



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 511 Cape Town

8 January 2008

No. 30658

THE PRESIDENCY

No. 41

8 January 2008

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:–

No. 37 of 2007: Electronic Communications Amendment Act, 2007



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*(English text signed by the President.)
(Assented to 21 December 2007.)*

ACT

To amend the Electronic Communications Act, 2005, so as to empower the Minister to issue an additional policy direction; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the current provisions of the Electronic Communications Act, 2005, do not explicitly provide for the facilitation of strategic interventions by government in the electronic communications sector in order to reduce the cost of access to information, communication and technology;

AND WHEREAS the state intends to expand the availability of access to information, communications and technology infrastructure on wholesale basis at cost orientated rates and services to operators in the Republic;

AND WHEREAS it is necessary to amend the Electronic Communications Act, 2005, in order to facilitate the efficient licensing of public entities.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 36 of 2005

1. Section 1 of the Electronic Communications Act, 2005 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of “**public broadcasting service**” of the following definition: 5

“**‘public entity’** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999).”.

Amendment of section 2 of Act 36 of 2005

2. Section 2 of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph: 10

“(d) encourage investment, including strategic infrastructure investment, and innovation in the communications sector;”.

Amendment of section 3 of Act 36 of 2005

3. Section 3 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection: 15

“(1A) The Minister may, after having obtained Cabinet approval, issue a policy direction in order to—

- (a) initiate and facilitate intervention by Government to ensure strategic ICT infrastructure investment; and
- (b) provide for a framework for the licensing of a public entity by the Authority in terms of Chapter 3.” 20

Act No. 37, 2007 ELECTRONIC COMMUNICATIONS AMENDMENT ACT, 2007

Amendment of section 5 of Act 36 of 2005

4. Section 5 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph (d) of the following paragraph:

“(d) any electronic communications network service, broadcasting service or electronic communications service where a [state] public entity (directly or indirectly) holds an ownership interest of greater than twenty-five (25%) per cent of the share capital of the person providing such service; and”.

Short title and commencement

5. This Act is called the Electronic Communications Amendment Act, 2007, and comes into operation on a date determined by the President by proclamation in the Gazette.