
Regulations

Access to Private Lands

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1 Introduction

- 1.1 Article (13) 1 of Federal Law by Decree No. 3 of 2003 Regarding the Organisation of the Telecommunications Sector, as amended (the “**Telecommunications Law**”) states, that the Telecommunications and Digital Government Regulatory Authority (the “**TDRA**”) shall exercise its functions and powers to ensure that the Telecommunications Services provided throughout the United Arab Emirates (the “**UAE**”) are sufficient to satisfy the public demands of those who wish to make use of such services.
- 1.2 Article (14) ٢ of the Telecommunications Law states, that the TDRA shall have the competence to issue Licenses in accordance with the provisions of the Law, as well as issue regulations, instructions, decisions and rules regulating:
- (2) *anything related to the use and Interconnection of Telecommunications Networks and Telecommunications Services provided by the Licensees;*
 - (3) *the conditions, level and scope of services provided by Licensees to subscribers, universal service and emergency services; and*
 - (4) *ensuring competition in the telecommunications sector without prejudice to the applicable laws and regulations.*
- 1.3 The TDRA recognises that access to Telecommunications Services, in particular high-speed broadband facilitated through multi-operator networks, has become a necessity. Consumers should not be denied access to cutting edge Public Telecommunication Services based on their geographical location, or any other reason, in accordance with TDRA’s mandate of promoting universal services. Moreover, there is a considerable body of evidence that having access to high-speed broadband increases productivity, improves labour participation (through remote working), and ultimately contributes to economic development and growth.
- 1.4 The TDRA also recognises that Telecommunications services form an essential part of the UAE’s vision and its efforts to establish smart cities and adopt state-of-the-art technologies. Furthermore, there is strong interest in maintaining high quality of Telecommunications Services and fostering fair competition between Licensees, in order to meet the customers’ expectations and satisfy their needs, while ensuring consumer freedom of choice between Licensees.

- 1.5 In light of the above, the TDRA considers that a key element of achieving this goal is to ensure that the Licensees are able to access Private Lands and any buildings or premises thereon to install infrastructure and equipment, and terminate their respective Public Telecommunications Networks at the premises of Consumers.
- 1.6 Article (56) of the Telecommunications Law empowers the Board to issue regulations authorising Licensees to enter to Private Lands and any buildings or premises thereon for any of the purposes referred to in Article (52) of the Telecommunications Law. These purposes are to enable the performance of activities as set out in their respective Licences.
- 1.7 Article (71) of the Executive Order states, that the TDRA Board shall issue the regulations related to admitting the Licensees to enter to the Private Lands and any buildings or premises thereupon that enable them to exercise their activities as specified in the issued Licences and the conditions and terms thereto.
- 1.8 Article (71) of the Executive Order further states that entry to such Private Lands shall be only to the extent necessary to enable the Licensees to carry out necessary activities for a limited period of time and subject to notifying the people living on the Private Lands with a prior notice that specifies the names of the persons authorised to enter the Private lands and by taking all the legal procedures pursuant to the law.
- 1.9 In light of all the above considerations, this Regulation is being issued under Article (71) of the Executive Order in conjunction with Articles (14)2, (14)4, and (56) of the Telecommunications Law.

2 Definitions

- 2.1 The terms, words, and phrases used in these Regulations shall have the same meaning as are ascribed to them in the Telecommunications Law and failing that in the Regulatory Framework unless these Regulations expressly provides for otherwise, or the context in which those terms, words and phrases are used in these Regulations requires otherwise.

- 2.1.1 **Developer** - a person developing real estate on Private Lands and the term Developer shall include, but is not limited to: 1) persons engaged in preparing sites for residential, commercial, industrial, governmental, or any other special purpose or public use (Land Developer); and 2) persons engaged in the construction of buildings (Building Developer);
- 2.1.2 **Executive Order** – the Decision of the Supreme Committee for the Supervision of the Telecommunications Sector No. (3) of 2004 Issuing the Executive Order of Federal Law by Decree No. (3) of 2003 Regarding the Organisation of the Telecommunications Sector;
- 2.1.3 **Governmental Entities** (as defined in the Telecommunications Law means) – federal ministries and local departments, authorities and public organisations linked thereto, including the armed forces, the police, the intelligence and security services of the State of the United Arab Emirates, but excluding any commercial company or establishment owned by any of the foregoing or in which any of the foregoing may have an interest;
- 2.1.4 **Development Site** means Private Land- whether a greenfield site or brownfield site- that is the subject of a significant development project, usually comprising multiple units of new or modified domestic, commercial, or government buildings. The term Development Site includes the initial development project (Phase 1) and to the extent necessary and appropriate any subsequent Phase(s) to extend an existing development;
- 2.1.5 **Mediation Proceedings** – the procedure further defined in Article 9 to be followed in an attempt to resolve disputes between Licensees and Landowners concerning access to Private Lands;
- 2.1.6 **Landowner** – Any person being an owner, grantee or lessee of Private Land and for the purposes of these Regulations, the term ‘Landowner’ shall be construed to also include Developers;
- 2.1.7 **Parties** – the parties to an agreement or a dispute under these Regulations- on one side Licensee and on the other side a Landowner- jointly “the Parties” and severally “a

Party”;

2.1.8 **Private Lands** – (as defined in the Telecommunications Law means) – any land owned by, granted to or leased to any person other than Government Entities”;

2.1.9 **Regulatory Framework** - the complete body of resolutions, licences, authorisations, policies, regulations, instructions, directives, orders, determinations, procedures, guidelines, and other such regulatory instruments as issued and as may be issued by the TDRA and as may be amended from time-to-time;

2.1.10 **Telecommunications Law** - the Federal Law by Decree No 3 of 2003 Regarding the Organisation of the Telecommunications Sector, as amended;

2.1.11 **Telecommunications and Digital Government Regulatory Authority (or TDRA)** - the General Authority for Regulating the Telecommunications and Digital Government Sector as established pursuant to Article (6) of the Telecommunications Law.

2.1.12 **UAE** – the United Arab Emirates.

2.2 In interpreting the provisions of these Regulations, unless these Regulations expressly provide for otherwise, or the context requires otherwise:

2.2.1 words importing one gender shall be construed as importing all genders;

2.2.2 words importing the singular shall be construed as importing the plural and vice-versa;

2.2.3 words importing persons shall be construed as importing juridical entities;

2.2.4 references to articles, sub-articles, annexure, and attachments shall be construed as being references to articles, sub-articles, annexure, and attachments in or to the Regulations.

- 2.3 These Regulations may be referred to by the short name: - the “**Private Lands Regulations**”.

3 Scope

- 3.1 These Regulations:

- 3.1.1 apply to all persons licensed to operate a Public Telecommunications Network in the State and to the extent specified herein all Landowners;
- 3.1.2 facilitate the installation and maintenance of Public Telecommunications Networks by conferring certain rights and obligations on Licensees when accessing all Private Lands for the purpose of installing and/or maintaining telecommunications infrastructure in, on, under, or over Private Lands;
- 3.1.3 clarify the rights and obligations of Licensees;
- 3.1.4 clarify the rights and obligations of Landowners; and
- 3.1.5 set out a framework for agreements for access to Private Lands under these Regulations.

- 3.2 No person shall seek to exercise any of the rights set out in in these Regulations in a manner that would:

- 3.2.1 be in violation of any laws of the United Arab Emirates;
- 3.2.2 change the applicable Government administrative procedures in place regarding Licensees access to Private Lands;
- 3.2.3 go beyond what is reasonable to achieve the objectives set out in Article 6.1; or
- 3.2.4 prevent the intended use of the Private Land.

4 Prohibition on Exclusive Arrangements

- 4.1 No Licensee shall enter into any agreement or arrangement or conducts concerning access to Private Lands with any Landowner where the purpose or effect of such conduct, agreement or arrangement is to provide the concerned Licensee(s) with an exclusive right or privilege that prevents or restricts or may prevent or restrict any other Licensee(s) from exercising its legitimate rights to enter the same Private Lands.

5 Agreements to Access Development Sites

- 5.1 An agreement by and between a Licensee(s) and a Landowner concerning access by the Licensee to a Development Site shall:
- 5.1.1 be in writing;
 - 5.1.2 be signed by or on behalf of the Parties;
 - 5.1.3 be in compliance with the Regulatory Framework of the telecommunications sector in the UAE.
- 5.2 Any agreement under 5.1 shall be void to the extent that:
- 5.2.1 it has the objective or effect of conferring exclusive rights to one Licensee;
 - 5.2.2 it has the objective or effect of limiting the ability of another Licensee from exercising its legitimate rights concerning access to the land;
 - 5.2.3 it has the objective or effect of limiting the ability of another Licensee from exercising its legitimate rights concerning access to or interconnection of Public Telecommunications Networks as per the Regulatory Framework in effect at the time;
 - 5.2.4 it prevents or limits assignment of the agreement to another Licensee;
 - 5.2.5 it makes assignment of the agreement to another Licensee

subject to conditions- including in particular a condition requiring the payment of money by that other Licensee; or

- 5.2.6 it prevents or limits assignment of the agreement to a successor of the Landowner.
- 5.3 The TDRA shall have the right to request, receive and inspect any agreement between a Landowner and a Licensee or other relevant document concerning access to Private Lands, installation, and/or deployment of Public Telecommunications Network infrastructure, and if required the TDRA may instruct the Parties to amend any such agreement to the extent that such agreement does not comply with the provisions of these Regulations or other relevant provisions of the Regulatory Framework.

6 Terms of access to Private Lands

Rights and obligations of the Licensees in respect of Private Land

- 6.1 Subject to compliance with any conditions in these Regulations and the terms and conditions of the concerned Licence, each Licensee shall have the right to access Private Lands to:
- 6.1.1 conduct surveys to assess the suitability or otherwise of the deployment of Public Telecommunications Network infrastructure and installation of equipment on, under or over the land or elsewhere;
- 6.1.2 establish, extend, develop, and maintain Public Telecommunications Networks including the laying and extension of ground and aerial cables and service lines, whereas this shall include building new or extending existing infrastructure to reach in-building consumers;
- 6.1.3 construct buildings and other necessary installations;
- 6.1.4 inspect, maintain, repair, alter, upgrade or operate apparatus that belongs to the Licensee and is on, under or over the land or elsewhere;
- 6.1.5 connect to a power supply or other utility service; or

- 6.1.6 lop or cut back, or require another person to lop or cut back, any tree or other vegetation that interferes or will or may interfere with Public Telecommunications Network apparatus that belongs to that Licensee, upon receiving the approval of the Landowner.
- 6.2 When exercising any of the rights in Article 6.1 the concerned Licensee shall remain on the Private Land for a limited period of time and to the extent possible only long enough for the concerned Licensee to exercise its rights and comply with any of the conditions in these Regulations including but not limited to any requirements to make good and clean the spaces used by the Licensee.
- 6.3 Unless specified otherwise in an agreement between a Landowner and a Licensee, prior to entering any Private Land, the concerned Licensee shall notify and receive the consent of the Landowner or the Landowner's representative and work with him in good faith to agree the timings of works. The Licensee's notice shall specify the names of the person or persons authorised by the Licensee to represent the Licensee and to enter the Private Land. The concerned Licensee shall also take reasonable steps to notify any persons living on the Private Lands of the upcoming works, where such person(s) is likely to be impacted by the upcoming works.
- 6.4 Licensees are responsible for the acts and conduct of their personnel and subcontractors at all times whilst on Private Lands and whilst on Private Lands Licensees shall take the utmost care and all reasonable measures to follow safe working practices and to ensure the safety of all persons using and all properties on the Private Lands during the works.
- 6.5 The concerned Licensee shall make good and return the Private Land, including any buildings or premises thereon, within a reasonable amount of time, to the state prior to the commencement of works by that Licensee. The obligation set out in the preceding sentence includes cleaning the spaces where the Licensee has carried out the works. To the extent the concerned Licensee does not fulfil the obligations set out in this Article within a reasonable period, the Landowner may carry out the necessary works himself at the expense of the concerned Licensee.
- 6.6 The provisions of 6.4 are without prejudice to any changes to the Private Land strictly resulting from the exercise of the rights set out in Article 6.1.

- 6.7 To the extent exercising any of the rights set out in Article 6.1 causes any damage to the buildings or premises resulting in tangibly decreasing the value of these buildings or premises, the concerned Licensee shall pay to the Landowner such fair compensation as both Parties agree and failing such agreement, either party may pursue any lawful remedy available to it.
- 6.8 The rights set out in Article 6.1 concern the rights of Licensees to enter the Private Lands and those rights apply regardless of:
- 6.8.1 whether another Licensee has previously exercised any of the rights to enter the land;
 - 6.8.2 whether any site works, or buildings, or other installations located on the land have been completed or not, and regardless of the stage of their completion.
- 6.9 Subject to compliance with any conditions in these Regulations and the terms and conditions of the concerned Telecommunications Licence, the concerned Licensee shall have the continuing right to access and where appropriate remain on the Private Lands to:
- 6.9.1 carry out any works on the land for or in connection with the installation of Public Telecommunications Network infrastructure on, under or over the land;
 - 6.9.2 install Public Telecommunications Network infrastructure on, under, or over the land;
 - 6.9.3 keep installed Public Telecommunications Network infrastructure that belongs to the Licensee and is on, under or over the land;
 - 6.9.4 maintain access to buildings and other necessary installations;
 - 6.9.5 keep connected to a power supply or other utility service.

Rights and obligations of the Landowner and matters to be included in Agreements

- 6.10 Landowners shall work with Licensees in good faith to allow all Licensees to exercise their rights set out in these Regulations.

- 6.11 Where necessary, and to the extent possible, Landowners shall assist any Licensee to comply with the Licensee's obligations as set out in 6.3 to notify persons living and working on Private Lands of upcoming works, where such person(s) is likely to be impacted by the upcoming works.
- 6.12 While any Licensee is exercising the rights set out in these Regulations, the concerned Landowner shall not obstruct any other Licensee from entering and remaining on the same Land for the purposes of the provision of Public Telecommunications Services through the establishment or maintenance of Public Telecommunications Networks, the interconnection of Public Telecommunications Networks, or the sharing or collocation of facilities and sites.
- 6.13 All obligations on Landowners relating to access rights encapsulated in these Regulations shall also apply to the administrators nominated by the Landowners to administer their Private Land.
- 6.14 Landowners shall not discriminate between the Licensees, or commit any acts which may distort competition between Licensees, including obstructing access to the Private Land, either directly or indirectly, for example by refusing to share information, such as technical documentation, necessary to exercise the rights set out in this Regulation:
- 6.15 Landowners must give Licensees reasonable prior written notice of any intended action that would or might affect the continuous operation of the infrastructure, including causing an interruption to any power supply to which the infrastructure is connected.
- 6.16 Landowners must inform the Licensees of any fault or damage to the telecommunications infrastructure located on the Private Land or any circumstances which may create a risk of such damage, interruption or degradation of service they are aware of.
- 6.17 In cases requiring urgent attention, including but not limited to fault inspections, diagnostics and or repairs, the provisions of sub-article 6.3 shall not apply and Landowners must allow the Licensees immediate access to the Private Land and any buildings or premises thereon, provided the concerned Licensee serve notice informing the Landowner why urgent access is required.

7 Licensee's Telecommunications Infrastructure

- 7.1 Any building, installation, equipment, apparatus or any other telecommunications infrastructure built and installed by a Licensees on, under, or over Private Lands in accordance with the rights conferred by 6.8 shall remain the absolute property of that Licensee unless transferred by that Licensee to a successor, and at all times shall be afforded the protection of Chapter 7, Part 2 of the Telecommunications Law.

8 Landowner's Telecommunications Infrastructure

- 8.1 Subject to 8.2 Licensees may enter into agreements concerning the use of any existing telecommunications infrastructure, which belongs to the Landowner, including any installations, equipment or apparatus.
- 8.2 Licensees shall not enter into an agreement for the use of any existing telecommunications infrastructure unless:
- 8.2.1 during the use of the infrastructure by Licensee(s), such infrastructure can be considered to be: part of the Public Telecommunications Network; and used to deliver the Telecommunications Services, specified in the Licence issued to the concerned Licensee;
 - 8.2.2 any use of the telecommunications infrastructure does not negate the Licensee's continued compliance with:
 - 8.2.2.1 its licence obligations including in particular any obligations regarding public interest, safety and national security; and
 - 8.2.2.2 the Regulatory Framework including in particular all provisions relating to the quality of the services provided by the Licensee; and
 - 8.2.3 to the extent possible the agreement in 8.1 does not confer exclusive rights to the concerned Licensee and the sharing of the concerned infrastructure by multiple Licensees shall not be precluded by provisions in the agreement.

9 Procedure for access to Private Land

- 9.1 Terms of access to Private Land and any buildings located thereon shall be agreed between the Licensee and the Landowner and shall follow any guidelines, instructions or other procedures issued by the TDRA.
- 9.2 If after the relevant period as specified below from the commencement of the negotiations the Parties have not reached an agreement, either Party may request the TDRA to commence Mediation Proceedings. The relevant period shall be-
- 9.2.1 [two (2)] working days for urgent access under 6.1. In this context 'urgent access' would include access to Private Lands where time is of the essence such as when a Licensee legitimately requires urgent access to inspect and repair Telecommunications Network apparatus or infrastructure during times of service outage, etc.
- 9.2.2 [ten (10)] working days for non-urgent access under 6.1; and
- 9.2.3 [thirty (30)] working days for access under 6.9.
- 9.3 The request to commence Mediation Proceedings shall set out, as a minimum:
- 9.3.1 A description of the urgency of the matter;
- 9.3.2 evidence that the relevant period in working days as set out in 9.2 has passed from the date either Party commenced properly attempted to commence negotiations; and
- 9.3.3 information as to which matters the Parties did not reach an agreement. If appropriate, this may be indicated in a draft contract, if one was submitted to commence negotiations.
- 9.4 Subject to various factors such as the urgency of the case in hand, the description of the case, and the clarity of information provided etc, the TDRA may at its discretion:
- 9.4.1 request further information; or
- 9.4.2 commence Mediation Proceedings; or
- 9.4.3 reject the application; or

- 9.4.4 in cases of demonstrable urgency, the TDRA may at its discretion and acting in the public interests authorise access to the Private Lands to the extent necessary for Licensees to undertake urgent works.

- 9.5 In the event that the TDRA does commence Mediation Proceedings, the TDRA-
 - 9.5.1 will inform each Party of the commencement date;
 - 9.5.2 may request further information including such maps, plans, photographs, images, recordings, documents, correspondence, notes, accounts, etc. as the TDRA reasonably requires from either or both parties;
 - 9.5.3 may invite both Parties to make representations in person;
 - 9.5.4 offer advice as to the Parties' rights and obligations under Article (56) of Telecommunications Law, and these Regulations;
 - 9.5.5 facilitate discussions and further negotiations between the Parties with a view to the Parties reaching an amicable resolution and agreement.

- 9.6 Subject to 9.7 and 9.8, Mediation Proceedings will generally last for a period of up to 60 (sixty) working days.

- 9.7 At its discretion, the TDRA may cancel the case, or increase or reduce the period referred to in 9.6 if in the reasonable opinion of the TDRA:
 - 9.7.1 the urgency of the case in hand warrants such shorter period as the TDRA determines; or
 - 9.7.2 information comes to light during the course of the Mediation Proceedings and that information questions the need for the Mediation Proceedings to the extent that the TDRA acknowledges that it would not have commenced the proceedings had such information been in its possession at an earlier stage; or
 - 9.7.3 the relative positions of the Parties or the conduct of either Party suggests that it is unlikely an agreement will be reached

- during the remaining period; or
- 9.7.4 the relative positions of the Parties or the conduct of either Party suggests that it is probable an agreement will be reached within a granted short extension to the initial period.
- 9.8 The TDRA will communicate any decision to cancel the Mediation Proceedings or to amend the general period referred to in 9.6 to both Parties.
- 9.9 In the event the Parties do not reach an agreement within the notified period, the TDRA will determine the matter and issue a written decision to both Parties according to the following guidelines-
- 9.9.1 for cases involving urgent access under 6.1 – the TDRA will use its best endeavours to issue its decision within [two (2)] working days;
- 9.9.2 for cases involving non urgent access under 6.1 - the TDRA will use its best endeavours to issue its decision within [ten (10)] working days;
- 9.9.3 for cases involving access under 6.9 - the TDRA will use its best endeavours to issue its decision as soon as is possible and in any event within [thirty (30)] working days.
- 9.10 In the event the title to the Private Land passes from one Landowner to another during the Mediation Proceedings, or any other proceedings within the scope of these Regulations, the new Landowner automatically becomes party to such proceedings. Article 6.13 applies. In case the Landowner appoints an administrator, both become parties to the proceedings, and notices served to both have full effect.

10 Publication

- 10.1 The TDRA shall publish these Regulations on the TDRA website.
- 10.2 The TDRA shall endeavour to procure the publication of these regulations in the Official Gazette.

11 Final Provisions and Effective Date

11.1 Unless a contrary intention is specifically stated for specific provisions contained herein, these Regulations are effective and enter into force on the day on which they are issued.

11.2 These Regulations shall not apply retrospectively.

11.3 The following instruments are hereby repealed:

11.3.1. Resolution 47 of 2009 regarding the Regulation of Access to Private Lands and Buildings.

--- End of Private Lands Regulations ---