

National Food Ombudsman Bill 2016

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National Food Ombudsman Bill 2016

Entitled

An Act to make provision for the establishment of a national food ombudsman as part of the Competition and Consumer Protection Commission; to mediate, investigate and adjudicate disputes and oversee the relationship between retailers, wholesalers and their suppliers, including the primary producer (farmers), with respect to undertakings in the grocery goods sector; and to provide for related matters.

Acts Referred to

Competition and Consumer Protection Act 2014 (No. of 2014)

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.

Short title

This Act may be cited as the National Food Ombudsman Bill 2016.

2.

Interpretation

In this Act,

“Commission” means the Competition and Consumer Protection Commission

“Relevant grocery goods undertaking” as outlined in S.I. No. 35/2016

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

“Ombudsman” means National Food Ombudsman

“Supplier” includes farmers

“Principle Act” means the Competition and Consumer Protection Act 2014

“Regulations” mean S.I. No 35/2016 – Consumer Protection Act 2007 (Grocery Goods Undertakings) Regulations 2016

“Shrinkage” and “wastage” as outlined in Principle Act

Appointment of Ombudsman

3.

(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.

(2) The appointment of a person to be the National Food Ombudsman shall be made by the Minister as outlined under Section 12 of the Principle Act as a member of the Competition and Consumer Protection Commission.

Functions of the Ombudsman

4.

(1) The Ombudsman shall be a member of 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:-

- (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
- (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
 - (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)
- (f) failure of a relevant grocery goods undertaking to
 - (i) pay a supplier within 30 days for goods received as specified in paragraph (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
 - (iii) submit to the Commission an annual compliance report detailing compliance with the "regulations" as per paragraph 18 of said "regulations"
 - (iv) maintain proper records for inspection by the Commission
- (g) or 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 section 4 (1) of this Act, and following a preliminary examination, may make a recommendation to the parties of the dispute in accordance with the aims of the Section 10 of the Principle Act.

Powers of the Ombudsman

5.

(1) Where, upon having carried out a preliminary examination of the matter, 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 4 (2)

the Ombudsman may recommend to the Commission that an investigation be carried out under section 18 of the Principle Act.

(2) The Ombudsman may, where they deem it so necessary, make recommendations to the Minister with regard to the proper functioning of the Consumer Protection Act 2007 (Grocery Goods Undertakings) Regulations 2016.

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Introduced by;

Deputy Charlie McConalogue