



Tonga

COMMUNICATIONS TARIFF RULES 2018



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COMMUNICATIONS TARIFF RULES 2018

COMMUNICATIONS ACT 2015

IN EXERCISE of the powers conferred by section 64 of the Communications Act 2015, the Regulator makes the following rules -

PART I - PRELIMINARY

1 Short title and commencement

- (1) This Rule may be cited as the Communications Tariff Rules 2018.
- (2) These Rules shall come into force on the date it is published in the Gazette or otherwise in accordance with section 10(e) of the Interpretation Act (Cap.1).

2 Interpretation

- (1) Subject to sub-section (2), unless the context otherwise requires, terms used in these Rules have the same meaning as in the Communications Act 2015.
- (2) In these Rules, unless the context otherwise requires —
“Act” means the Communications Act 2015;

“**retail communications service**” has the meaning given to it in section 58 of the Act;

“**registered tariff**” means a tariff that has been notified to the Regulator under section 59 or 61 of the Act pursuant to these Rules and recorded by the Regulator in the register of tariffs;

“**tariff**” has the meaning given in section 58 of the Act.

PART II – RETAIL COMMUNICATIONS SERVICES

3 Services for which tariffs shall be filed with the Regulator

- (1) Tariffs for the following classes of retail communications service shall be notified to the Regulator in accordance with section 59 of the Act:
 - (a) cellular mobile telecommunications services;
 - (b) fixed telephony services;
 - (c) other voice telephony services (for example, voice over internet protocol);
 - (d) Internet access services;
 - (e) online information service (for example, a dial-up information service or audio-text service); and
 - (f) voicemail.
- (2) For the avoidance of doubt -
 - (a) all tariffs shall be expressed in pa’anga (i.e. TOP\$);
 - (b) a tariff may be expressed as a rate or by way of a price formula; and
 - (c) a tariff of zero shall be notified, together with the conditions under which a zero-rated tariff shall apply.

4 Tariffs exempted from notification requirements

The following classes of tariffs are not required to be notified to the Regulator under section 59 of the Act -

- (a) a tariff associated with a retail communications services supplied to His Majesty; and
- (b) an implied tariff that is the result of the resolution of an outstanding bill between a licensee and an individual customer through a negotiated settlement.

PART III – GENERAL RULES ABOUT TARIFFS

5 Requirements for tariffs

- (1) A tariff should be easily understood and capable of being applied by a customer.
- (2) The circumstances in which different tariffs offered by a licensee apply to a particular retail communication service should be clear and easily determined by a customer.
- (3) A tariff should be objectively described and should not reserve implicitly or explicitly to the licensee any discretion on the way in which, or whether, the tariff or components of the tariff (such as discounts, rebates or credits) shall be applied.

PART IV – NOTIFICATION AND REGISTRATION OF TARIFFS

6 Process for notifying the Regulator of a tariff

- (1) A licensee shall use the form in Schedule 1 to notify the Regulator of -
 - (a) a tariff for the purposes of section 59 of the Act; and
 - (b) a variation to, or the revocation of, a registered tariff for the purposes of section 61 of the Act.
- (2) The notification shall be submitted electronically to the Regulator via email to an address specified by the Regulator.

NOTE: Under section 59 of the Act, a licensee is required to notify the Regulator of its tariffs before or at the same time as those tariffs take effect. Under section 61, a licensee is required to notify the Regulator of any variation or revocation of a tariff that was previously notified to the Regulator before or at the same time as that variation or revocation takes effect.

7 Registration of notified tariffs

- (1) Subject to sub-section (2), within two (2) business days of receiving a notice under section 7, the Regulator shall -
 - (a) record the tariff in the register of tariffs; and
 - (b) give the notifying licensee written confirmation of the registration and advice of the date of registration and the registration reference number.
- (2) The Regulator may request clarification or additional information from the notifying licensee prior to recording the tariff in the register of tariffs if -

- (a) the form specified in Schedule 1 has not been used, is incomplete or does not contain sufficient detail;
 - (b) the notified tariff applies to a retail communication service of the same, or effectively the same, type or description as a service supplied by the notifying licensee for which there is already a registered tariff and -
 - (i) the notified tariff does not sufficiently distinguish between the circumstances in which the two tariffs will apply; and/or
 - (ii) the notified tariff purports to leave two tariffs in effect;
 - (c) the notified tariff or the description of it or the circumstances in which it applies is such that, in the Regulator's opinion, it will lead to a high probability of misunderstanding or error by customers.
- (3) If the Regulator does not give the notifying licensee either written advice of the kind mentioned in sub-section (1), or a written request of the kind mentioned in sub-section (2), within two (2) business days of the date of notification, then the notified tariff is deemed to have been recorded in the register of tariffs on the date of notification.
- (4) If the Regulator requests clarification or additional information from the notifying licensee under subsection (2), the notifying licensee shall provide the requested clarification or information in writing within two (2) business days or such other time as the Regulator may specify.
- (5) Following receipt of the requested clarification or additional information, the Regulator shall -
- (a) record the tariff in the register of tariffs; and
 - (b) give the notifying licensee written confirmation of the registration and advice of the date of registration and the registration reference number.

8 Registration is not approval

- (1) The recording of a notified tariff in the register of tariffs -
- (a) shall not constitute any form of approval or endorsement of, or agreement to, the tariff on behalf of the Regulator; and
 - (b) shall not constrain the Regulator from examining and further reviewing the tariff or its implications at any later date for any purpose provided for under the Act or any instrument made under the Act (other than guidelines).
- (2) A licensee shall not represent the Regulator's recording of a notified tariff in the register of tariffs as any form of approval or endorsement of the tariff by the Regulator.

Made at Nuku'alofa this 6th day of **December** 2018.

Paula Ma'u
Chief Executive Officer
Ministry of Meteorology, Energy, Information, Disaster Management,
Environment, Climate Change and Communications

SCHEDULE 1

NOTIFICATION OF A NEW TARIFF

<p>Note: A separate form shall be completed for each tariff. Additional tariff details may be provided by way of an attachment.</p>			
Name of licensee			
Name of contact person			
Telephone number		Email address	
<p>Service category Please tick (✓)</p>			
Cellular mobile telecommunications services		Fixed telephony services	
Other voice telephony service		Internet access services	
Online information service			
<p>Service name or brand name (if any)</p>		<p>Service description (e.g. fixed to mobile calls; on-net SMS; international call to [x])</p>	
<p>Amount payable (in pa'anga)</p>	<p>Charging unit (e.g. call minute, message, period)</p>		<p>Charging basis (i.e. pre-paid or post-paid)</p>
<p>Description of the circumstances in which the tariff it applies</p>			

Type of tariff Please tick (✓)		Date of commencement		Intended date of expiry (if known)	
Standard					
Promotion					
Other (please specify)					
If a promotion, the name of the promotion					
Eligibility (if limited)					
Does this tariff replace an existing tariff? Please tick (✓)		No	Yes	If yes, registration reference number of the tariff being replaced	
Office Use Only					
Date of notification		Date of registration		Registration reference number	

VARIATION TO A REGISTERED TARIFF

Note: A separate form shall be completed for each registered tariff that is to be varied.			
Name of licensee			
Name of contact person			
Telephone number		Email address	
Service category Please tick (✓)			
Cellular mobile telecommunications services		Fixed telephony services	
Other voice telephony service		Internet access services	
Online information service			
Service name or brand name (if any)			
Service description (e.g. fixed to mobile calls; on-net SMS)			
Registration reference number of the tariff that is being varied			
Description of the variation			

Amount payable (in pa'anga)	Charging unit (e.g. call minute, message, period)	Charging basis (i.e. pre-paid or post-paid)	
Office Use Only			
Date of notification		Date of registration (of the variation)	

REVOCATION OF A REGISTERED TARIFF

Note: A separate form shall be completed for each registered tariff that is to be revoked.					
Name of licensee					
Name of contact person					
Telephone number		Email address			
Service category Please tick (✓)					
Cellular mobile telecommunications services		Fixed telephony services			
Other voice telephony service		Internet access services			
Online information service					
Service name or brand name (if any)		Service description (e.g. fixed to mobile calls; on-net SMS; international call to [x])			
Registration reference number of the tariff that is being revoked		Effective date of the tariff revocation			
Is the service being discontinued? Please tick (✓)	Yes	No	Has a new tariff been registered for this service? Please tick (✓)	Yes	No

	If yes, what is the registration reference number of the replacement tariff for this service?	
Office Use Only		
Date of notification		Date of registration (of the revocation)