to be effected. CONFIDENTIAL
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(4) If any deviation or alteration of an electronic communications network facility, pipe, tunnel or tube constructed and passing over any private property is desired on any ground other than those contemplated in subsection (1) or (2), the owner of the property must give the electronic communications network service licensee written notice of 28 days, of such deviation or alteration.

(5) The electronic communications network service licensee must decide whether or not the deviation or alteration contemplated in subsection (4) is possible, necessary or expedient.

(6) If the electronic communications network service licensee agrees to make the deviation or alteration as provided for in subsection **[(3)]** (4), the cost of such deviation or alteration must be borne by the person at whose request the deviation or alteration is affected.

(7) If, in the opinion of the electronic communications network service licensee the deviation or alteration contemplated in subsection (4) is justified, the licensee may bear the whole or any part of the said cost.

(8) Where a dispute arises between any owner of private property and an electronic communications network service licensee in respect of any decision made by an electronic communications network services licensee in terms of subsection (4), such dispute must be **[referred to the Complaints and Compliance Committee in accordance with section 17C of the ICASA Act]** resolved by the Authority on an expedited basis as envisaged in section 20C; CONFIDENTIAL
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Fences

26. (1) If any fence erected or to be erected on land over which an electronic communications network facility, pipe, tunnel or tube is constructed or is to be constructed by an electronic communications network service licensee renders or would render entry to that land impossible or inconvenient, the electronic communications network service licensee may at its own expense—

(a) erect and maintain gates in that fence; and

(b) provide duplicate keys for such gates, one set of which must be handed to the owner or occupier of the land.

(2) Any person intending to erect any such fence must give the electronic communications network service licensee notice in writing of not less than six weeks of his or her intention to erect such fence.

Trees obstructing electronic communications network facilities

27. (1) Any tree or vegetation which in the opinion of an electronic communications network service licensee—

(a) obstructs or interferes; or

(b) is likely to obstruct or interfere,

with the working or maintenance of any of the electronic communications network services licensees' electronic communications network or electronic communications facilities, pipes, tunnels or tubes, whether growing upon—

(i) state-owned land; CONFIDENTIAL

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- (ii) any road; or
- (iii) private land,

must, after reasonable notice to the owner or occupier of the land, be cut down or trimmed by the authority responsible for the care and the management of such State-owned land, road or private land, in accordance with its requirements or by the owner or occupier of such private land, as the case may be, at the expense of the electronic communications network service licensee, that must be cost-based.

(2) In the event of failure to comply with a notice referred to in subsection (1) **[(b)]**, the electronic communications network service licensee may cause the said tree or vegetation to be cut down or trimmed as the electronic communications network service licensee may consider necessary.

(3) Where the electronic communications network or electronic communications facility is actually interfered with or endangered by any such tree or vegetation, the licensee may remove such tree or vegetation without any such notice.

(4) In taking any action in terms of subsections (1), (2) or (3), due regard must be had to the environmental law of the Republic.

[Height or depth of electronic communications network facilities

28. (1) (a) Aerial electronic communications networks or electronic communications facilities along any railway or public or CONFIDENTIAL
CONFIDENTIAL

private street, road, footpath or land must be at the prescribed height above the surface of the ground.

(b) The electronic communications network service licensee must place electronic communications networks and electronic communications facilities, pipes, tunnels and tubes at the prescribed depth below the surface of the ground.

(2) If the owner of any private land proves to the satisfaction of an electronic communications network service licensee that he or she is obstructed in the free use of his or her land because of the insufficient height or depth of any electronic communications network or electronic communications facility, pipe, tunnel or tube constructed by the electronic communications network service licensee, the electronic communications network service licensee may, subject to the provisions of sections 22 and 25, take such steps as he or she may consider necessary for giving relief to that owner.

(3) In taking any action in terms of this section, due regard must be had to the environmental laws of the Republic.]

Electrical works

29. (1) Any person who constructs, equips or carries on any railway or works for the supply of light, heat or power by means of electricity, must—

(a) conform to the requirements of an electronic communications network service licensee for the prevention of damage to any of its electronic
CONFIDENTIAL
CONFIDENTIAL

communications network and electronic communications facilities or works by such construction;

(b) before commencing the construction of any such railway or works, give 30 days prior written notice to the electronic communications network service licensee of his or her intention to commence the construction; and

(c) furnish the electronic communications network service licensee with—

(i) a plan of the proposed railway or works;

(ii) particulars showing the manner and position in which the railway or works are intended to be constructed, executed and carried on; and

(iii) such further information related to the proposed railway or works as the electronic communications network service licensee may require.

(2) If—

(a) it appears to the electronic communications network service licensee that the construction, equipment or operation of any such railway or works is likely to damage any of its electronic communications facilities or works; or

(b) any such electronic communications facilities or works are damaged by the construction, equipment or operation of any such railway or works, the electronic communications network service licensee must give reasonable notice of its requirements to the person concerned.

(3) Any person who, after receiving the notice referred to in subsection (2), proceeds with or causes to be proceeded with any such CONFIDENTIAL

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construction, equipment or operation in contravention of the said requirements, may be liable to the electronic communications network service licensee for damages sustained by the electronic communications network service licensee as a result of a contravention of subsection (1)."