



An Bille um Ombudsman Náisiúnta Bia, 2017
National Food Ombudsman Bill 2017

Mar a tionscnaíodh

As initiated



AN BILLE UM OMBUDSMAN NÁISIÚNTA BIA, 2017
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ACTS REFERRED TO

Competition and Consumer Protection Act 2014 (No. 29)

Consumer Protection Act 2007 (No. 19)



AN BILLE UM OMBUDSMAN NÁISIÚNTA BIA, 2017
NATIONAL FOOD OMBUDSMAN BILL 2017

Bill

entitled

An Act to establish an office of National Food Ombudsman as part of the Competition and Consumer Protection Commission; to enable the holder of that office to mediate and investigate disputes between, on the one hand, relevant grocery goods undertakings engaged in the retail or wholesale of grocery goods in the State and, on the other hand, suppliers of those goods; and to provide for related matters. 5

Be it enacted by the Oireachtas as follows: 10

Interpretation

1. In this Act—

“Act of 2007” means the Consumer Protection Act 2007;

“Act of 2014” means the Competition and Consumer Protection Act 2014;

“Commission” means the Competition and Consumer Protection Commission; 15

“Minister” means the Minister for Jobs, Enterprise and Innovation;

“Ombudsman” means Ombudsman for Food;

“prescribed grocery goods undertaking” means a relevant grocery goods undertaking that stands prescribed for the purposes of Regulations made under section 63B of the Act of 2007 (as inserted by section 83 of the Act of 2014); 20

“Regulations” means regulations applicable to relevant grocery goods undertakings engaged in the retail or wholesale of grocery goods in the State and made under section 63B of the Act of 2007 (as inserted by section 83 of the Act of 2014);

“relevant grocery goods undertaking”, “shrinkage”, and “wastage” have the meanings ascribed to them by section 63A of the Act of 2007 (as inserted by section 83 of the Act of 2014). 25

Appointment of Ombudsman

2. (1) There shall stand established as part of the Competition and Consumer Protection Commission an Office of National Food Ombudsman and the holder of the office shall be known as the Ombudsman for Food. 30

- (2) The appointment of a person to be Ombudsman for Food shall be made by the Minister, as outlined under section 12 of the Act of 2014, as a member of the Competition and Consumer Protection Commission and shall have the same terms and conditions as a person appointed under that section.

Functions of the Ombudsman

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3. (1) The Ombudsman shall be a member of the Competition and Consumer Protection Commission and exercise said powers of the Commission with specific responsibility for resolving disputes and carrying out investigations relating to the Consumer Protection Act 2007 (Grocery Goods Undertakings) Regulations 2016, including disputes between a supplier and a relevant grocery goods undertaking, on any or all of the following— 10
- (a) grocery goods contracts,
 - (b) variation of grocery goods contracts,
 - (c) obligations being put on suppliers to obtain goods and/or services from a third party from whom a retailer/wholesaler receives payments for such arrangements, 15
 - (d) “force majeure” non-performance due to circumstances beyond a parties’ reasonable control,
 - (e) suppliers being required to pay for—
 - (i) stocking and listing of goods,
 - (ii) promotion and marketing costs, 20
 - (iii) better positioning on shelves of stores of grocery goods undertakings,
 - (iv) advertising, and
 - (v) wastage and/or shrinkage, (except in strictly specified circumstances, based on free written agreed contracts between a supplier and a grocery goods undertaking), 25
 - (f) failure of a relevant grocery goods undertaking to—
 - (i) pay a supplier within 30 days for goods received as specified in regulation 10 of the Regulations,
 - (ii) ensure the designation and training of staff as responsible for compliance with the “regulations” and the dissemination of same to staff of the said undertaking, 30
 - (iii) submit to the Commission an annual compliance report detailing compliance with the Regulations as per regulation 18 of said regulations, and
 - (iv) maintain proper records for inspection by the Commission,

and 35
 - (g) any other such matter pertaining to grocery goods contracts by a supplier who believes he or she is being subjected to unfair treatment and which is in breach or fails to comply with anything stipulated in the Regulations.

- (2) The Ombudsman, in seeking to resolve disputes, as outlined in *subsection (1)* may make a recommendation to the parties of the dispute in accordance with the aims of section 63B(2) of the Act of 2007 (as inserted by section 83 of the Act of 2014) and of Regulations made under that section 63B.

Powers of the Ombudsman

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4. Where it appears to the Ombudsman, on reasonable grounds, that—
- (a) the action, the subject of the complaint, is in breach of or does not comply with the Regulations, or
 - (b) a relevant grocery goods undertaking has failed to follow a recommendation made by the ombudsman under *section 3(2)*,

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the Ombudsman may commence an investigation under section 18 of the Act of 2014 and shall make such findings and or recommendations as that Act allows.

Reports

5. The Ombudsman shall cause a report on the performance of his functions under this Act to be laid before each House of the Oireachtas annually and may from time to time cause to be laid before each such House such other reports with respect to those functions as he thinks fit.

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Short title and commencement

6. (1) This Act may be cited as the National Food Ombudsman Act 2017.
- (2) This Act shall come into operation on such day or days as the Minister may, by order or orders, appoint either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes or different provisions.

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An Bille um Ombudsman Náisiúnta Bia,
2017

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do bhunú oifig Ombudsman Náisiúnta Bia mar chuid den Choimisiún um Iomaíocht agus Cosaint Tomhaltóirí; do chumasú do shealbhóir na hoifige sin idirghabháil agus imscrúdú a dhéanamh ar dhíospóidí idir gnóthais earraí grósaeireachta iomchuí atá ag gabháil do mhiondíol nó do mhórdíol earraí grósaeireachta sa Stát, de pháirt, agus soláthraithe na n-earraí sin, de pháirt eile; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An Teachta Cathal Mac Conall Óg a thug isteach,
1 Márta, 2017

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BILL

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Introduced by Deputy Charlie McConalogue,
1st March, 2017

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