

SAMOA
TELECOMMUNICATIONS LICENCE
FEE REGULATIONS 2018

Arrangement of Provisions

PART 1	
PRELIMINARY	
1. Citation and commencement	7. Annual licence fee invoice
2. Interpretation	8. First year annual licence fee invoice
	9. Payment of annual licence fee
	10. Non-payment fee
PART 2	
INDIVIDUAL LICENCE	
3. Licence application fee	11. Transitional
4. Annual licence fee	12. Repeal
5. Licensee to provide information	
6. Licensee to provide additional information	Schedule
PART 3	
MISCELLANEOUS	

PURSUANT to section 81 of the Telecommunications Act 2005 (“the Act”), **I, TUIMALEALIIFANO VAALETOA SUALAUVI II**, Head of State, acting on the advice of Cabinet, **MAKE** these Regulations:

DATED this 17th day of July 2018.

signed: (Tuimalealiifano Vaaletoa Sualauvi II)

HEAD OF STATE

REGULATIONS

PART 1 PRELIMINARY

1. Citation and commencement-(1) These Regulations may be cited as the Telecommunications Licence Fee Regulations 2018.

(2) These Regulations commence on the date of assent by the Head of State.

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

“eligible revenue” means the gross revenue (whether received or payable, but exclusively of any payments attributable to value added goods and sales tax or other sales taxes) earned during a fiscal year from the supply of telecommunications services by a licensee, less interconnection charges remitted to other licensees;

“fiscal year” means a 12 month period ending 30 June or on such date as a licensee may notify to the Regulator;

“qualified auditor” has the same meaning under section 15(2) of the Samoa Institute of Accountants Act 2006.

PART 2 INDIVIDUAL LICENCE

3. Licence application fee-(1) A person applying for an individual licence must pay the application fee specified in Column 1 of the Schedule.

(2) The Regulator may refuse to process an application for an individual licence if the relevant application fee or renewal fee is not paid.

(3) The application fee is not refundable if the application is unsuccessful.

4. Annual licence fee-(1) The individual licensee must pay an annual licence fee to the Regulator.

(2) An annual licence fee must be paid in advance of the fiscal year.

(3) The licence fee payable by an individual licensee under sub-regulation (1) shall be:

(a) if the individual licensee's eligible revenue for the previous fiscal year is below the amount specified in Column 2 of the Schedule, the fixed amount specified in Column 3 of the Schedule;

(b) if the individual licensee's eligible revenue for the previous fiscal year is equal to or above the amount specified in Column 2 of the Schedule, an amount that is calculated as a percentage of the licensee's eligible revenue for the previous fiscal year.

(4) For the purposes of sub paragraph 3(b) the fixed percentage is specified in Column 4 of Schedule.

5. Licensee to provide information-(1) An individual licensee must lodge an annual return with the Regulator within 60 calendar days before the end of a fiscal year.

(2) An annual return in subsection (1) shall be in a form (if any) notified by the Regulator to report:

(a) the amount of its eligible revenues for that fiscal year;

(b) the amount of annual licence fee payable by the individual licensee for the subsequent fiscal year, calculated in accordance with regulation 4; and

(c) sufficient details of the method used to calculate the amount in sub-paragraph (b) to enable the Regulator to verify the licensee's calculations.

(3) The Regulator may notify individual licensees of the form in sub-regulation (1) to be lodged including, but not limited to, by publication on its website.

6. Licensee to provide additional information-(1) The Regulator may, by written order, request an individual licensee to provide any information that is reasonably necessary for the Regulator to verify the information contained in an annual return under regulation 5.

(2) The information required by the Regulator under sub-regulation (1) may include, but is not limited to the following:

(a) Audited financial statements;

(b) a certificate signed by a qualified auditor, stating that the reported eligible revenue is true and correct in all respects and comply with the requirements of regulation 5.

(3) An individual licensee given a written order under sub-regulation (1) shall provide the requested information no later than 20 working days after the date of the Regulator's order.

7. Annual licence fee invoice-(1) Subject to sub-regulation (4), the Regulator shall issue an invoice for an annual licence fee in two equal instalments.

(2) The invoice for the first instalment under sub-regulation (1) will be issued on or before 15 September.

(3) The invoice for the second instalment under sub-regulation (1) will be issued on or before 15 March.

(4) The Regulator may adjust the amount of the second instalment in sub-regulation (3) in the event of a material difference between the eligible revenues reported in an annual return under regulation 5 and an auditor's certification received under regulation 6,

(5) The amount in sub-regulation (4) shall be the annual licence fee payable based on the eligible revenues reported in the audited financial statements less the amount of the first instalment.

8. First year annual licence fee invoice - After the first day of an individual licensee's fiscal year, the Regulator shall:

(a) make a pro rata reduction of any fixed amount payable by an individual licensee under regulation 4; and

(b) issue an invoice to the individual licensee for payment in a single instalment on a date the Regulator considers appropriate.

9. Payment of annual licence fee-(1) Every annual licence fee must be paid to the Regulator no later than 20 working days.

(2) The annual licence fee under sub-regulation (1) shall be paid after an individual licensee is issued with an invoice under regulation 7.

10. Non-payment fee - Where an annual licence fee or instalment is not paid:

- (a) within the time period specified in regulation 9(1), a surcharge of 10% of the annual licence fee shall be payable in addition to the annual licence fee; and
- (b) before the expiry of 90 calendar days from the time period specified in regulation 9(1) -
 - (i) the individual licence may be revoked by the Regulator under section 18 of the Act; and
 - (ii) the Regulator may take such action as is necessary to recover the licence fees under subsection 10(3) of the Act.

**PART 3
MISCELLANEOUS**

11. Transitional-(1) During the first calendar year following the commencement of these Regulations, the Regulator shall make pro rata reduction, or any other adjustment that may be necessary, so as to recognise any annual license fee payments that the individual licensee made under the repealed Regulations that relate to whole or part of a fiscal year, for which an annual licence fee is payable under these Regulations.

(2) The Regulator shall make the necessary reduction in sub-regulation (1) for the purposes of regulation 8.

12. Repeal - The Telecommunications Licence Fee Regulations 2007 is repealed.

SCHEDULE

Column 1	Column 2	Column 3	Column 4
Application (and Renewal) fee (\$SAT)	Eligible revenue threshold (\$SAT)	Fixed annual fee amount (\$SAT)	Minimum annual fee (\$SAT)
1,000.00	500,000.00	10,000.00	2% of Eligible Revenue

Issued under the authority of the Regulations Ordinance 1953.

Date of Commencement: 17th July 2018.

These Regulations are administered by the Office of the Regulator.

**Copies of these Regulations can be purchased from
the Office of the Clerk of the Legislative Assembly.**

**Printed by the Clerk of the Legislative Assembly,
by authority of the Legislative Assembly.**