

No. 9 of 2018.

Independent Consumer and Competition Commission (Amendment) Act 2018.

Certified on : 7 SEP 2018



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ARRANGEMENT OF SECTIONS.

1. Interpretation (Amendment of Section 44).
2. Commission may vary or revoke authorisation (Amendment of Section 80).
3. Commission to give clearance for business acquisitions (Amendment of Section 81).
4. Commission to grant authorisation for business acquisitions (Amendment of Section 82).



No. 9 of 2018.

AN ACT

entitled

Independent Consumer and Competition Commission (Amendment) Act 2018,

Being an Act to amend the *Independent Consumer and Competition Commission Act 2002* and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. INTERPRETATION (AMENDMENT OF SECTION 44).

The Principal Act is amended in Section 44, by inserting immediately after the definition of -

(a) "clearance", the following new definition:

""condition" means a condition under Division 4;" and

(b) "goods", the following new definitions in alphabetical order:

""notice" means an application for clearance under Section 81 or an application for authorisation under Section 82 whichever the case maybe; and

"person" has the same meaning provided in the *Interpretation Act* (Chapter 2);".

2. COMMISSION MAY VARY OR REVOKE AUTHORISATION (AMENDMENT OF SECTION 80).

The Principal Act is amended in Section 80, by repealing Subsection (1) and replacing it with the following new subsection:

"(1) Subject to Subsection (2), if at anytime, the Commission has granted an authorisation under Section 70 or 82, and a person informs the Commission or the Commission on its own accord is satisfied that -

(a) the authorisation is granted on information that is false or misleading in a material particular; or

(b) there is a material change of circumstances since the authorisation was granted; or

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(c) a condition upon which the authorisation was granted is not complied with, the Commission may revoke or amend the authorisation.”.

3. COMMISSION TO GIVE CLEARANCE FOR BUSINESS ACQUISITIONS (AMENDMENT OF SECTION 81).

The Principal Act is amended in Section 81 -

(a) by repealing Subsection (1) and replacing it with the following new subsection:

“(1) A person who proposes to acquire assets of a business or shares shall give the Commission a notice seeking clearance for the acquisition if -

- (a) the transaction value of the proposed acquisition exceeds the value of K50,000,000.00; or
- (b) the proposed acquisition is likely or would likely to result in a market share increase of 50 percent or more. of the person who is acquiring.”; and

(b) in Subsection (3) by -

- (i) deleting the full stop at the end of Paragraph (b) and replacing it with “or;”; and
- (ii) by adding the following new paragraph immediately after Paragraph (b):

“(c) at its own discretion, direct a person giving notice under Subsection (1) to give notice under Section 82(1) where it reasonably believes the proposed acquisition requires a notice seeking authorisation.”; and

(c) by adding the following new subsection immediately after Subsection (6):

“(7) A person who refuses or fails to give notice to the Commission under Subsection (1) shall pay the Commission a default penalty of K750,000.00.”.

4. COMMISSION TO GRANT AUTHORISATION FOR BUSINESS ACQUISITIONS (AMENDMENT OF SECTION 82).

The Principal Act is amended in Section 82 by -

(a) repealing Subsection (1) and replacing it with the following new subsection:

“(1) A person who proposes to acquire assets of a business or shares, and who has been directed by the Commission to give notice under Section 81(3)(c), shall give the Commission a notice seeking an authorisation for the acquisition.”; and

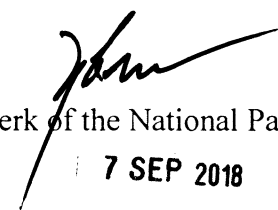
(b) inserting immediately after Subsection (7) the following new subsection:

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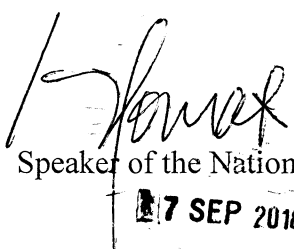
“(8) Any authorisation granted under Section 82 may be granted subject to such conditions not inconsistent with this Part and for such period as the Commission thinks fit.

(9) A person who refuses or fails to give notice to the Commission under Subsection (1) shall pay the Commission a default penalty of K750,000,00.”.

I hereby certify that the above is a fair print of the ***Independent Consumer and Competition Commission (Amendment) Act 2018***, which has been made by the National Parliament.


Clerk of the National Parliament.
7 SEP 2018

I hereby certify that the ***Independent Consumer and Competition Commission (Amendment) Act 2018***, was made by the National Parliament on 25 July 2018.


Speaker of the National Parliament.
7 SEP 2018