



National Information and Communications Technology Authority

RADIOCOMMUNICATIONS LICENCE THIRD PARTY AUTHORIZATION RULE

Issue : Draft 4, November, 2016

Document Reference Number: xxxx

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1 Name of this Rule

This Rule shall be known as “The Radiocommunications Licence Third Party Authorization Rule 2016.”

2 Preliminary

The Rule is made by NICTA pursuant to its powers and responsibilities under Section 218 of the Act and Sections 5 and 75 of the Radio Spectrum Regulation 2010.

3 Commencement

This Rule commences on the date of gazettal.

4 Definitions

In this Rule, unless the contrary intention appears:

“**Act**” means the National Information & Communications Technology Authority Act 2009.

“**Apparatus**” means any equipment or combination of equipment capable of effecting radiocommunications, whether by transmission or reception of radiocommunication.

“**Apparatus Licence**” means an Apparatus licence issued under part VIII of the Act.

“**IPA**” means the Investment Promotion Authority.

“**Licensee**” means a holder of an ICT licence, in this rule it means apparatus and spectrum licensee

“**NGO**” means Non-Governmental Organisation

“**Person**” means a consultant or an expert in an ICT or radiocommunications field.

“**Regulated Conduct**” has the meaning defined in Section 180(1) of the Act.

“**Spectrum licence**” means a Spectrum licence issued under part VIII of the Act.

“**Third Party Authorisation**” is a private commercial agreement that allows a spectrum or apparatus licensee to authorise another person or organisation to operate a radiocommunications device. A person authorized to operate radiocommunications devices under such arrangements are known as third party users.

“**Third Party**” means any person or company within PNG or from overseas who is authorised by a spectrum or apparatus licensee to operate radiocommunications apparatus under its licence for the purpose of radio device/system audit or radio engineering consultation or training or special national events.

5 Objective

The objective of this rule is to provide the requirements and conditions of a Third Party Authorization which a third party and the licensee shall follow.

6 Application

Unless otherwise stated, this rule shall apply to the apparatus and spectrum licensee.

7.0 Register of Third Party Authorisations

7.1 In accordance to Section 75 of the Radio Spectrum Act, 2010, a licensee who under Section 5 authorizes a third party to operate apparatus under its licence, or such authorization, shall, unless NICTA otherwise directs –

- (a) to lodge a copy of the authorization or variation with NICTA; and
- (b) keep a copy of the authorization or variation at its registered office;
- (c) provide a copy of authorization or variation to the third party; and
- (d) retain a copy of the authorization or variation for at least one year after the authorization or variation ceases to be in force.

7.2 A third party authorised to operate an apparatus under the licensee’s licence must:-

- (a) clearly exhibit any authorisation, and any variation, provided to it in accordance with Subsection (7.1)(c) at all times in the room or place where the apparatus is situated;
- (b) where it is not practical to exhibit the authorisation, and any variation, make the authorisation, and any variation, available for inspection at all reasonable times on demand by an inspector; and
- (c) retain a copy of the authorisation, and any variation, for at least one year after the authorisation or variation ceases to be in force.

7.3 NICTA may direct that a spectrum licensee comply with the obligations in Subsections (7.1) and (7.2) as if the spectrum licensee were an apparatus licensee.

8.0 Requirements

- (a) A third party authorization shall be used for the purposes of radio engineering consultation; training; device/system audit; and for special national events.
- (b) A third party may be a person or a company, or a government agency, or an NGO, having intention to purchase, or ship in apparatus from an overseas country to operate on temporary basis in PNG.
- (c) The licensee has an obligation to notify any person or company authorized to operate the apparatus under Section 3(g) of the radio spectrum regulation and relevant provisions of the Act.

- (d) The third party authorization shall be made in writing, and the licensee shall submit it to NICTA through the office of the Director Licensing & Enforcement copy of the agreement.
- (e) The authorized third party shall operate apparatus or radio equipment registered and/or type approved under the Act and the Radio Spectrum Regulation.
- (f) The authorized third party shall not have in its possession any device for sale and/or capable of causing interference or intercepting transmission of radiocommunications signals.
- (g) The authorized third party shall not assign or transfer this temporary authorisation to any person to participate in any related business(s) or for obtaining a loan.
- (h) If NICTA is satisfied that a third party authorised under Section 5 of the radio spectrum regulation has contravened a condition(s) of the licence to which the authorisation relates; NICTA may give the licensee a written notice directing the licensee to revoke the authorisation.
- (i) The notice must give the reasons for the direction and the licensee must revoke the authorisation after receipt of the notice.

9.0 Terms and Conditions

9.1 Circumstances in which third party shall not be authorised to operate radiocommunications apparatus or devices

- I.** A licensee shall not authorize a third party to operate the radiocommunications devices under the licence if:-
 - (a) a third party has had licence(s) registered under NICTA and which had been suspended or cancelled for criminal offence; or
 - (b) a third party is not registered with the IPA in PNG or the business registration bureau in a foreign country; or
 - (c) a third party has not submitted to the licensee copies of valid and authentic IPA or the business registration certificate and a list of apparatus intended to be used; or
 - (d) a third party has criminal intentions to sabotage the radio apparatus or the network, or corrupt intentions to defraud the licensee; and
 - (e) a third party contravenes relevant sections of the Act, the PNG Immigration laws and the National Constitution; or

- (f) a third party intends to provide an international radiocommunications service under the licence; or
- (g) a third party intends to provide a radiocommunications service within PNG under the licence.

9.2 Revocable Authorisation

The licensee must authorise the operation of apparatus or a device under Section 5(1) and (2)(a) of the Radio Spectrum Regulation (2010) such that:

- (a) the authorisation may be revoked at will by the licensee; and
- (b) its revocation will be final and conclusive against the person authorised.

9.3 Third party to comply with the Act

The third party, under Section 5(2)(b) of the Radio Spectrum Regulation (2010), shall comply with the Act during operations of the apparatus.

9.4 Licensee to notify third party of its obligations

The licensee, under section 5(3) of the Radio Spectrum Regulation (2010), shall notify any person(s) authorized to operate apparatus of their obligations under the act.

Reference:

1. NICTA Act, 2009
2. ACMA Information Sheet, Third-party authorization-Information for licensees and third-party users.
3. ACMA Radiocommunications Act 1992