

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 247

23 March 2021

INVITATION FOR THE PUBLIC TO COMMENT ON THE AMENDMENTS TO FORMS, RULES AND REGULATIONS OF THE COMPETITION COMMISSION

1. By virtue of the powers vested in me in terms of section 21(4) of the Competition Act, 1998 (Act No. 89 of 1998), I, Ebrahim Patel, Minister of Trade, Industry and Competition, in consultation with the Competition Commission, hereby intend to amend the forms and prescribe regulations as set out in the Schedule hereto –
2. Stakeholders and interested parties are invited to submit comments regarding the proposed changes including proposals to enhance the ease of use of forms and clarity on regulatory requirements and steps, within a period of 30 days from publication of this notice, to the Minister of Trade, Industry and Competition for the attention of Mrs Linda Herbst, email: lherbst@thedtic.gov.za or hand delivered at 3rd Floor, Block E, 77 Meintjies Street Sunnyside, 0132.

SCHEDULE

1. The following forms are hereby amended and substituted with the following:

- 1.1. Form CC 3(1) – Application for Exemption (Section 10(1)) (attached hereto as Annexure A);
- 1.2. Form CC 3(2) – Application for Exemption (Section 10(4), Intellectual Property) (attached hereto as Annexure B);
- 1.3. Form CC 3(3) – Application for Exemption (Schedule 1: Exemption of Professional Rules) (attached hereto as Annexure C);

2. I hereby insert the following form:

2.1 Notice CC 23 – Notice of intention to make a determination (attached hereto as Annexure F).

3. I hereby insert the following rule in the Competition Commission Rules:

Competition Commission Rule 15A

15A Access to Confidential Information submitted to the Commission

(1) Before the Commission makes the determination contemplated in section 44(3) of the Act in respect of information submitted to the Commission under a confidentiality claim, the Commission must:

- (a) issue a Notice of intention to make a determination in Form CC 23 to the claimant and the Respondent; and**
- (b) allow the claimant and the Respondent 5 business days to make representations to the Commission.**

(2) Within 5 business days after the Commission makes its determination in terms of section 44(3), an aggrieved person may refer the Commission's decision to the Tribunal in accordance with the Tribunal's rules.

4. I hereby amend the following rule in the Competition Commission Rules:

Competition Commission Rules 35(1) and Rule 35(4)

35 Participation by Minister in Commission merger proceedings

(1) If the Minister decides to participate in [any intermediate or large merger] any merger proceeding before the Commission, the Minister must file a Minister's Notice of Intention to Participate in Form CC 5(2) within 10 days after receiving a copy of the Merger Notice from the Commission.

(2) ...

(3) ...

- (4) ***The Minister may file a concise statement of the public interest grounds on which the Minister relies in respect of a particular [intermediate] merger, and a statement of the decision, if any that the Minister prefers, at any time between –***

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.



MR EBRAHIM PATEL

MINISTER OF TRADE, INDUSTRY AND COMPETITION

DATE: 19 / 3 / 2021