



**AN BILLE FÁN bhFORFHEIDHMÍ UM CHEARTA DO
THOMHALTÓIRÍ 2004
CONSUMER RIGHTS ENFORCER BILL 2004**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Short title, collective citation and construction.
 2. Interpretation.
 3. Consumer Rights Enforcer.
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ACTS REFERRED TO

Consumer Information Act 1978	1978, No. 1
Merchandise Marks Acts 1887 to 1978	
Prices Act 1958	1958, No. 4
Prices (Amendment) Act 1972	1972, No. 20



**AN BILLE FÁN bhFORFHEIDHMÍ UM CHEARTA DO
THOMHALTÓIRÍ 2004**

CONSUMER RIGHTS ENFORCER BILL 2004

BILL

5

entitled

AN ACT TO ESTABLISH THE CONSUMER RIGHTS ENFORCER, TO PROVIDE A MECHANISM FOR INDEPENDENT APPOINTMENT, TO CONFER MORE EXTENSIVE AND EFFECTIVE POWERS, TO PROVIDE FOR THE IMPOSITION OF ADMINISTRATIVE FINES, TO INCREASE THE FINES PAYABLE FOR AN OFFENCE, AND FOR THOSE PURPOSES TO AMEND THE CONSUMER INFORMATION ACT 1978 AND ALSO THE PRICES ACT 1958.

15 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) This Act may be cited as the Consumer Rights Enforcer Act 2004. Short title, collective citation and construction.

(2) The Consumer Information Act 1978 and this Act may be cited together as the Consumer Information Acts 1978 to 2004, and shall be read together as one.

2.—In this Act— Interpretation.

“Act of 1958” means the Prices Act 1958;

“Principal Act” means the Consumer Information Act 1978.

3.—(1) The Principal Act is amended— Consumer Rights Enforcer.

25 (a) where for every occurrence of the words “Director of Consumer Affairs” there shall be substituted “Consumer Rights Enforcer”.

(b) where for every occurrence of the words “Director” there shall be substituted “Consumer Rights Enforcer”.

30 (c) in section 1(1) by deleting the definition of “the Director”.

Independent
appointment
procedure.

4.—Section 9 of the Principal Act is amended by substituting the following for subsections (2), (3) and (4):

“(2) The appointment of a person to be the Consumer Rights Enforcer shall be made by the President upon resolution passed by Dáil Éireann and by Seanad Éireann recommending the appointment of the person. 5

(3) A person appointed to be the Consumer Rights Enforcer—

- (a) may at his or her own request be relieved of office by the President,
- (b) may be removed from office by the President but shall not be removed from office except for stated misbehaviour, incapacity or bankruptcy and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his or her removal. 10
- (c) shall in any case vacate the office on attaining the age of 67 years, and 15
- (d) shall hold office for a term of 5 years and may be re-appointed to the office for a second or subsequent term.

(4) (a) Where a person who holds the office of Consumer Rights Enforcer is nominated either as a candidate for election to either House of the Oireachtas, the European Parliament or a local authority or as a member of Seanad Éireann or is appointed as a member of the European Assembly or a local authority, he or she shall thereupon cease to hold the office of Consumer Rights Enforcer. 20 25

- (b) A person who is for the time being entitled to be a member of—
 - (i) either House of the Oireachtas, 30
 - (ii) the European Parliament, or
 - (iii) a local authority,

shall, while so entitled, be disqualified for holding the office of Consumer Rights Enforcer.

- (c) A person who holds the office of Consumer Rights Enforcer shall not hold any other office or employment in respect of which emoluments are payable.”. 35

Additional
consumer driven
powers and
functions.

5.—The Principal Act is amended by inserting the following new section after section 9A:

“Additional 9B.—In addition to the functions specified in 40
consumer section 9, the functions of the Consumer Rights En-
driven powers forcer shall be as follows:
and functions.

- (a) to conduct and publish at regular intervals surveys of the price of goods and services to the extent that the Consumer Rights Enforcer considers appropriate, having regard to 45

the public interest and to the interests of consumers;

- 5 (b) to develop and maintain a price league internet website with price comparison tables on all major products;
- 10 (c) to develop codes of conduct or impose requirements for those industries, retailers or service providers prescribed by regulation in respect of the passing on of specified increases and reductions in cost to the consumer;
- 15 (d) to devise and promote a Good Practice Provider quality mark for service providers and retailers who consistently deliver an optimum and guaranteed standard of service;
- 20 (e) to work with local authorities to drive a pro-consumer agenda at local level involving regular price surveys and measures that protect consumers' interests against local cartels;
- 25 (f) to periodically review and make recommendations on the fiscal jurisdiction of the Small Claims Court;
- 30 (g) to fulfil an advocacy role for consumers, so as to represent their views in all circumstances, in particular as a participant on behalf of the consumer in the negotiation of national partnership agreements, and other similar negotiations and agreements;
- (h) to be consulted in the preparation of all pieces of legislation which impacts principally upon consumers."

35 **6.—Section 17(1) of the Principal Act is amended—**

- (a) in paragraph (a) by substituting "€3,000" for "£500",
- (b) in paragraph (b) by substituting "€100,000" for "£10,000".

Increase in penalties for breaches of Principal Act.

7.—The Principal Act is amended by inserting the following Administrative fine.
section after section 17:

- 40 "Administrative fine. 17A.—(1) Where the Consumer Rights Enforcer has reasonable grounds for believing that a person has committed a summary offence under the Consumer Information Acts or Merchandise Marks Acts 1887 to 1978 which is subject to summary prosecution, the Consumer Rights Enforcer may deliver to the person or, where the person believed to have committed the offence is a company, to an officer of the company, a notice in the prescribed form stating—
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- (a) that the person or company is alleged to have committed that offence,
 - (b) that the person to whom the notice is delivered may during a period of 21 days beginning on the date of the notice— 5
 - (i) remedy as far as practicable to the satisfaction of the Consumer Rights Enforcer any default that constitutes the offence, and
 - (ii) make to the Consumer Rights Enforcer a payment of a prescribed amount which shall be accompanied by the notice, and 10
 - (c) that a prosecution of the person to whom the notice is delivered in respect of the alleged offence will not be instituted during the period specified in the notice or, if the default is remedied to the satisfaction of the Consumer Rights Enforcer and the payment specified in the notice is made during that period, at all. 15 20
- (2) Where a notice is given under subsection (1)—
- (a) a person to whom it applies may, during the period specified in the notice, make to the Consumer Rights Enforcer the payment specified in the notice, accompanied by the notice. 25
 - (b) the Consumer Rights Enforcer may receive the payment and issue a receipt for it, and no payment so received shall in any circumstances be recoverable by the person who made it, and 30
 - (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice and, if the default is remedied to the satisfaction of the Consumer Rights Enforcer and the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted at all. 35 40
- (3) In a prosecution for an offence to which this section applies, the onus of showing that a payment pursuant to a notice under this section has been made shall lie on the defendant. 45
- (4) All payments made to the Consumer Rights Enforcer in pursuance of this section shall be paid into or disposed of and for the benefit of the Exchequer in such manner as the Minister for Finance may direct.”. 50

8.—The Principal Act is amended by inserting the following section after section 25:

Attendance before committees of Houses of Oireachtas.

“Attendance before committees of Houses of Oireachtas.

25A.—(1) Subject to subsection (2), the Consumer Rights Enforcer shall, at the request in writing of a committee, attend before it to account for the general administration of the office of the Consumer Rights Enforcer as may be required by the committee.

(2) The Consumer Rights Enforcer shall not be required to account to a committee for any matter—

(a) relating solely to an individual complaint made to him or her under this Act in relation to an action, or

(b) which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.

(3) Where the Consumer Rights Enforcer is of opinion that a matter in respect of which he or she is requested to give account before a committee is a matter to which subsection (2) applies, he or she shall inform the committee of that opinion and the reasons therefor and, unless the information is conveyed to the committee at a time when the Consumer Rights Enforcer is before it, the information shall be so conveyed in writing.

(4) Where the Consumer Rights Enforcer has informed a committee of his or her opinion in accordance with subsection (3) and the committee does not withdraw the request referred to in subsection (1) in so far as it relates to a matter the subject of that opinion—

(a) the Consumer Rights Enforcer may, not later than 21 days after being informed by the committee of its decision not to do so, apply to the High Court in a summary manner for a determination as to whether the matter is one to which subsection (2) applies, or

(b) the chairperson of the committee may, on behalf of the committee, make such an application,

and the High Court may determine the matter.

(5) Pending the determination of an application under subsection (4), the Consumer Rights Enforcer shall not attend before the committee to give account for the matter the subject of the application.

(6) If the High Court determines that the matter concerned is one to which subsection (2) applies, the committee shall withdraw the request referred to in subsection (1) in relation to the matter, but if the High Court determines that subsection (2) does not apply, the Consumer Rights Enforcer shall attend before the committee to give account for the matter.

(7) In this section “committee” means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas, other than—

(a) the Committee on Members’ Interests of Dáil Éireann, or 5

(b) the Committee on Members’ Interests of Seanad Éireann,

or a subcommittee of such a committee.”.

Increase in penalties for non-display of price lists.

9.—Section 26 of the Act of 1958 (as amended by the Prices (Amendment) Act 1972) is amended— 10

(i) in paragraph (a) by substituting “€3,000” for each occurrence of “£100”,

(ii) in paragraph (a) by substituting “€300” for “£10”,

(iii) in paragraph (b) by substituting “€100,000” for “£500”, 15
and in paragraph (b) by substituting “€1,000” for “£50”.