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NOTICE OF THE MAKING OF REGULATIONS

THE Regulation set out in the table below have been made under the Law set out in the table.

Statutory Instrument No.	Citation or Nature
No. 7 of 2016	SIM Card Registration Regulation 2016.

The above Regulation shall come into operation on the date of publication of this notice in the *National Gazette*.

Copies of the Regulation may be obtained from the Office of Legislative Counsel at the following address: Office of Legislative Counsel, Department of the Prime Minister and NEC, Level 4, Morauta Haus, P.O. Box 639, Waigani, National Capital District, Telephone: 7754420, Facsimile: 325 2284.

Dated this 19th day of April, 2016.

I. VEALI,
Secretary,
National Executive Council.



STATUTORY INSTRUMENT.

No. 07 of 2016.

SIM Card Registration Regulation 2016.

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STATUTORY INSTRUMENT.

No. *07* of 2016.

SIM Card Registration Regulation 2016,

Being a Regulation to regulate the registration of all SIM Card users and for the control, administration and management of the subscriber information database,

Made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under Section 216 of the *National Information and Communications Technology Authority Act 2009*.

PART I. - PRELIMINARY.

1. INTERPRETATION.

- (1) In this Regulation, unless the contrary intention appears -
- “activate” includes “activated” or “activation” and means to allow full access to the electronic communication system of a licensee who provides a mobile cellular Electronic Communications Service, including the ability to make and receive calls, and to send and receive short message services;
 - “authorised personnel” means an officer authorised to perform specified duties associated with the subscriber information database;
 - “biometric information” means the facial image of a subscriber;
 - “corporate body” means a sole corporation, a company or other body corporate (whether incorporated in the country or elsewhere), an unincorporated body of persons, a public body, and includes a Government department, agency or authority;
 - “deactivate” includes “deactivation” and means to stop full access to the electronic communication system of a licensee who provides a mobile cellular Electronic Communications Service;
 - “electronic communications service” means any service which provides to users the ability to send or receive wire or electronic communications;
 - “existing subscriber” means a subscriber on a licensee's electronic communication services system prior to the commencement of this Regulation;
 - “foreign licensee” means a telecommunication or Electronic Communications Service provider licensed by a telecommunications regulator other than NICTA, to provide electronic communications services in a country other than Papua New Guinea;
 - “home country” means the country where a foreign licensee is operating and doing business from;

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- “ICT Appeals Panel” means the ICT Appeals Panel under Section 255 of the NICTA Act ;
- “identification card” means any required form of card including driver's licence, citizen cards or valid work IDs with personal information relating to aspects of a person's identity;
- “identification document” means any required form of document including passports and valid birth registration documents which may be used to verify aspects of a person's identity;
- “licensee” means any telecommunication or electronic communications service provider licensed by NICTA to provide electronic communications services including Global System for Mobile, Code Division Mobile Access and fixed line services in Papua New Guinea;
- “limited access” means the limitation by a licensee of services available to a SIM Card to receipt of calls and short message service, and making of calls to emergency centre numbers and the licensee's call centre only;
- “new subscriber” means a subscriber who acquires a SIM Card or subscribes to provide electronic communications service after the commencement of this Regulation;
- “NICTA” means the National Information and Communications Technology Authority;
- “NICTA Act” means the *National Information and Communications Technology Act 2009*;
- “non-resident” means a visitor to Papua New Guinea who -
- (a) uses a SIM Card issued by a licensee; or
 - (b) uses a SIM Card issued by a foreign licensee to roam on the network of a licensee;
- “person” includes a corporate body;
- “personal information” means information obtained from required valid identification cards or documents with full names, gender, date of birth, residential address, nationality, state of origin, occupation and such other personal information and contact details of subscribers at NICTA, may, from time to time specify in a data dictionary for registration of SIM Card users;
- “proxy registration” means a registration performed with details of the registering person on behalf of a SIM card owner;
- “registration grace period” means eighteen (18) months period from the commencement date or such other date as NICTA may specify, within which existing subscribers will be required to register with approved SIM Card registration solution providers pursuant to the Regulations;
- “Regulation” mean this SIM Card Registration Regulation;
- “reputable person” means a respectable person of standing in the community such as a Commissioner of Oaths, a member of a discipline force, a ward member, a village court magistrate or a church pastor who is a registered SIM card holder;
- “security agency” means the Royal PNG Constabulary, other law enforcement agencies of the State or the National Intelligence Organization;
- “SIM Card” means a Subscriber Identity Module smart card containing the telephone number of a subscriber, encoded network identification details, the personal identification number and other user data such as an address book

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provided by a licensee for the provision of Electronic Communication Services;

“subscriber” means -

- (a) any person who subscribes to provide Electronic Communications Services either as a result of the purchase of a SIM Card or the conclusion of a contract to provide electronic communication service by a licensee; or
- (b) an employee of the licensee or any person who receives or received such service as a gift, reward, favour, benefit or donation, and includes both existing subscribers and new subscribers;

“subscriber information” means the biometrics or other personal information of a subscriber recorded and stored by licensees;

“subscriber information database” means the central SIM cards database, containing the specific biometric and other registration information of all SIM card-based telephone subscribers.

(2) Unless the contrary intention appears, any word or phrase used in this Regulation that is not defined but is used in the Act, shall have the same meaning or interpretation as given to them in the Act.

(3) The terms and expressions defined in the Act shall have the same meaning in this Regulation, unless the context otherwise requires.

PART II. - SCOPE AND OBJECTIVES.

2. OBJECTIVE.

The objective of this Regulation is to provide a regulatory framework for the registration of all SIM Card users, and for the control, administration, and management of the Subscriber Information Database.

3. APPLICATION.

This Regulation shall apply to all licensees and all persons who use a SIM Card in Papua New Guinea but shall not extend to users of SIM Cards issued by foreign licensees, notwithstanding those users are roaming on the network of a licensee.

PART III. - THE SUBSCRIBER INFORMATION DATABASE.

4. ESTABLISHMENT AND MAINTENANCE OF THE DATABASE.

(1) NICTA shall ensure that all licensees must establish a subscriber information database to record and store subscriber information.

(2) The subscriber information database shall be segregated across electronic communications service systems and domiciled and housed in a central location, providing a platform for central processing of all subscriber information in such a manner as to ensure easy access to data by authorised personnel.

(3) The ownership, care, control and management of the subscriber information database shall be vested in the individual licensee.

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(4) The subscriber information acquired by the licensees or its duly recognised agents and any databases, batching for transmittal or storage developed from the subscriber information shall belong to the individual licensee.

5. DATA PROTECTION AND CONFIDENTIALITY.

(1) The subscriber information contained in information database shall be confidential and no person or corporate body shall be allowed to have access to any subscriber's information on the licensee's database except where it is provided for in this Regulation.

(2) No subscriber information shall be transferred outside the Independent State of Papua New Guinea except under a warrant issued under the *Mutual Assistance in Criminal Matters Act 2005*.

(3) A subscriber whose personal information is stored in the subscriber information database shall view the said information and request updates and amendments of his personal information.

(4) Licensees providing registration services shall not retain the personal data of any subscriber written on the prescribed registration form after transmitting the data to the subscriber information database.

(5) Licensees shall -

(a) take all reasonable precautions to preserve the integrity and to prevent any corruption, loss or unauthorised disclosure of subscriber information retained pursuant to this Regulation; and

(b) take steps to restrict unauthorised use of the subscriber information by its employees who may be involved in capture and or processing of such subscriber information.

(6) Where a licensee is found to have utilised the subscriber information in any business, commercial or other transaction, the licensee shall be liable to a fine of K50,000.00 per subscriber and forfeiture of such commercial benefit derived from the unauthorised use of such subscriber information.

6. OPERATION OF SUBSCRIBER INFORMATION DATABASE.

(1) Subscriber information received by licensees shall be processed and stored in their respective subscriber information database.

(2) No licensee shall, under any circumstances, duplicate, use, deal in or make copies of any subscriber information or store, in whatever form, any copies of the subscriber information for any purpose other than as stipulated in this Regulation or by an Act of Parliament.

(3) Subject to Section 7, licensees shall utilise subscriber information solely for their operations and shall not release subscriber information to any third party without obtaining prior written consent of the relevant subscriber.

(4) Where a SIM Card has been deactivated, the licensee shall keep the records of the relevant "existing subscriber" and "new subscriber" for a period of six months from the date of the deactivation of the SIM Card.

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(5) A licensee who uses, duplicates or deals with subscriber information contrary to Subsections (2) and (3), shall be liable to the penalty provided in Section 7(5).

7. REQUEST FOR SUBSCRIBER INFORMATION.

(1) Notwithstanding Sections 5 and 6 or any Act of Parliament, subscriber information on the subscriber information database may be provided to a security agency.

(2) The licensee shall not release information from the subscriber information database unless the licensee receives a prior written request from the relevant security agency.

- (3) The written request by the security agency shall -
- (a) be in the prescribed form; and
 - (b) indicate the rank of the official of the security agency; and
 - (c) set out the purpose and reasons for the request; and
 - (d) relate to the function of the security agency; and
 - (e) be endorsed by the Attorney General, the National Intelligence Organization and NICTA before being sent to the licensee.

(4) Notwithstanding this section, subscriber information shall not be released to a security agency or any other person, where -

- (a) the release of subscriber information would constitute a breach of the **Constitution** or any other Act of Parliament; or
- (b) the release of subscriber information would constitute a threat to national security.

(5) A licensee who transmits the details of a subscriber to an unauthorised third party commits an offense and shall be liable to a fine of K50,000.00 for each SIM Card.

PART IV. - SIM CARD REGISTRATION.

8. LICENSEE TO REGISTER ALL SUBSCRIBERS.

(1) A licensee operating in Papua New Guinea shall register all its subscribers using its network and services in accordance with this Regulation.

(2) The licensee shall, at its own cost, implement a process to capture and transmit to its subscriber information database personal information of new subscribers and any biometric information in accordance with specifications prescribed in the Schedule.

9. REGISTRATION GENERALLY.

(1) A licensee shall register, capture and transmit to its subscriber information database within the registration grace period -

- (a) the identification number of any SIM Card that is to be activated by a licensee at the request of any individual subscriber; and
- (b) biometric and other personal information of the individual subscriber.

(2) The collection of personal information shall be in the prescribed form.

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- (3) An individual subscriber shall not be registered unless -
 - (a) the subscriber provides a valid identification card or document; and
 - (b) is physically present at the place of registration.
- (4) A licensee shall activate the SIM Card and grant full access to a subscriber upon registration.
- (5) Where a person does not have a valid identification card or related documents, he shall not be registered unless he is -
 - (a) physically present at the place of registration; and
 - (b) is accompanied by a reputable person; and
 - (c) the reputable person presents his identification card or document and identifies the person requesting registration.
- (6) For the purposes of Subsection (5), a reputable person shall produce documents showing that he is a reputable person.
- (7) A licensee who activates a SIM Card without registering and transmitting the personal information specified in this section to the subscriber information database shall be liable to a fine of K50,000.00 for each SIM Card.

10. REGISTRATION OF CORPORATE PERSONS.

In the case of a corporate body, the licensee shall register -

- (a) the biometric and other personal information from valid identification cards or documents of the authorised representative of the corporate body; and
- (b) the name and address of the corporate body; and
- (c) where applicable, the registration number of the corporate body.

11. REGISTRATION OF NEW SUBSCRIBERS.

A licensee shall register the subscriber information of a subscriber purchasing a new SIM Card in accordance with Section 9.

12. REGISTRATION OF EXISTING SUBSCRIBERS.

(1) A licensee shall register its existing subscribers under Section 9 within the registration grace period.

(2) Where an existing subscriber has not been registered within the registration grace period, the licensee shall deactivate the SIM Card.

(3) A licensee who fails to deactivate a SIM Card after the registration grace period shall be liable to a fine of K50,000.00 for each SIM Card.

13. REGISTRATION OF DEPENDENTS.

(1) A licensee shall only register a child that is above the age of 12.

(2) Subject to Subsection (3), a child who is at the age of 12 or below shall be registered by the parent or guardian having a valid identification card or document.

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(3) A child registered in accordance with Subsection (2) shall be registered under the parent's or guardian's name.

14. REGISTRATION OF NON-RESIDENTS.

(1) A non-resident shall register his SIM Card upon presentation of his personal information, a valid passport or other travel document and provide local resident address and alternate contact detail of the natural person using the network service.

(2) A licensee shall ensure any international roaming agreements with a foreign licensee must include access to roamers identification information that are roaming on the licensee's network and shall be made available from the home country.

15. NO PROXY REGISTRATION.

There shall be no proxy registration.

16. ACTIVE SIM CARDS.

A licensee shall ensure that the individual subscriber, other than a body corporate, is permitted to own a maximum of only six active SIM cards and these SIM cards shall be permitted to access the licensee's network services on the date of registration.

17. LIABILITY OF SUBSCRIBERS.

A registered subscriber is not liable for any illegal activity carried out on the SIM Card unless -

- (a) he knowingly allowed the activity to be carried out; or
- (b) his phone was stolen and was used by someone else to commit that activity.

18. REGISTRATION UPDATES.

(1) A licensee shall, within a regular period as specified by NICTA, provide registration updates and details to NICTA.

(2) A licensee that fails to provide the required information under Subsection (1) shall be liable to a penalty of K50,000.00 after failure to comply with a written warning from NICTA.

19. INSPECTION.

NICTA shall ensure compliance with this Regulation by carrying out inspections.

PART V. - PENALTIES AND APPEALS.

20. PENALTIES GENERALLY.

(1) Without prejudice to other penalties provided for in other relevant laws, a violation of a defaulting licensee shall be penalised under this Regulation.

(2) A person who, at the time of a breach of these Regulations, was a director, chief executive officer, manager, secretary or other similar officer of the defaulting licensee or was purporting to act in any such capacity or was in any manner or to any extent

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responsible for the management of any of the affairs of the licensee or was assisting in such management -

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) if NICTA is satisfied that the body corporate is culpable, he shall also be liable to pay a fine of up to K50,000.00 having regard to the nature of the individual functions in that capacity and to all the surrounding circumstances, unless he proves -

- (i) that the offence was committed without his/her knowledge, consent or connivance; and
- (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

21. APPEALS.

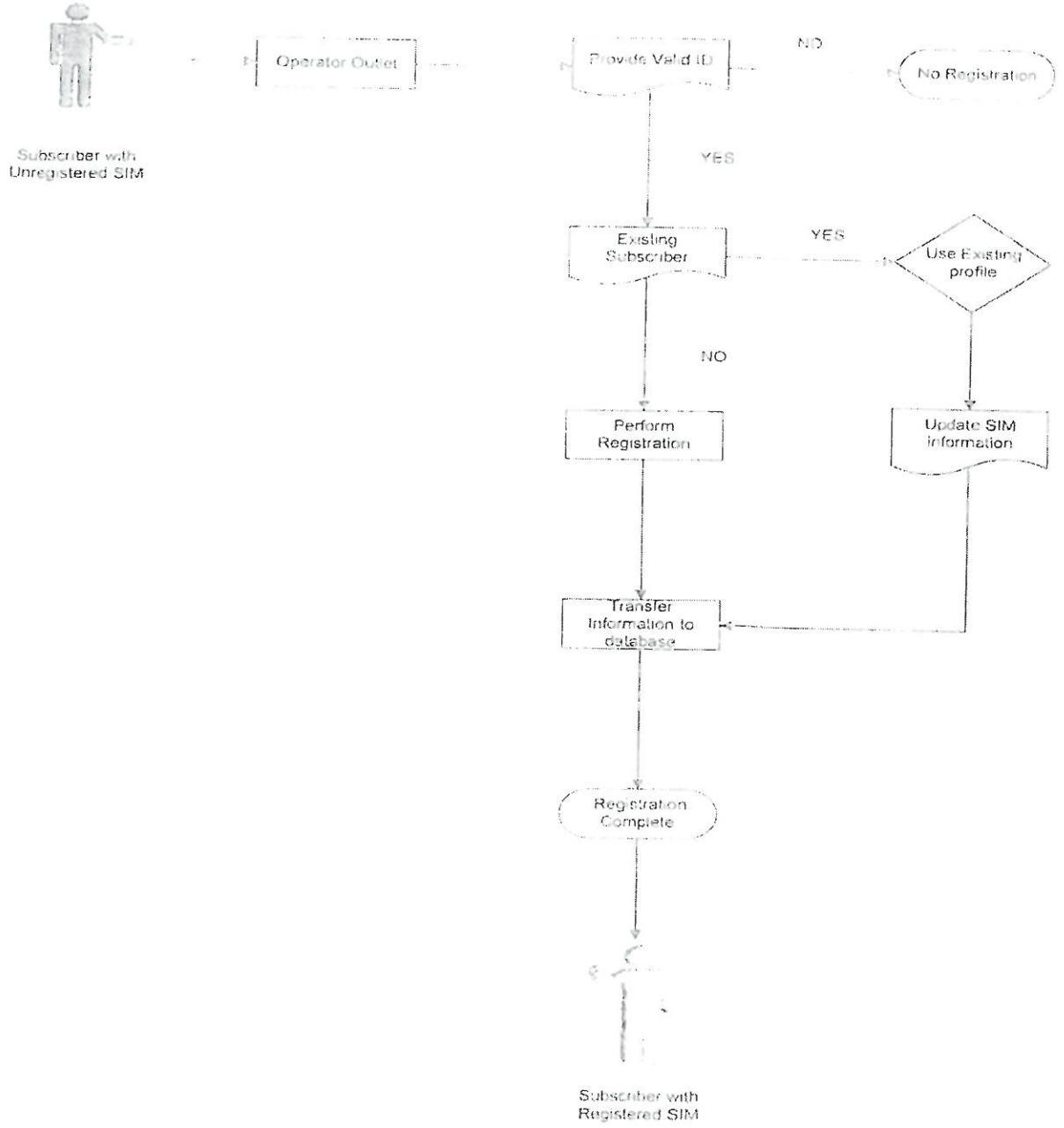
(1) A licensee aggrieved by a fine imposed by NICTA by virtue of this Regulation may apply to the ICT Appeals Panel pursuant to Section 258 of the Act for review.

(2) The licensee making the appeal will be given at least seven working days advance written notice of the date of the appeal hearing.

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SCHEDULE.

FLOW CHART FOR SUBSCRIBER REGISTRATION PROCESS.



MADE this 13TH day of APRIL, 2016.

[Signature]
GOVERNOR GENERAL.