



Tonga

**COMMUNICATIONS COMMISSION
(AMENDMENT) BILL 2016**



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COMMUNICATIONS COMMISSION (AMENDMENT) BILL 2016

A BILL FOR AN ACT TO AMEND THE COMMUNICATIONS COMMISSION ACT 2015

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title and Interpretation

- (1) This Act may be cited as the Communications Commission (Amendment) Act 2016.
- (2) In this Act, the Communications Commission Act 2015, shall be referred to as the “Principal Act”.

2 Section 2 amended

Section 2 of the Principal Act is amended –

- (a) by deleting –
 - (i) the words “**Appointments Committee**” and its definition and replacing it with the following –

““**Appointments Committee**” or “**Committee**” means the Appointments Committee established under section 8;”;

- (ii) the number “7” in the definition for “Commissioner” and replacing it with “7A”;
 - (iii) the word “ICT” and its definition and replacing it with the following –
 ““ICT” means Information and Communications Technology;”;
 and
 - (iv) the word “**Member**” and its definition and replacing it with the following –
 ““**Member**” means each of the Members of the Commission;”;
 and
- (b) by inserting the following new words and its definitions in the appropriate places –
- ““**Chief Executive Officer**” means the Government Chief Executive Officer responsible for communications;”;
 - and
 - ““**Deputy–Chairperson**” means the person appointed as a Deputy - chairperson under section 9(4);”.

3 Section 7 amended

Section 7 of the Principal Act is amended –

- (a) by repealing subsection (4); and
- (b) by renumbering subsection (5) as subsection (4).

4 New section 7A inserted

The Principal Act is amended by inserting the following new section 7A immediately after section 7 –

“7A Commissioner

- (1) A person shall be appointed as the Commissioner of the Commission in accordance with section 9.
- (2) The Commissioner shall be –
 - (a) responsible for the supervision and day-to-day management of, and implementing the decisions of, the Commission;
 - (b) the head of the staff of the Commission; and
 - (c) the secretary to the Commission.”.

5 Section 8 amended

Section 8 of the Principal Act is amended by deleting subsection (1) and replacing it with the following -

“(1) An Appointments Committee is hereby established to make recommendations to the Minister on the appointments of Members of the Commission and the Commissioner.”.

6 Section 9 amended

Section 9 of the Principal Act is amended –

- (a) by deleting subsection (1) and replacing it with the following –
 - “(1) The Appointments Committee shall –
 - (a) recommend four people to be appointed as Members under section 7 as soon as practicable after the commencement date; and
 - (b) recommend a person to be appointed as the Commissioner under section 7A.”;
- (b) in subsection (3) by deleting the words “subsection (1)” and replacing it with the words “subsection (1)(a), and for the purpose of recommending a person as the Commissioner under subsection (1)(b)”;
- (c) by deleting subsection (4) and replacing it with the following new subsections (4), (5) and (6) –
 - “(4) The Chairperson, Deputy-Chairperson and Members of the Commission, shall be appointed by the Minister, with consent of Cabinet.
 - (5) Such appointments in subsection (4), shall be published by notice in the Gazette by the Minister.
 - (6) The Commissioner, shall be appointed by the Commission, with the consent of the Minister.”.

7 Section 10 amended

Section 10 of the Principal Act is amended –

- (a) in subsection (1) by –
 - (i) deleting the word “appoint” and replacing it with the word “recommend”; and
 - (ii) inserting the words “or as a Deputy-chairperson” after the word “Chairperson”; and
- (b) in subsection (2) by –
 - (i) deleting the words “a person for appointment as the ICT Expert” and replacing them with the words “two people for appointment as the two Members of the Commission under section 7(1)(c), one being an ICT Expert,”; and
 - (ii) inserting in paragraph (c) the words “information and communications technology,” after the word “of”.

8 Section 11 amended

Section 11(1) of the Principal Act is amended –

- (a) by deleting –
 - (i) the number “8” and replacing it with the number “9”;
 - (ii) in paragraph (a) the word “member” and replacing it with the word “Member”;
 - (iii) paragraph (b); and
 - (iv) in paragraph (d) the word “members” and replacing it with the word “Members”; and
- (b) by renumbering paragraph (c) as paragraph (b), paragraph (d) as paragraph (c) and paragraph (e) as paragraph (d).

9 Section 14 amended

Section 14(4) of the Principal Act is amended by deleting the word “members” and replacing it with the word “Members”.

10 Section 15 amended

Section 15 of the Principal Act is amended by deleting the word “members” and replacing it with the word “Members”.

11 Section 18 amended

Section 18(1) of the Principal Act is amended by –

- (a) renumbering paragraph (b) as paragraph (c); and
- (b) inserting the following new paragraph (b) immediately after paragraph (a) –
“(b) the Commissioner; or”.

12 Section 22 amended

Section 22(b) of the Principal Act is amended by deleting the words “Part X” and replacing it with the words “Part XI”.

13 Section 23 amended

Section 23(3) of the Principal Act is amended by –

- (a) deleting the words “Part VI” and replacing them with the words “Part VII”; and
- (b) deleting the words “Part X” and replacing it with the words “Part XI”.

14 Section 27 amended

Section 27(1)(j) of the Principal Act is amended by deleting the words “Division 2B (Review mechanisms) of Part X” and replacing them with the words “Division 4 (Review mechanism) of Part XI”.

Passed by the Legislative Assembly this day of 2016.

EXPLANATORY NOTES

(These notes do not form part of the Bill and is only intended to explain its purpose and scope)

The principal purpose of the amendment is to formally establish, the appointment of the Commissioner; the Appointments Committee; the appointment process, and to provide for minor amendments to cross-references and renumbering of sections (or subsections) in the Principal Act.

Section 1 of this Bill provides the short title and interpretation for the Bill.

Section 2 of this Bill makes a few amendments to section 2 of the Principal Act. First, it gives a new definition for the words “Appointments Committee” which now means the Appointments Committee established under section 8. Second, it deletes the number “7” that appears in the definition for the word “Commissioner” and replaces it with the number “7A”. Thirdly, the meaning to the word “Member” is changed to make the composition of the Members consistent with section 7(1) of the Principal Act. Fourthly, the new words - “Chief Executive Officer” and “Deputy-Chairperson” – are inserted in order to define and identify who in particular the Principal Act is referring to when the two words are used. Hence, avoids uncertainty.

Section 3 of this Bill makes minor amendment to the Principal Act by repealing subsection (4) of section 7 of the Principal Act and renumbers subsection (5) as the new subsection (4).

Section 4 of this Bill inserts a new section 7A into the Principal Act – which sets out the appointment of the Commissioner with the responsibilities that associates with the post of Commissioner.

Section 5 of the Bill deletes subsection (1) of section 8 of the Principal Act and replaces it with a new subsection (1) which establishes the Appointments Committee and the Committee’s primary responsibility.

Section 6 of the Bill makes two main amendments to section 9 of the Principal Act. First, it specifies the functions of the Appointments Committee in relation to the appointment of the Members of the Commission and the appointment of the Commissioner. Second, it clarifies that the Members of the Commission are to be appointed by the Minister with the consent of Cabinet, and the Commissioner to be appointed by the Commission with the consent of the Minister.

Section 7 of this Bill makes a few amendments to section 10 of the Principal Act. First, it clarifies the role of the Appointments Committee that they do not appoint but rather make recommendations for appointment. Second, it makes the Deputy-Chairperson subject to the appointment criteria. Thirdly, it makes the other two (2) Members of the Commission also subject to the appointment criteria and not just the ICT Expert as was initially the case. It also inserts the words “information and computer technology” to qualify the application of any ICT Expert for the ICT Expert position as was required under section 7(2) of the Principal Act.

Section 8 of this Bill makes minor amendments to crossing-references and renumbering to section 11(1) of the Principal Act. The main change is the replacing of the word “members” with the word “Members”. The only difference is the capitalization of the letter “M” which is indicative of the Members of the Commission (as opposed to any ordinary member). This ensures consistency throughout the Principal Act.

Section 9 of this Bill amends section 14 of the Principal Act. It amends the word “members” and replaces it with the word “Members”. The only difference is the capitalization of the letter “M” which is indicative of Members of the Commission. It ensures consistency throughout the Principal Act.

Section 10 of this Bill amends section 15 of the Principal Act. It amends the word “members” and replaces it with the word “Members”. The only difference is the capitalization of the letter “M” which is indicative of Members of the Commission. It also ensures consistency throughout the Principal Act.

Section 11 of this Bill makes minor amendments to section 18 subsection (1) of the Principal Act. The main change is that it ensures that the Commission can delegate its powers, functions and duties to the Commissioner.

Section 12 of this Bill makes minor amendment to a cross-reference in the Principal Act. It deletes the words “Part X” in section 22 of the Principal Act and replaces them with “Part XI”.

Section 13 of this Bill makes minor amendment to a cross-reference in the Principal Act. It deletes the words “Part VI” in section 23(3) of the Principal Act and replaces them with “Part VII”. It also deletes the words “Part X” and replaces them with “Part XI”.

Section 14 of this Bill makes minor amendments to the Principal Act by deleting the words “Division 2B (Review mechanisms) of Part X” in section 27(1)(j) and replacing it with the words “Division 4 (review mechanism) of Part XI”.

Hon. Siaosi Sovaleni

Deputy Prime Minister and Minister of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications