

FAIR TRADING (AMENDMENT) BILL, 2022

(Bill No. 27 of 2022)

EXPLANATORY STATEMENT

The object of this Bill seeks to —

Amend section 35 to provide for a provision that will enable the Commission to appoint officers of the Commission or such other person to appear on behalf of the Commission before the Tribunal or Court and conducting any matter before such Tribunal or Court.

The other amendments are to effect some minor corrections to other sections of the Act.

Dated this 21st day of September, 2022.

**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

FAIR TRADING (AMENDMENT) BILL, 2022

(Bill No. 27 of 2022)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of section 15
3. Amendment of section 30
4. Amendment of section 32
5. Amendment of section 33
6. Amendment to section 35
7. Amendment of section 70
8. Amendment of section 87
9. Amendment of section 106
10. Amendment of section 107
11. Amendment of section 115
12. Amendment of section 125

FAIR TRADING (AMENDMENT) BILL, 2022

(Bill No. 27 of 2022)



A BILL

FOR

AN ACT TO AMEND THE FAIR TRADING ACT TO PROVIDE FOR ENABLING PROVISION THAT WILL ENABLE THE COMMISSION TO APPOINT OFFICERS OF THE COMMISSION OR SUCH OTHER PERSON TO APPEAR ON BEHALF OF THE COMMISSION BEFORE THE TRIBUNAL OR COURT AND CONDUCTING ANY MATTER BEFORE THE TRIBUNAL OR COURT AND TO PROVIDE FOR CORRECTIONS TO SOME SECTIONS.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Fair Trading (Amendment) Bill, 2022.

Amendment of section 15

2. Section 15 of the principal Act is amended in subsection (1) by repealing the words “subsections (2), (4) and (5)” and substituting therefor the words “subsections (2) and (4)”;

Amendment of section 30

3. Section 30 of the principal Act is amended in subsection (1) (c) by deleting the “Public Finance Management Act.” and substituting therefor the words “Public Finance Management Act, 2012”;

Amendment of section 32

4. Section 32 of the principal Act is amended in subsection (1) and (2) by repealing the figure “6” wherever it appears and substituting therefor the figure “3”;

Amendment of section 33

5. Section 33 of the principal Act is amended in subsection (1) and (2) by repealing the word “of” wherever it appears and substituting therefor the word “by”.

Amendment to section 35

6. Section 35 of the principal Act is amended by inserting after subsection 5 the following subsections —

“(6) The Chief Executive Officer or any other person —

(a) who is employed by the Commission; or

(b) who has been appointed by the Commission

for the purpose of appearing, on behalf of the Commission before the Tribunal or any court in respect of any matter under this Act, may appear on behalf of the Commission in, and conduct, such matter before the Tribunal or the court.

(7) An appointment under subsection (6) (b) may be general or specific.”;

Amendment of section 70

7. Section 70(2) of the principal Act is amended by repealing the words “import”, and substituting therefor the words “importance”;

Amendment of section 87

8. Section 87 of the principal Act is amended by repealing subsection 4 and substituting therefor with the following subsection —

“(4) For the purpose of determining whether a person has contravened subsection (1) in connection with the supply or possible supply of goods or services to any other person, regard may be had to —

- (a) any circumstances that were not reasonably foreseeable at the time of the alleged contravention; and
- (b) the conduct engaged in or circumstances existing before the commencement of this Act.”;

Amendment of section 106

9. Section 106 of the principal Act is amended by repealing subsection (6);

Amendment of section 107

10. Section 107(2) of the principal Act is amended by inserting the word “the”, before the word “specified”;

Amendment of section 115

11. Section 115(1) (a) of the principal Act is amended by inserting after the word “person” the words “except with the Commissions’ consent.”;

Amendment of section 125

12. Section 125(1)(b)(B) of the principal Act is amended by

repealing paragraph (B) and substituting therefor with the following paragraph —

“(B) it does not hold a substantial share of that market but has market power.”.