

COMMUNICATIONS ACT

(CAP. 68:01)

COMMUNICATIONS (SIM CARD REGISTRATION) REGULATIONS,
2023

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COMMUNICATIONS ACT
(CAP. 68:01)

COMMUNICATIONS (SIM CARD REGISTRATION) REGULATIONS, 2023

IN EXERCISE of the powers conferred by section 200 of the Communications Act Act, I, MOSES KUNKUYU KALONGA-SHAWA, Minister of Information and Digitalization, on recommendation from the Malawi Communications Regulatory Authority, make the following Regulations-

PART I
PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Communications (SIM Card Registration) Regulations, 2023.

Interpretation

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

“Authority” means the Malawi Communications Regulatory Authority established under the Act;

“activation” means causing a SIM card to function on a mobile network system including the ability to make and receive calls, to send and receive short message services and other range of services usually provided by the electronic communications licensee;

“active SIM card” means a SIM card that is functioning on a mobile network system;

“batch of SIM card” means a group of SIM cards registered at the same time for electronic communications and requiring an identity card issued under the National Registration Act to a single

representative with a single biometric verification excluding additional SIM cards;

“categories of biometric SIM card registration” includes a company, diplomat, individual, institution, foreigner, minor, refugees, visitor or any other categories as may be determined by the Authority;

“company biometric SIM card registration category” means biometric registration of SIM cards to be used solely by company;

“consumer” means any person who uses electronic communications services;

“customer” means any person who obtains or seeks to obtain the use of electronic communications services using both SIM card based communications and all other forms of communication devices and technologies and includes subscribers;

“contract of services” means an agreement entered into between a licensee and a customer for the provision of the licensed services to the customer;

“dealer” means a person who is authorized by an electronic communication service carry out trade, business or industry in which electronic communications SIM card are sold to customers, registered to a network, and provide other services related the sale or registration;

“diplomat” means a person who is in a diplomatic mission to the Malawi as recognised under the Immunities and Privileges Act (Cap.16:01);

“diplomat SIM card registration category” means biometric registration of SIM cards to be used solely by diplomats;

“diplomatic institution” means a diplomatic accredited international institution
to

Malawi;

“diplomatic institution SIM card registration category” means biometric
registration

of SIM cards to be used solely by Diplomatic institutions;

“foreigner” means a non-citizen who is not a diplomat staying in the country
for a

period of more than three months

“foreigner biometric SIM card registration category” means biometric
registration of SIM cards to be used solely by foreigners;

“Global System for Mobile Communications Association,” which is also known by its acronym as “GSMA,” means an international association of service providers of Global Mobile Communication Systems devoted to supporting, standardising, deployment and promotion of these communications systems;

“guardian” means a person who has a charge or control over a child or a person appointed by deed, will or order of the court vested with a duty of taking care and managing the property and rights of the child;

“individual biometric SIM card registration category” means biometric registration of SIM cards to be used solely by a customer for personal use;

“institution” means a government or non-government institution which operates within the Malawi;

“institution biometric SIM Card registration category” means biometric registration of SIM cards to be used solely by institution;

“Integrated Circuit Card Identifier” means a unique serial number that is printed and stored in the SIM card of a subscriber, and is an internationally standardised way of identifying a SIM;

“International Mobile Equipment Identity” which is also known by its acronym as “IMEI” means a unique code used to identify an individual mobile telephone in Global Systems for Mobile Communication networks;

“International Mobile Subscriber Identity” which is also known by its acronym as “IMSI” means a unique code used to identify a subscriber on Global System for Mobile Communications network;

“licensee” means an entity licensed by the Authority to provide and facilitate provision of electronic communication services, also known as an operator or service provider;

“machine to machine communications” means a direct communication between devices to exchange information and perform actions without the manual assistance of humans;

“minor” means a child below the age of eighteen years and above the age of twelve years;

“minor biometric SIM card registration category” means biometric registration of SIM cards to be used solely by a minor;

“mobile communication device” means a device used for mobile communications services including devices which support data services in the mobile networks;

“Mobile Subscriber Integrated Services Digital Network” which is also known by its acronym as “MSISDN” means a number or telephone number that uniquely identifies a subscription in the service providers’ network;

“National ID” means an Identity Card or National Identification Number issued by the National Registration Bureau under the National Registration Act;

“PIN” is an acronym of Personal Identification Number;

“refugee biometric SIM card registration category” means biometric registration of SIM Cards to be used solely by a refugee;

“subscriber” means a person or an organization which subscribes services from mobile telecommunication service providers;

“SIM card” means subscriber identity module which is an independent electronically activated device designed for use in conjunction with a mobile telephone to enable the user of the mobile telephone to transmit and receive indirect communications by providing access to telecommunications systems and enabling such telecommunications system identify the particular Subscriber Identity Module and its installed information;

“visitor” means a non-citizen who is not a diplomat and intends to stay in Malawi for a period of not more than three (3) months; and

“visitor biometric SIM card registration category” means biometric registration of SIM cards to be used solely by a visitor.

Application

3. - (1) These Regulations shall apply to all users of SIM cards in Malawi.

(2) Without prejudice to generality of sub-regulation (1), these Regulations shall not apply to users of SIM cards issued by foreign mobile network service providers roaming on the network of a licensee.

PART II

REQUIREMENTS FOR REGISTRATION OF SIM CARDS

Categories of SIM cards and attendant obligations

- 4.** - (1) A person shall register biometrically with a licensee or authorized distributor, agent or dealer, in manner set out in these Regulations, the following categories of SIM cards-
- (a) detachable SIM card, which can be removed from a mobile telephone device;
 - (b) built-in SIM card mobile telephone, which are not removable from the mobile telephone device;
 - (c) SIM enabled mobile communication equipment or device shall; or
 - (d) any other mobile telephone subscription medium, other than the foregoing, as may be a license may provide or the Authority may determine from time to time.
- (2) A person who registers a SIM card under this regulation shall-
- (a) ensure that PIN of his SIM card is not shared with any other person; and
 - (b) notify the service provider on the change of user or usage for each SIM Card under his possession.
- (3) Any person who sells or in any other manner provides any category of SIM card stipulated under subregulation(1) to any customer shall-
- (a) register customers using procedures prescribed in these Regulations; and
 - (b) keep record of the customers details in the database as retrieved electronically from National Registration Bureau.

- (4) Every licensee shall ensure that-
- (a) connectivity to the National Registration Bureau is available and working all the time;
 - (b) connectivity to the Authority's central SIM card registration database is available and working all the time;
 - (c) National Registration Bureau verified SIM Card registration details are submitted to the Authority's Central SIM card registration database automatically during registration process; and
 - (d) replacement of a damaged SIM card upon verification of original registration and ownership through biometric verification.
- (5) A person shall not register any SIM card using another person's National ID except as specified in these Regulations.

Procedure for registration of SIM card

5. - (1) Where a person intends to register a SIM card, he shall follow the following procedure-
- (a) where a customer is an individual, the SIM card shall be registered under an individual biometric SIM card registration category in the following manner-
 - (i) the individual shall present to the service provider the documents required under section 92(2)(a) of the Act for natural persons;
 - (ii) the service provider shall conduct online or electronic fingerprint verification of an individual with the National Registration Bureau for biometric SIM card registration;
 - (iii) the service provider shall keep subscriber's records as per details electronically retrieved from National Registration Bureau; and
 - (iv) registered SIM card shall bear the name of the individual;
 - (b) where a customer is a company, SIM card shall be registered under the company biometric SIM card registration category at customer centres, service providers' shops or agents' shops in the following manner-
 - (i) the company shall present valid copies of documents stipulated under section 92 (2)(b) of the Act for legal entities;
 - (ii) the company representative shall present to the service provider his National ID;
 - (iii) the service provider shall conduct fingerprint verification of a company representative with the National Registration Bureau once for a batch of SIM cards for biometric SIM card registration;
 - (iv) the service provider shall keep the details of the company and company's representative;
 - (v) the registered SIM card shall bear the name of the company; and
 - (vi) the company shall notify the service provider on change of company representative for the service provider to register a new representative in accordance with these Regulations;
 - (c) where a customer is a company employee, the SIM card shall be registered under the company biometric SIM card registration category at customer centres, service providers' shops or agents' shops in the following manner-
 - (i) the company shall be required to present valid copies of the documents required under section 92(2) (b) of the Act in respect of legal entities;
 - (ii) a company employee who is entitled to use the SIM card shall be required to present to the service provider his national ID;

- (v) where a customer is a diplomat, the SIM Card shall be registered under diplomat biometric SIM Card registration category at customer centres, service providers' shops or agents' shops in the following manner-
 - (vi) the diplomat shall be required to present his certified copies of valid passport and valid diplomatic identity for SIM Card registration;
 - (vii) no fingerprint shall be taken during
 - (viii) SIM Card registration;
 - (ix) the service provider shall keep the details of the diplomat; and
 - (x) registered SIM Card shall bear the name of the diplomat; and
- (i) (where a customer is a diplomatic institution, the SIM Card shall be registered under diplomatic institution biometric SIM Card registration category at customer centres, service providers' shops or agents' shops in the following manner-
 - (i) the diplomatic institution shall be required to present introduction letters from the institution and from the Ministry responsible of foreign affairs signed by respective Controlling Officers;
 - (ii) the diplomatic institution representative shall be required to present certified copies of valid passport and valid diplomatic identity for a batch of SIM cards registration;
 - (iii) no fingerprint shall be taken during SIM card registration;
 - (iv) the service provider shall keep details of the diplomatic institution and the representative; and
 - (v) registered SIM Card shall bear the name of the diplomatic institution.

(2) For the purpose of paragraph (h), the word "refugee" shall have the meaning ascribed thereto under the Refugees Act (Cap. 15:04).

(3) Where a SIM Card is used or intended to be used by machines and other electronic communication equipment, such SIM Card shall be registered under company biometric SIM Card registration category at customer centres, service providers' shops or agents' shops.

(4) The procedures for registration of a SIM card under subregulation (1) (b) shall apply mutatis mutandis to the registration of SIM cards under subregulation (3).

(5) Where a machine and other electronic communication equipment is owned by an individual, registration of SIM Card shall be under individual biometric SIM Card registration category as prescribed under subregulation (1) (a).

(6) In case of a batch of SIM cards under subregulation (4), finger print verification shall be conducted once by service provider regarding such a batch.

(7) Where a customer has a defaced fingerprint or has no fingers, the procedure for SIM card registration shall be in the following manner: -

- (a) the customer shall be required to present his national ID for SIM card registration;
- (b) the service provider shall request NATIONAL REGISTRATION BUREAU to provide clearance to customer for defaced method of SIM Card registration;
- (c) upon clearance, National Registration Bureau shall enable multiple question verification option for that customer;

- (d) the service provider shall apply the multiple question option to verify the customer and shall ask questions as prompted from National Registration Bureau database;
 - (e) upon answering correctly 2/3 (66%) of the questions, verification shall be considered successful;
 - (f) the service provider shall be required to keep the National Registration Bureau verified records; and
 - (g) in the event where the National Registration Bureau deploys other verification mechanism, the Authority shall provide procedures for such verification as appropriate.
- (8) Where customer's name differs or mismatches with national ID name, the procedure for SIM card re-registration shall be in the following manner-
- (a) the service provider shall base on usage verifications on airtime recharge, voice services, data services and mobile money transactions to verify SIM card ownership;
 - (b) the verification referred to under paragraph (a) shall be done at customer centers, service providers' shops or agents' shops;
 - (c) upon receipt of verification requested under paragraph (a), the service provider shall send notification on registration detail changes through short message service (SMS) within twenty four hours for customer's approval;
- (d) upon customer's approval, the service provider shall effect the change and keep both National Registration Bureau and previous registered records; and
 - (e) where the service provider has successfully updated the registration details under this regulation, the mobile money services shall be suspended for forty-eight hours.
- (9) Where a customer whose name is registered by National Registration Bureau, changes the name, the customer shall be required to avail such changes to National Registration Bureau for rectification of such name and the procedure for re-registration under subregulation (8) shall apply.
- (10) A foreigner, visitor, refugee or diplomat shall not use National ID designated for Malawian nationals for the purpose of SIM Card registration

Exemption of Government institutions

6. .-A customer from Government institution or authorized agent of the Government who requires exemption of biometric SIM Card registration shall apply in accordance with the following procedure-
- (a) the customer shall write a letter to the Authority to obtain approval for fingerprint exemption and shall provide details for such exception;

- (b) the customer shall be required to present his National ID and the Authority's approval to the service provider for SIM card registration; and
- (c) the service provider shall register SIM cards as per the approval of the Authority at customer centers, service providers' shops or agents' shops only.

Submission of other information

7. Any person who sells, register or, in any other manner provides any category of SIM cards stipulated under these Regulations may obtain from the customer any other information related to SIM card registration.

PART III

ACTIVATION AND DEACTIVATION OF SIM CARDS

Active SIM cards

8. (1) A licensee shall not activate any category of SIM Card stipulated under these Regulations on its electronic communication system or network unless the licensee has registered the customer's details pursuant to these Regulations.
- (2) A licensee shall keep active in its databases all categories of SIM cards registered under these Regulations registration has been verified through the National Registration Bureau database or as stipulated in these Regulations.
- (3) Any active SIM card that is not verified through the National Registration Bureau database or as stipulated in these Regulations shall be considered as unregistered and deactivated SIM card.
- (4) A licensee shall implement a default unlock PIN on a SIM card, built in SIM Card mobile telephone or SIM enabled mobile communication equipment or device based on random digits which may only be changed by SIM Card owner or customer.
- (5) A default PIN shall be enabled and a user can set the new PIN as follows-
- (a) insert new SIM in the handset and enter the old PIN available in the SIM package;
- (b) enter a random new PIN and reconfirm on the same until when it is successful;
- (c) a user shall put his PIN whenever he switches on his devices or change the mobile communication device;

(d) Where a user enters the wrong PIN ten times consecutively, the SIM shall block permanently and the user may report to Mobile Network Operators Call Centre for assistance.

(6) Where a SIM Card, built in SIM Card mobile telephone or SIM enabled mobile communication equipment or device is not used for communication for more than ninety days consecutively such SIM Card shall be deactivated:

Provided that a licensee shall not deactivate a SIM Card, built in SIM Card mobile telephone or SIM enabled mobile communication equipment or device where the customer has notified the licensee in writing that, such SIM Card will remain idle for more than ninety days consecutively but not exceeding a period of twelve months from the date of notification.

(7) A customer whose SIM Card, built in SIM Card telephone or SIM enabled mobile communication equipment or device has been deactivated shall resubmit a fresh request for registration of the same number subject to availability.

(8) A licensee shall establish a mechanism for handling monetary balances of SIM Card, built in SIM Card mobile telephone or SIM enabled mobile communication equipment or device which is activated in accordance with the Payment Systems Act (Cap. 74:01).

(9) A licensee shall submit to the Authority quarterly reports on deactivated SIM Cards, built in SIM Card mobile telephone or SIM enabled mobile communication equipment or device in a format to be determined by the Authority.

PART IV SALE OF SIM CARDS BY DISTRIBUTOR, DEALER OR AGENT

Use of distributor, dealer or agent

9. -(1) A licensee may use authorized distributor, dealer or agent in selling or distributing SIM Cards or built-in SIM Card mobile telephone or SIM enabled mobile communication equipment or device.

(2) A distributor, dealer or agent who sells and distribute a detachable SIM card or built-in SIM Card mobile telephone or SIM enabled mobile communication equipment or device shall have a written evidence of authorisation from the respective licensee.

Requirements for distributor, dealer or agent

10. Every licensee shall ensure that authorized distributor, dealer or agent referred to under sub-regulation 9(2) provides the following information:

- (a) business licence;
- (b) Tax Payer Identification Numbers;
- (c) physical location which may include street name, house number or postcode;
- (d) mobile phone numbers, email address and any other means of contact; and
- (e) National ID of contact person.

Submission of periodic reports by licensee

- 11.** (1) Every licensee shall, on a quarterly basis, submit to the Authority a verified list of national-wide authorized distributors, dealers or agents.
- (2) Every licensee shall, on weekly basis, submit to the Authority the details of all the SIM card registrations which the licensee, its dealers, distributors or agents have made in that week.
- (3) The details submitted under subregulation(2) shall, in the minimum, indicate-
- (a) the total number of SIM card registrations approved by the licensee, distributors, dealers, and agents for the reporting week;
 - (b) the total number of unapproved SIM card registrations by the licensee, the distributors, the dealers, and the agents for the reporting week and the reasons for the refusal to register;
 - (c) the total number of deactivated SIM cards by the licensee for the reporting week; and
 - (d) any other information as the Authority may require.

PART V

CHANGE OF INFORMATION OR OWNERSHIP

Change of information and ownership to be reported

- 12.** (1) Any change of information submitted for the purposes of registering a SIM Card, built-in SIM Card mobile telephone or SIM enabled mobile communication equipment or device shall, within fourteen days of the date of occurrence of such change, be registered with a licensee.

(2) Every customer shall report any change of ownership or possession of a registered SIM card, built-in SIM Card mobile telephone or SIM enabled communications equipment or device to the licensee.

(3) The owner of a SIM Card which was previously owned by another person shall, within fourteen days of owning the SIM Card, built-in SIM Card mobile telephone or SIM enabled mobile communication device, register the SIM Card.

Duty to report loss of SIM card

13. An owner of a registered SIM card, built-in SIM card mobile telephone or SIM enabled mobile communication equipment or device shall-

(a) report loss or theft of SIM card, built-in SIM Card mobile telephone or SIM enabled mobile communication equipment or device to the Police station and obtain a loss report or preliminary investigation report within forty eights hours from the date of the loss, theft or destruction; and

(b) present the loss report or preliminary investigation report to his service provider when requesting a replacement of the SIM Card, built-in SIM Card mobile telephone or SIM enabled mobile communication equipment or device.

Replacement of SIM Card

14. - (1) A licensee shall replace a lost, stolen, destructed or damaged SIM Card upon-

(a) verification of the original registration and ownership of the SIM Card; and

(b) submission of the destroyed or damaged SIM Card, built-in SIM Card mobile telephone or SIM enabled mobile communication equipment or device; or

(c) presentation of loss report from the Police station.

(2) A licensee shall keep for not less than twelve months the SIM Cards surrendered by customers due to destruction or damage.

SIM swap information

15. - A licensee shall-

(a) file with the Authority its SIM swap procedure for approval before implementing the procedure;

(b) retain SIM swap information;

- (c) keep in custody the destroyed or damaged SIM Card, built-in SIM Card mobile telephone or SIM enabled mobile
- (d) communication equipment or device;
- (e) capture and retain credentials and logs of swapping agents and of any person accessing the SIM swap database;
- (f) keep the information captured under this sub regulation in a traceable database for a period prescribed in the Payment Systems Act (Cap. 74:01).

PART VI
GENERAL PROVISIONS

Requirement on inspection of distributor, dealer or agent

16. A licensee shall inspect his distributors, dealers, or agents on monthly basis to ensure compliance with SIM Card registration requirements and submit quarterly reports to the Authority.

Fraud prevention

- 17.** (1) In case of fraud, every service provider shall-
- (a) cooperate in good faith to prevent, whenever possible, instances of fraudulent or unauthorized activities during biometric SIM Card registration;
 - (b) cooperate to identify and pursue action against the perpetrators of the fraud;
 - (c) ensure prevailing data protection and privacy laws applicable to the situation, and any other company or business laws which may be appropriate are observed and complied;
 - (d) compensate a victim of any material loss suffered from fraudulent activity associated with biometric SIM Card registration of which the service provider failed to identify the responsible customers;
 - (e) where the National ID is identified to be involved in fraudulent activities, the licensee shall notify the National Registration Bureau; and
 - (f) upon notification under paragraph (e), the identified National ID shall be flagged by National Registration Bureau for ninety days to prevent its further use on fraudulent activities.

(2) In order to flush out illegal SIM registrations, a licensee shall provide to its customers means of enabling the customer verify the SIM cards that are associated with his identity form that he used when registering the SIM card.

(3) Where a licensee offers self service to a customer, the licensee shall ensure that adequate technical safeguards are provided on the network or service to enable a reasonable customer overcome any fraud attempts.

Limitation on ownership of the number of SIM Cards

18. (1) A person intending to own and use SIM Card, built-in SIM Card mobile telephone or SIM-enabled mobile communication equipment or device may register-

(a) in the case of an individual-

(i) not more than one SIM Card from each licensed mobile network operator for use on voice, short message and data services;

(ii) not more than four SIM Cards from each licensed mobile network operator for use on machine to machine communication; and

(b) in the case of company or institution-

(i) not more than thirty SIM Cards from each mobile network operator for use on voice, short messaging and data services;

(ii) not more than fifty SIM Cards from each mobile network operator for use on machine to machine communication.

(2) The SIM Cards registered for the purposes provided under sub regulation (1) (a) shall not be used interchangeably.

(3) Notwithstanding sub regulation (1), an individual, a company or an institution may register and own more than the specified SIM Cards upon submission of written application and approval from the Authority

(4) Any person who contravenes this regulation, commits an offence and shall, upon conviction, be liable-

(a) in the case of an individual, to a fine of K5,000,000 and to imprisonment for five years, and shall be liable to a fine of K50,000 for every day during which the SIM Card was used or possessed; and

(b) in the case of a company or institution, to a fine of K5,000,000 and imprisonment for five years and K150,000 for every day during which the SIM card was used or possessed.

Transitional clauses relating to ownership of more than one registered SIM Card

19. .-(1) Where-

- (a) an individual owns more than one SIM Cards under one licensee, the licensee shall notify such person to elect which SIM card the person intends to maintain, and thereafter the licensee shall deactivate the remaining SIM cards after expiry of sixty days from the effective date of these Regulations;
 - (b) a company or institution owns more than the required number of SIM Cards referred to under regulation 18(1)(b) from one licensee, the licensee shall notify such company or institution that, from the date of publication of these Regulations up to the expiry of sixty days such company or institution shall be required to choose among its SIM Cards owned, the required number that shall remain active.
- (2) Upon the individual, company or institution complying with the requirement of the notice under sub regulation (1), the licensee shall deactivate the other SIM Cards.
- (3) Where there is a default in terms of sub regulations (1)-
- (a) in the case of the individual, company or institution, the licensee shall deactivate all the SIM Cards after the expiry of the specified time;
 - (b) in the case of default to deactivate SIM cards owned by an individual, company or an institution, the licensee who fails to comply with, the licensee shall be liable, upon conviction, to a fine of K5,000,000 and five years imprisonment and K50,000 for each day of default for any continued breach.
- (4) Where a SIM Card is deactivated under subregulation (3)(a), an individual, company or institution which wishes to renew extra number SIM Cards, shall be required to make new application to the Authority in the manner prescribed in these Regulations.
- (5) Where an application under sub-regulation (4) is granted, the applicant shall contact the licensee for issuance of such numbers of SIM Card as requested from the Authority.

Offence on misuse of information

