

(Legislative Supplement No. 58)

CORRIGENDUM

IN the Legal Notice No. 41 of 2014—

Amend the expression “Mwangaza Ulio na Tumaini Clinic” to read “Mwangaza Ulio na Tumaini Clinic–Korogocho”.

LEGAL NOTICE NO. 163

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(No. 2 of 1998)

IN EXERCISE of the powers conferred by section 27D of the Kenya Information and Communications Act, 1998, the Communications Authority of Kenya, makes the following Regulations—

THE KENYA INFORMATION AND COMMUNICATIONS  
(REGISTRATION OF SIM-CARDS) REGULATIONS, 2015

1. These Regulations may be cited as the Kenya Information and Communications (Registration of SIM-cards) Regulations, 2015.

Citation.

2. In these Regulations, unless the context otherwise requires—

Interpretation.

“Act” means the Kenya Information and Communications Act;

No. 2 of 1998.

“activate” means to enable access by a subscriber of telecommunications services provided by a telecommunications operator or agent;

“agent” means a person contracted or engaged by a telecommunications operator or by a third party on behalf of a telecommunications operator to carry out the registration of SIM-cards under these Regulations;

“Authority” means the Communications Authority of Kenya;

“deactivate” means to disable the access of a subscriber of telecommunications services provided by a telecommunications operator;

“identification particulars” means details given by a subscriber to a telecommunications operator or an agent for the purpose of registration;

“guardian” in relation to a child includes any person who in the opinion of the court has charge or control of the child and is recognized by law as having legal capacity to make decisions on behalf of that child;

“proxy registration” means registration on behalf of a subscriber by a person not being the subscriber;

“registration” means the process of recording identification particulars of a person as a subscriber by a telecommunications operator or an agent;

“subscriber” means a person who is registered under this Act and has access to telecommunications services provided by a telecommunications operator;

“suspend” means to temporarily disable access, by a subscriber, to telecommunications services provided by a telecommunications operator;

“telecommunications operator” means a person or entity licensed under the Act to own and operate a telecommunications system or provide telecommunications services or both.

3. The object of these Regulations is to provide a process for the registration of existing and new subscribers of telecommunication services provided by telecommunication licensees in Kenya.

Object of Regulations.

4. (1) A telecommunications operator or agent shall register a person as a subscriber in the manner provided for in these Regulations.

Persons authorised to register.

(2) It shall be an offence for a person other than a telecommunications operator or agent to sell a SIM-card.

(3) A telecommunications operator shall keep a record of—

- (a) all its agents;
- (b) all SIM-cards sold to its agents; and
- (c) the registered subscribers made by the telecommunications operator and the telecommunications operator’s agents and any changes made thereto.

(4) A telecommunications operator shall—

- (a) submit to the Authority the records maintained pursuant to paragraph (3), on a quarterly basis; and
- (b) submit to the Authority a report of its operations on the maintenance of records under paragraph (3), on an annual basis or upon request by the Authority.

(5) The Authority shall issue administrative guidelines specifying the manner in which the reports specified under paragraph (4) shall be submitted to the Authority.

(6) A telecommunications operator or agent who contravenes the provisions of this regulation commits an offence.

5. (1) A person who intends to register a SIM-card shall provide the following particulars to the telecommunications operator or agent—

Requirements for registration.

- (a) full names;
- (b) identity card, service card, passport or alien card number;

- (c) date of birth;
- (d) gender;
- (e) physical address;
- (f) postal address, where available;
- (g) any other registered subscriber number associated with the subscriber;
- (h) an original and a copy of the national identity card, service card, passport or alien card;
- (i) an original and a copy of the birth certificate, in respect of registration of minors;
- (j) subscriber number in respect to existing subscribers;
- (k) a certified copy of the certificate of registration or incorporation and a copy of the national identity card or passport of at least one director, where relevant; and
- (l) a letter duly sealed by the chief executive officer or the person responsible for the day to day management of the statutory body.

(2) Where there is a change in any of the details provided by a subscriber under paragraph (1), the subscriber shall within thirty days of the change taking place inform the telecommunications operator or an agent of the change.

(3) The telecommunications operator shall amend the relevant registration particulars of the subscriber within seven days upon receipt of the notice issued under paragraph (2).

(4) A person, who knowingly provides false information to a telecommunications operator or an agent during the registration process, commits an offence.

6. (1) A telecommunications operator or an agent shall when registering a person, verify the information provided by the subscriber under regulation 5.

Verification of  
registration  
identification  
particulars.

(2) Despite regulation 5, a telecommunications operator or an agent shall require the following documents to verify the registration particulars of a subscriber—

- (a) for a Kenyan citizen—
  - (i) an original identity card;
  - (ii) an original and valid passport;
  - (iii) an original service card for a member of the Kenya Defence Forces ; or
  - (iv) an original birth certificate;
- (b) where a person who is a Kenyan citizen but is not in possession of original identification documents, desires to register as a subscriber, he or she shall produce—
  - (i) a waiting card; or

- (ii) a police abstract and a certified copy of an identification document;
- (c) for East African residents—
  - (i) an original national identity card;
  - (ii) an original national passport;
  - (iii) an original East African passport; or
  - (iv) any other original and valid registration documents acceptable as national identification documents in the country of domicile, which registration documents shall be published by the Authority from time to time;
- (d) for a foreign national—
  - (i) an original and valid passport; or
  - (ii) an original alien card.
- (e) for a corporate person or a statutory body, certified copies of the following documents—
  - (i) certificate of incorporation and an original national identity card or passport of at least one director;
  - (ii) certificate of registration and original national identity card or passport of the proprietor or at least one partner as the case may be; or
  - (iii) the relevant legislation or Gazette Notice establishing the statutory body.

(3) A telecommunications operator shall verify the registration particulars of subscribers provided by a telecommunications operator's agents.

(4) It shall be an offence to register a subscriber in contravention of this regulation.

7. (1) The telecommunications operators and agents shall register a person as a subscriber in Form A provided in the Schedule.

Registration process.

- (2) A telecommunications operator or agent shall—
  - (a) enter the registration particulars provided by a person in an electronic or physical form;
  - (b) require a person to appear before the telecommunications operator or agent in person;
  - (c) update the information obtained pursuant to regulation 5 to the telecommunications operator's database; and
  - (d) maintain the registration particulars obtained in a secure and confidential manner.

8. (1) A minor who wishes to register a SIM-card shall be accompanied by his or her guardian possessing relevant identification particulars as provided for under regulations 5 and 6.

Registration of a minor or a person with no legal capacity.

(2) The telecommunications operator or agent shall record the date of birth of the minor on registration of the minor's SIM-card.

(3) A guardian accompanying a minor for purposes of registering a minor's SIM-card under paragraph (1) shall be registered as the subscriber of that particular SIM-card until the minor attains the age of majority.

(4) Upon the minor attaining the age of majority, a telecommunications operator shall advise a minor registered as a user under this regulation to register his or her personal identification details according to regulations 5 and 6 within a period of ninety days on attainment of the age of majority and the telecommunications operator shall inform the minor that his or her telecommunications services shall be suspended if he or she fails to comply with these Regulations.

(5) Where, within ninety days a person fails to register identification particulars in accordance with paragraph (4), the SIM-card shall be suspended and deactivated in the manner provided for under these Regulations.

(6) Where an adult has no legal capacity to transact on his or her own behalf, the requirements of this regulation shall apply with necessary modifications.

9. (1) There shall be no proxy registration of any SIM-card, except as otherwise permitted under regulation 8.

Prohibition of proxy registration.

10. (I) A person shall transfer a SIM-Card registered in his or her name by making an application to the relevant telecommunications operator informing the telecommunications operator of his or her wish to discontinue the use of the SIM-Card and to transfer the benefits, use and liability of the SIM-card to a particular person.

Transfer of SIM-Cards

(2) When considering such an application, the telecommunications operator shall abide by the requirements of regulation 6 and regulation 7 as though the transfer was a new application.

11. A telecommunications operator shall grant the Authority's officers access to its systems, premises, facilities, files, records and other data to enable the Authority inspect such systems, premises, facilities, files, records and other data for purposes of ensuring compliance with the Act and these Regulations.

Access to sites and records.

12. A person who commits an offence under these Regulations for which no specific penalty has been provided in the Act shall, on conviction, be liable to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

Penalties.

13. (1) A telecommunications operator shall ensure that all existing subscribers, who are registered prior to the coming into operation of these Regulations, fulfil the requirements of these Regulations within six months of the commencement of these Regulations.

Transition provisions.

(2) A telecommunications operator shall suspend and deactivate a SIM-card of a subscriber who fails to comply with the provisions of paragraph (1).

(3) The provisions of regulations 13 and 14 shall subject to necessary modifications apply to any person who contravenes this regulation.

14. (1) A telecommunications operator shall suspend telecommunications services of an unregistered subscriber, if the unregistered subscriber fails to comply with these Regulations after thirty days upon the commencement of these Regulations.

Suspension of telecommunication services.

(2) A telecommunications operator shall notify all its unregistered subscribers of its intention to suspend the telecommunication services if they do not comply with the provisions of these Regulations within the period specified under paragraph (1).

(3) A notice under paragraph (2) shall in the first instance, be in the form of a personal notification from the telecommunications operator to the subscriber and subsequent further notices may be in the form of—

- (a) an advertisement in a newspaper of national circulation;
- (b) an advertisement in an electronic medium that broadcasts throughout the country; or
- (c) any other form as may be permitted in writing by the Authority.

(4) A telecommunications operator shall reactivate a suspended SIM-card where a subscriber complies with these Regulations.

15. (1) A telecommunications operator shall deactivate a subscriber's SIM-card —

Deactivation of a subscriber's SIM-card.

- (a) if telecommunications services to the subscriber has been suspended for a period of ninety days;
- (b) upon request by a subscriber; or
- (c) if the telecommunications operator or the Authority establishes that the subscriber has provided false information for registration.

(2) Notwithstanding paragraph 14 (1) (c), a person who establishes that a subscriber has provided false information for registration of a SIM-card shall lodge a complaint with the Authority and request the Authority to deactivate the SIM-card.

(3) The Authority shall notify the telecommunications operator of the complaint and the intended deactivation of the subscriber's SIM-card.

(4) Subject to paragraph (5), where a complaint has been made to the Authority, a telecommunications operator shall give the subscriber against whom a complaint has been lodged an opportunity to be heard and to respond to the complaint made under paragraph (2) before deactivating the SIM-card.

(5) The Authority shall give the subscriber fourteen days to respond to the complaint made against him or her.

(6) Where a SIM-card has been deactivated, the telecommunications operator shall retain the records of the relevant subscriber.

(7) A telecommunications operator shall submit quarterly returns to the Authority on the record of deactivated and suspended subscribers.

16. (1) A telecommunications operator shall take all reasonable steps to ensure the security and confidentiality of its subscribers' registration particulars.

Confidentiality requirement.

(2) A telecommunications operator shall notify the Authority of the steps taken and processes introduced to ensure the security and confidentiality of its subscribers' registration particulars within thirty days of the commencement of these Regulations.

17A telecommunications operator shall verify the accuracy and authenticity of the information contained in its database of subscribers' particulars, as required by the Authority from time to time.

Verification of information in the database.

18. The Kenya Information and Communications (Registration of Subscribers of Telecommunications Services) Regulations, 2013, are revoked.

Revocation of LN Number 1 of 2013.

SCHEDULE

Subscriber Registration Form

(r. 7(1)).

1. Information to be Provided by a Person Registering a SIM Card)

- (a) Subscriber telephone number:
- (b) Full name (as it appears on the identification document as produced pursuant to (i) or (j) below):
- (c) Identification document number as produced pursuant to (i) or (j) below:
- (d) Date of birth as shown in the identification document (dd/mm/yyyy):
- (e) Gender: (Male/ Female)
- House No, Plot No (LR Number):
- Road:
- (f) Physical Address: Estate:
- Ward:
- County:

- (k) P. O. Box: .....
- Postal address: Town: .....
- Postal Code: .....
- (n) Other telephone number/s associated with the registering subscriber: .....
- (o) For registrations done on behalf of minors, persons with disabilities or the aged people and so on. Type of identification document produced by the guardian.....  
Guardian's full name.....  
Guardian's identification document number.....

2. Documents to be Produced by a Person registering for a SIM -card

- (p) An original and true copy of the national identity card, service card for a member of the Kenya Defence Forces, passport or alien card in case of an adult: Type of identification document produced.....
- (q) An original and true copy of the birth certificate of a minor or one of the identification documents referred to in (j) above for a person with disability or an aged person plus one of the documents in (j) above for the guardian: Type of registration document produced .....
- (r) In the case of an organisation, a certified copy of the certificate of registration, certificate of incorporation or letter from the Chief Executive Officer and a true copy of an identification document referred to in (j) above of at least one director of the organisation: Type of identification document produced by the organisation .....  
Type of identification document produced by a director of the organisation .....  
Full name of the director .....  
Director's identification document number .....  
Type of identification document produced by the person effecting registration .....  
Full name of the person effecting registration .....  
Identification document number for the person effecting registration .....  
Designation of person effecting the registration.....



Registering Officer's declaration:

I (full name) ..... of  
postal address..... being duly appointed and authorized  
as an agent of..... (*telephone operator*), confirm that I have  
inspected the identification documents presented by..... appearing in  
person before me for registration of SIM-card Number..... and verified, to the  
best of my knowledge, that the identification document is representative of the said  
person.

I also confirm that I have entered the correct information as per the documents provided  
to me.

I have further taken copies of all relevant documents presented to me for the registration  
of the stated SIM-card and annexed the documents to this Form.

Registration Officer's Full Name.....

Registration Officer's National Identification Card Number.....

Made on the ....., 2015.

NGENE B. GITUKU,  
*Chairman,*  
*Communications Authority of Kenya.*





