

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS

2019 No. 86

THE UGANDA COMMUNICATIONS (UNIVERSAL SERVICE AND
ACCESS FUND) REGULATIONS, 2019

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**The Uganda Communications (Universal Service and Access Fund)
Regulations, 2019**

*(Under sections 3(g), 5 (1) (s), 39 (2), 68 and 93(2) of the Uganda
Communications Act, 2013, Act 1 of 2013)*

IN EXERCISE of the powers conferred upon the Minister by section 93 of the Uganda Communications Act, 2013, and in consultation with the Uganda Communications Commission, these Regulations are made this 5th day of July, 2019.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Uganda Communications (Universal Service and Access Fund) Regulations, 2019.

2. Objectives.

The objective of these Regulations is —

- (a) to provide for the establishment of a Universal Service and Access Fund in accordance with section 5 (1) (s) of the Act to facilitate access to universal service for the development of rural communications and information and communications technology in the country;
- (b) to provide for appointment of a fund manager;
- (c) to provide for operating procedures of the fund; and
- (d) to regulate the utilisation of monies of the fund.

3. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Uganda Communications Act, 2013;

“Board” means the Board of the Commission;

“Commission” means the Uganda Communications Commission;

“currency point” has the value assigned to it in the Schedule to these Regulations.

“eligible project” means projects selected under regulation 11 for full funding by the Fund;

“Executive Director” means the Executive Director of the Commission;

“Fund” means the Uganda Communications Universal Service and Access Fund of Uganda established by regulation 4;

“Fund Development Plan” means the plan setting out the development objectives of the Fund;

“Minister” means the Minister responsible for information and communications technology;

“operator” means a person issued a licence to provide a communications or broadcasting service under the Act;

“special project” means a project with special parameters and requirements approved by the Board for partial financing under regulation 12;

“underserved area” means an area without adequate coverage or provision of communications services as determined by the Commission from time to time;

“unserved area” means an area having no coverage or provision of any communications services.

PART II— ESTABLISHMENT OF THE UNIVERSAL SERVICES
AND ACCESS FUND

4. Establishment of the Fund.

(1) There is established, in accordance with section 5(1) (s) of the Act, a Fund to be known as the Uganda Communications Universal Service and Access Fund.

(2) The Fund shall be managed and administered by the Commission in accordance with these Regulations.

(3) The Commission shall develop—

- (a) a Fund Development Plan; and
- (b) a manual of operating procedures and guidelines for the management of the Fund.

(4) The Board shall oversee the effective administration of the Fund.

5. Purpose of the Fund.

The purpose of the Fund is —

- (a) to promote universal access to communication services in Uganda;
- (b) to finance the development of rural communications and information and communications technology;
- (c) improve access to information technology and communications services generally;
- (d) to ensure equitable distribution of communications services throughout the country;
- (e) to ensure the availability of communications services in unserved and underserved areas; whether rural or not;
- (f) to ensure reasonable availability and affordability of basic and advanced communications systems and services to disadvantaged communities, persons with disabilities and

other communities or groups at the household level where the market is unable to deliver such services;

- (g) to promote the socio-economic development of rural, underserved and unserved areas;
- (h) to create a framework for open and efficient access to and use of communication networks and services in the production and availability of a competitive market;
- (i) to attract private sector investment and participation in the communications sector;
- (j) to promote the widespread provision of quality services at affordable rates and ensure that rural and urban underserved areas have access to communication and information technology services;
- (k) to promote the growth of the information communications technology curriculum at all education levels in Uganda;
- (l) to support the information communication and rural communications development strategies and programs of the Commission; and
- (m) to promote any other strategic national development objectives and policies in the communications sector.

Administration of the Fund

6. Administration of the Fund.

- (1) The Fund shall be managed by a Fund Manager
- (2) The Fund Manager shall be appointed by the Board.
- (3) The Fund Manager shall be a member of senior management of the Commission.

(4) The functions of the Fund Manager are—

- (a) to manage the Fund in accordance with the manual of operating procedures;
- (b) to establish and administer structures of the Fund with clear reporting lines within the Commission;
- (c) to implement the Fund Development Plan;
- (d) to recommend to the Commission for approval, projects for which monies from the Fund may be applied;
- (e) to issue guidelines for determining eligible projects for funding;
- (f) to monitor the performance of Fund projects;
- (g) to make recommendations to the Board on policies related to information communications development and rural communications development;
- (h) to propose to the Board special projects to promote the development of rural communications and information technologies;
- (i) to determine the criteria for identification of unserved and underserved areas;
- (j) to determine the criteria for designation of universal service areas;
- (k) to identify and propose to the Board for funding, private sector and local community investments in priority areas that meet criteria determined by the Board;
- (l) to propose appropriate mechanisms for the integration of information communications technology in key sectors of the economy; including education, health and agriculture; and
- (m) to carry out any other function necessary for promoting information communications technology development as the Board may determine.

(5) The Fund manager shall, in the execution of his or her duties, report to the Executive Director.

7. Accounting officer of the Fund.

The Executive Director shall be the accounting officer of the Fund.

8. Functions of the Board in relation to the Fund.

The Board shall provide overall leadership of the Fund by—

- (a) appointing the Fund Manager;
- (b) approving the budget and estimates of the Fund;
- (c) approving the Fund Development Plan;
- (d) approving special projects of the Fund;
- (e) overseeing the implementation of eligible and special projects of the Fund; and
- (f) overseeing implementation by the Fund of any policy objectives set by the Minister.

Monies of the Fund.

9. Sources of the Fund.

(1) The monies of the Fund shall comprise of—

- (a) the levy on gross annual revenue collected by the Commission under section 68 of the Act;
- (b) loans, donations, and grants as may be approved by the Minister and the Minister responsible for finance;
- (c) income from investment of surplus funds approved by the Board for the benefit of the Fund, subject to section 72 of the Act; and
- (d) monies appropriated by Parliament.

(2) The Commission shall, in relation to the Fund, maintain proper books of account through—

- (a) separate operating accounts;
- (b) separate investment Fund accounts;
- (c) separate accounts to manage loans, donations and grants; and
- (d) any other accounts that may be mandated by law.

(3) Disbursement of monies from the Fund shall be regulated by the manual of operating procedures developed by the Commission.

(4) The signatories of the Commission shall be the signatories of the Fund.

10. Utilisation of monies of the Fund.

(1) Subject to any policy directives issued by the Minister, the monies of the Fund shall be utilised for information and communication technology development and rural communications as follows—

- (a) the percentage for information and communication technology development shall be shared between the Uganda Communications Commission and the Ministry responsible for information and communications technology; and
- (b) the percentage for development of rural communications shall be utilised for rural communications, extension of universal service to disadvantaged persons and underserved persons and shall be administered by the Fund Manager.

(2) The monies apportioned under subregulation (1) shall be disbursed for the following—

- (a) to finance eligible projects and special projects;
- (b) to develop policy for the Fund;
- (c) to conduct, where appropriate, research and development activities; and
- (d) to meet the operating and administrative expenses of the Fund.

(3) The monies of the Fund may, where necessary, be applied to finance the sharing of expenses and infrastructure for services provided by the Commission to the Fund.

PART IV— ELIGIBLE PROJECTS AND SPECIAL PROJECTS.

11. Eligible projects.

(1) The Board shall, on the advice of the Fund Manager, formulate a development plan and criteria to define and award eligible projects.

(2) The development plan shall be formulated by the Fund Manager in consultation with the Executive Director and approved by the Board at least once every five years.

(3) For purposes of these Regulations, eligible projects include—

- (a) efficient and self-sustaining projects to expand access to communications systems and services to unserved and underserved populations requiring minimal additional funding requirements;
- (b) economically feasible projects that can generate an economic rate of return on the investment of the Fund in a reasonable time;
- (c) projects that have adequate economic incentives to attract independent external investment;
- (d) projects that support government strategic incentives to improve information communications technology infrastructure in the country;
- (e) projects that extend universal access to a prescribed threshold of communications services for indigent and marginalised populations and remote communities; including emergency communications services and special access for persons with disabilities; and

(f) projects that promote innovation in the fields of ICT and communications services.

(4) The Commission shall select eligible projects that meet the criteria specified in subregulation (2) and which are consistent with the Fund Development Plan.

(5) The Fund shall collaborate with operators and relevant stakeholders in the implementation of eligible and special projects.

(6) The selection of operators and relevant stakeholders to collaborate with under subregulation (3) shall be based on any one or more of the following methods—

- (a) competitive bidding following the provision of the relevant procurement law;
- (b) competitive grants;
- (c) demand driven solicitation from operators and stakeholders; and
- (d) negotiated collaborative arrangement.

(7) For the avoidance of doubt, the procedures to be followed in methods referred to in subregulation (5) (c), (d) and (e) shall be provided for in the operating manual of the Fund.

(8) Participation by operators in eligible projects shall be limited to operators that are current in their obligation to remit the gross annual revenue levy to the Commission.

12. Special projects.

(1) The Commission shall determine projects that qualify as special projects.

(2) The Commission shall develop guidelines specifying the qualifications of a special project under subregulation (1).

(3) For the purposes of subregulation (1), special projects include—

- (a) projects that attract external investment independent of the Fund, and to which the Fund may provide only partial support;
- (b) projects that have a medium to long term recovery period to set up common infrastructure or essential facilities in the areas of information and communications technology and communications services; and
- (c) projects that require special guarantees by other entities to secure the investment of the Fund.

(4) The monies of the Fund shall not be used for administrative expenses or for the operating expenses of special projects.

(5) The Board may, from time to time, modify or adapt a criteria for special projects consistent with the Fund Development Plan.

13. Budget.

(1) The Commission shall, in the Fund Development Plan, provide for the annual maintenance of eligible projects for a period not exceeding 5 years, including a succession plan to ensure continued operations of funded projects.

(2) The Commission shall monitor internally and externally funded projects to ensure that funds are utilised in accordance with the terms of disbursement and the Uganda Communications (Universal Service) Regulations, 2019.

(3) The Commission shall, take appropriate action against an operator who misuses the monies of the Fund or mismanages an eligible project; including issuance of notices, termination of funding operations, confiscation of assets or where applicable, encashing of bank guarantees and other legal remedies and recourse.

(4) The Commission may employ the services of a professional advisor or a consultant to monitor a project.

14. Register of projects.

(1) The Commission shall maintain a register of projects approved by the Commission and financed by the Fund.

(2) The register maintained under subregulation (1) shall be available for public inspection at all times during business hours.

(3) Information on Fund projects in the Register shall be accessible to members of the public, upon written request to the Commission.

(4) Subject to the Access to Information Act, 2005, the Commission shall exclude from the Register, any document or part of a document which is confidential.

15. False statements.

A person who submits a false statement under regulations 11 and 12 to obtain monies from the Fund commits an offence and is liable, on conviction, to a fine not exceeding Forty Eight (48) currency points or to imprisonment for a period not exceeding two years or both.

16. Revocation of S.Is. 52 and 64 of 2002.

The following Regulations are revoked—

- (a) the Communications (Establishment and Management of the Rural Communications Development Fund) Instrument, 2002; and
- (b) the Communications (Establishment and Management of the Rural Communications Development Fund) Instrument, 2002.

SCHEDULE

Regulation 3

CURRENCY POINTS

A currency point is equivalent to twenty thousand shillings

Cross References

Access to information Act, 2005, Act 6 of 2005

The Uganda Communications (Licensing) Regulations, 2019.

The Uganda Communications (Universal Service) Regulations, 2019.

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