LEGAL NOTICE NO. 128 OF 2016

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THE ELECTRONIC COMMUNICATIONS ACT, 2013

(Act No. 9 of 2013)

THE ELECTRONIC COMMUNICATIONS (DOMAIN NAME ADMINISTRATION) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

Citation and commencement

1. (1) These Regulations may be cited as the Electronic Communications (Domain Name Administration) Regulation, 2016.

   (2) These Regulations shall come into force on the date of publication in the gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires –
   "administrative contact" means the entity responsible for maintenance of a domain name;
   "country code Top Level Domain (ccTLD) administrator" means the entity managing the .szccTLD;

"ccTLD" means a country code domain at the top level of the Internet's domain name system assigned according to the two-letter codes in the International Standard ISO 3166-1 (Codes for Representation of Names of Countries and their Subdivision);

"Charter" means the "constitution" of a sub-domain, specifying inter alia the purpose and nature of the domain, the criteria for registration of names within the domain, and the manner of administration of the domain;

"closed sub-domain" means a sub-domain which has been licensed for internal use by a single organisation or group or related organisations;

"domain name" means an alphanumeric designation used to identify an Internet resource as part of the global domain name system;

"domain name system (DNS)" is the system used to relate domain names to Internet protocol addresses and other information;

"ICANN" means the Internet Corporation for Assigned Names and Numbers, a California non-profit public benefit corporation established in terms of the laws of the state of California in the United States of America, which has responsibility for the Internet Protocol address space allocation, protocol identifier assignment, general Top level Domains (gTLD), country code Top Level Domain name system management, and root server system management;

"open sub-domain" means a sub-domain which has been licensed to register names for the public or unrelated organisations;

"registrant" means an applicant for or holder of a domain name;

"registrar" means an entity licensed by the Commission to register domain names on behalf of registrants and to update the repository;

"registry" means an entity licensed by the Commission to manage and administer a specific domain and the repository for that domain;

"registry data" means all data maintained in a repository by a registry, including but not limited to –

    (a) domain names;

    (b) registrant name and contact information;

    (c) registrar name and contact information;

    (d) zone records;

    (e) registration and renewal dates; and

    (f)   all other data submitted by the registrars concerning particular domain names.

"repository" means the primary register of registry data relating to a domain;

"reseller" means a person appointed by the registrar to provide customer sales and support to registrants;

"Second-level domain (SLD) means the sub-domain immediately under the ccTLD;

"Sub-domain" means any subdivision of the .sz domain name space;

"sub-domain administrator" means an entity managing a sub-domain in the .szccTLD;

".sz domain name space" means the .szccTLD and all its sub-domains;

"registrant" means a domain name holder;

".szccTLD" means the country code Top Level Domain name (ccTLD) for Swaziland;

"zone records" means the technical resource information intended for insertion into the second-level domain (SLD) zone file.

Scope

3. (1) The Registration of a domain name shall be subject to the holder accepting the terms of these Regulations.

    (2) By registering .sz domain names, registrants shall further subject themselves to the laws and courts of Swaziland for matters related to the .szccTLD.

Domain name policy and development

4. (1) The Commission shall establish a stakeholder forum comprising of all parties with vested interests in the .sz domain name space and shall consult the stakeholders forum in determining and developing the policies for the .sz domain name and space.

    (2) Both existing open and closed domain shall be chartered and shall adhere to principles determined in the policy for sub-domains.

    (3) The Commission shall approve charters in line with its policy and principles.

    (4) The Commission shall, in consultation with the stakeholder forum and licensed registries and registrars, develop further specific policies, procedures, rules and regulations to improve the management of the .sz domain name space.

    (5) These further policies, procedures, rules and regulations referred to in sub-regulation (4) shall include, but shall not be limited to –

    (a)   transfer of domain registrations between registrars;

    (b)   resolution of disputes regarding domain registration transfers;

    (c)   resolution of disputes between registry operators and registrars;

    (d)   resolution of disputes between licensees and the Commission;

    (e)   Whois policy;

    (f)   rights and usage of data;

    (g)   reserved names;

    (h)   licensing of new sub-domain;

    (i)   deletion and re-delegation of domain;

    (j)   emergency suspension and re-delegation of names; and

(k)   guidelines for –

(i) words, phrases or abbreviations that may not constitute sub-domain name; or

(ii) words, phrases or abbreviations that are reserved for special purposes.

(6)   In addition to the policies, procedures, rules and regulations to be developed by the Commission, the registry operator shall introduce its policies and administrative procedures to facilitate management of the registry. The policies and administrative procedures to facilitate management of the registry. The policies and administrative procedure shall be consistent with those of the Commission, and shall be approved by the Commission.

Licensing of registrars and registries

5. (1) A person shall not operate as a registry or be a registrar without being licensed by the Commission.

(2) An applicant applying for licence to operate a registry or to be a registrar shall be a legal persona according to the Companies Act, 2009 and other laws of Swaziland.
To the jurisdiction of Swaziland courts in relation to all matters pertaining to the .sz domain name space.

(3) A registry operator may be licensed to operate more than one (1) registry within the .sz domain name space. The onus will be on the registry operator to prove compliance with each sub-domain charter and policies, and satisfy additional requirements which the Commission may set for the sub-domains.

(4) A licence for a registry operator or registrar shall be valid for five (5) years, subject to the payment of annual licence fees to be determined by the Commission.

Licence requirement for registrars and registries

6. (1) A licensed registrar shall be free to register domain names in all .sz sub-domains, provided they expressly consent to comply with each sub-domain's charter, and satisfy additional requirements which the Commission may set from time to time.

(2) A registry operator or registrar shall nominate a *domicilium citandi et executandi* within Swaziland regardless of their physical location, which shall be used for official communication with the Commission. In addition, each registry operator or registrar shall consent.

(3) A registry operator or registrar shall indemnity the Commission from all its dealings with the registrants and resellers.

Service level agreement between the Commission and operator

7. A licensed registry operator shall, prior to commencing registry operations, and each registrar shall, prior to commencing to register domain names, sign a service level agreement prepared by the Commission, which agreement shall define in detail issues relating to such issues as the integrity, security, stability and reliability of the domain name system, frequency of reporting, handling of registry data, registry operations, fees and payments, who is serviced, and resolution of disputes between the registry operators and the Commission.

Service level agreement between operator and registrar

8. (1) Subsequent to being granted a licence but before commencing the operation of the registry, each registry operator shall submit to the Commission a service level agreement it intends to sign with all registrars accredited to register domain names in the registry.

(2)   The agreement shall outline issues relating to the relationship between the registry operator and the registrars. Such issues shall include –

(a)   obligations of the parties in relation to the registry system operations and access, supported protocols, software to be used by registrars to register names, data requirements, technology requirements, Whois service, operational requirements, and resolution of disputes between the registry operator and registrar.

(b)   registry operator's licensed products to be used by registrars, including license conditions, limitations, licensed software updates and upgrades.

(c)   payment of fees, which includes the fees to be paid by registrars and registrants, and all license fees which the registry operator shall pay to the Commission.

Responsibilities of the registry

9.   (1)   The registry shall –

(a) comply with and implement policies, procedures, rules and regulations referred to I regulation 4 in the administration of the .sz domain name space;

(b) pay license, registration and renewal fees to the Commission;

(c) provide a Whois service providing free public query-based access to up-to-date data concerning all active registered names in the registry;

(d) submit an electronic copy of the registry database to the Commission or, at the registry's election and at its expense, to a reputable escrow agent mutually approved by the registry and the Commission at agreed intervals;

(e) allow all licensed registrars who comply with the technical standards access to register domain names in the registry; and

(f) adopt new technologies and advances in domain name system (DNS) registry operations.

(2)   The registry shall manage –

(a) and keep up to date registry data by utilising globally accepted standards and measures in registry data management;

(b) registry operations, which shall include handling .sz domain name registrations and provision of suitable domain name system (DNS) infrastructure, maintenance of technical and operational records, and registration payments; and

(c) its relationships with registrars and registrants.

Responsibilities of registrars

10. The registrar shall –
(a) provide .sz domain name registration services for all the sub-domain in which it is licensed to register names;
(b) submit up to date data about its registrants which data shall be kept in the registry database;

(c) provide an interactive web page and a Whois service providing free public query based access to up-to-date data concerning all active registered names sponsored by registrar for each sub-domain in which it is licensed;

(d) maintain its own electronic database, as updated from time to time, containing data for each active registered name sponsored by it within each sub-domain for which it is licensed;

(e) submit an electronic copy of the database to the Commission or, at registrar's election and at its expense, to a reputable escrow agent mutually approved by the registrar and the Commission at agreed intervals;

(f) meet technical requirements specified by the Commission;

(g) pay licence, registration and renewal fees to the Commission;

(h) account to the registry operators and the Commission for the actions of resellers appointed by the registrar;

(i) register domain names and modify information associated with that name on the register; and

(j) manage its relationship with registrants.

Fees

11. (1) Domain registration fees shall be set independently by registrars.

(2) A registrar shall prepay the Commission for the desired number of new or renewed names.

(3) The registry shall provide domain name services on cost recovery basis.

(4) Licence fees to be determined by the Commission shall be paid by a registry and registrar on application for a licence.

(5) The fees shall be determined by the Commission and shall be reviewed on an annual basis.

Resellers

12. (1) A Registrar shall be allowed to appoint resellers and enter into agreements with the sellers.

(2) A reseller shall not be licensed and shall have no contractual obligations with the Commission or registry by virtue of their appointment by registrar

(3) A registrar shall ensure that a reseller participates in the registration of domain names in compliance with the policies, procedures, rules and regulations of the Commission and in compliance with the charter and requirements of the domains.

(4) A registrar shall be responsible for the conduct of a reseller and the Commission shall hold a registrar accountable for any reseller's non-compliance with the policies, procedures, rules and these Regulations of the Commission.

Licensing of Domain Name for registrants

13. (1) The registration of a .sz domain name is only available to persons domiciled or corporate bodies registered in the Kingdom of Swaziland.

(2) The duration of a .sz domain name registration shall be for a period between one (1) and ten (10) years, provided the registrant pays the annual licence fee required by the Commission.

(3) A licence shall be renewed upon completion of the ten (10) year period.

(4) A registrant may, through its registrar, renew registration of domain name anytime during this ten (10) year period, provided that such renewal shall not exceed a period of ten (10) years.

(5) A registrant shall pay registration, annual renewal and other fees due to registrars.

(6) A Domain name shall be registered in the .sz domain name space on a first-come-first-served basis.

(7) A Domain name shall only be registered at the third (3rd) level.

Rights of Domain Name registrants

14. (1) The right to use a domain name shall be disputed through the Alternative Dispute Resolution procedures set out byte Commission. Should the sub-domain in which the domain name is registered not be covered by Alternative Dispute Resolution procedures, the dispute may be settled through a normal court process.

(2) A Registrant may update or amend its contact details in the registry via its licensed registrars according to policies and procedures which the Commission or registry operator may introduce from time to time.

(3) A Registrant shall be free to change registrars provided such changes are in compliance with the .sz domain name policies, procedures, rules and regulations and subject to contractual commitments between the registrant and the registrar.

(4) A registrant may transfer domain name registration to another person provided that –
    (a) such transfer does not occur within thirty (30) days after registration;

    (b) the registrant to whom the registration is transferred expressly accepts to be bound by, and to comply with, all the polices, procedures, rules and regulations of both the Commission and registry and to comply with the applicable sub-domain charter.

(5) The transfer of domain name registration shall be done subject to any additional policies and procedures set by the registry.

Responsibilities of registrants

15. (1) A Registrant shall –
    (a) register their .sz domain names through licensed registrars;

    (b) through a registrar consent to policies, regulations, rules and procedures developed by the Commission in the interest of effectively managing the .sz domain name space, and to the policies, rules and procedures of the registry operator;

(c) ensure that they have a right to use their chosen domain name and that the name chosen is not in violation of any trademark or any intellectual property rights of another party;

(d) ensure that their contact information is up to date;

(2)   A registrant applying to register a domain name shall satisfy the requirements of the charter of a sub-domain in which the name is registered. Failure to satisfy requirements of the charter shall render the application unsuccessful.

Transitional provisions

16. (1) The Commission shall prepare transition agreements with holders of second level domains and registrars for an initial period of three (3) years.

(2) All domain names existing on the commencement of these Regulations shall continue to exist.

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MINISTER FOR INFORMATION, COMMUNICATIONS AND TECHNOLOGY