



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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MINISTRY OF INDUSTRIALISATION, TRADE AND SME DEVELOPMENT

No. 63 2017

AMENDMENT OF RULES MADE UNDER THE COMPETITION ACT, 2003

The Namibian Competition Commission has under section 22(a), (b), (c) and (d) of the Competition Act, 2003 (Act No. 2 of 2003), with the approval of the Minister of Industrialisation, Trade and SME Development -

- (a) amended the Rules made under Competition Act as set out in the Schedule; and
- (b) withdrawn Government Notice No. 2 of 5 January 2017.

S. AKWEENDA
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

SCHEDULE

Definitions

1. In these rules “the Rules” means the Rules made under the Competition Act published under Government Notice No. 54 of 3 March 2008.

Amendment of rule 7 of Rules

2. Rule 7 of the Rules is amended -

(a) by the substitution for rule 7 of the following rule:

“7. (1) The Commission may not charge a fee to any person for filing a complaint.

(2) Subject to subrule (3), the fee for filing an application with the Commission -

- (a) for a single exemption is N\$10 000 plus an annual fee, payable in advance, equal to N\$1 000 times the number of years for which the exemption is granted;
- (b) for a category exemption is N\$150 000, plus an annual fee, payable in advance, equal to N\$1 500 times the number of years for which the exemption is granted; or
- (c) for an exemption contemplated in section 31 of the Act is N\$150 000.

(3) If an application is refused in terms of rule 21(4)(b), rule 23(4)(b) or an advice is given in terms of rule 21(6), the Commission must refund the applicant the annual fee paid in respect of that application.

(4) The fee for filing a merger notice is -

- (a) N\$10 000, if the combined figure is valued below N\$50 million;
- (b) N\$25 000, if the combined figure is valued at or above N\$50 million, but less than N\$65 million; or
- (c) N\$50 000, if the combined figure is valued at or above N\$65 million, but less than N\$75 million; or
- (d) N\$75 000, if the combined figure is valued at or above N\$75 million, but less than N\$100 million;
- (e) N\$125 000, if the combined figure is valued at or above N\$100 million, but less than N\$1 billion;
- (f) N\$250 000, if the combined figure is valued at or above N\$1 billion, but less than N\$3,5 billion; or
- (g) N\$500 000, if the figure is valued at or above N\$3,5 billion.

(5) For the purposes of subrule (4) -

(a) “combined figure” means the greater of -

- (i) the combined annual turnover in, into and from Namibia of the acquirer and the target;

- (ii) the combined assets in Namibia of the acquirer and the target;
 - (iii) the annual turnover in, into and from Namibia of the acquirer plus the assets in Namibia of the target; or
 - (iv) the assets in Namibia of the acquirer plus the annual turnover in, into and from Namibia of the target; and
 - (b) annual turnover and assets must be calculated in accordance with the notice published by the Minister in terms of section 24 of the Act.
 - (6) For the purpose of subrule (5) -
 - (a) “acquirer” means the total of all the undertakings that are acquiring undertakings in respect of that merger, as defined in rule 27(1); and
 - (b) “target” means the undertakings referred to in paragraphs (a)(i) and (b) under the definition of target undertaking in rule 27(1).
 - (7) The Commission may charge a fee of N\$1 per A4-size page to any person wishing to copy a record in the possession of the Commission and N\$2 each for the certification on copies of documents by the Commission.”
 - (b) by the addition after subrule (7) of subrule (8) -
 - “(8) The Commission must charge a fee of N\$5 000 for the issuing of non-binding advisory opinion.”
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