



## PARLIAMENT OF THE COOK ISLANDS

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### CONTROL OF PRICES AMENDMENT BILL 2019

#### EXPLANATORY NOTE

This Bill is intended to—

- modernise the offences and penalties provisions of the Control of Prices Act 1966; and
- increase the fees payable for the measurement of scales and other instruments, and for certificates of verification;
- enable the conversion of imperial measurements and figures in that Act into metric measurements;
- enable the making of regulations under that Act and make other minor reforms.

**Clause 1** relates to the Title.

**Clause 2** provides that the Bill comes into force on the day after the date on which it is assented to by the Queen's Representative.

**Clause 3** provides that the Bill amends the Control of Prices Act 1966.

**Clauses 4 and 5** provide for the responsible department and the Minister to administer the Act. These are the department and Minister authorised by the Prime Minister to undertake that role. In practice it is envisaged that the Ministry of Finance and Economic Management will be the administering department.

**Clause 6** consequentially amends a reference to “Financial Secretary” in section 13.

**Clause 7** increases the fees for measurement of scales and other measure instruments from \$5 to a sliding scale of \$10 per scale or other measure instrument, with a flat fee of \$50 for the measurement of 6 or more instruments. The present fee was set in 1973 and has not been adjusted since that date.

**Clause 8** similarly increases the fee for issuing a certificate of verification for weights and measures from \$5 to \$50.

**Clauses 9 to 14** amend the offence regimes in sections 23, 24, 24A, 25, 25A and 26 of the principal Act. Maximum fines will be prescribed by regulations but in order to ensure appropriate Parliamentary oversight, the maximum fines able to be prescribed are set out in *new section 32A*. The maximum fine able to be prescribed for offences committed by an individual is \$15,000. The maximum fine able to be prescribed for an offence by a company is \$60,000. The maximum fine for a continuing offence committed by either an individual or a company is \$500 for each day on which the offence is committed.

**Clause 15** consequentially amends references to the “Financial Secretary” in section 30.

**Clause 16** provides a new regulation-making power (*new clause 32A* of the principal Act). In addition to matters already mentioned, *clause 32A* allows regulations to be made providing for the supply of information to the Tribunal, follow up requests if the information is not supplied, and finally the power to enter and search premises, and seize documents if a request for those documents is not complied with.

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Hon. Mark Brown

[Placeholder for Crest]

## Control of Prices Amendment Bill 2019

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### An Act to—

- (a) modernise the offences and penalties provisions of the Control of Prices Act 1966; and
- (b) enable the conversion of imperial measurements in that Act into metric measurements; and
- (c) enable the making of regulations and make other minor reforms to that Act.

The Parliament of the Cook Islands therefore enacts as follows—

- 1 **Title**  
This Act is the Control of Prices Amendment Act 2019.
- 2 **Commencement**  
This Act comes into force on the day after the date on which it is assented to by the Queen's Representative.

**3 Principal Act**

This Act amends the Control of Prices Act 1966 (the **principal Act**).

**4 Section 2 amended (Interpretation)**

In section 2, repeal the definitions of **Financial Secretary and Minister**.

(2) In section 2, insert in their appropriate alphabetical order:

“**head** means, subject to any enactment, the head of the responsible department.  
“**responsible department** means the department that is, with the authority of the Prime Minister, for the time being, responsible for the administration of this Act.

“**responsible Minister or Minister** means, subject to any enactment, the Minister who is, with the authority of the Prime Minister, for the time being, responsible for the administration of this Act.”

**5 Section 3 replaced (Financial Secretary to Administer Act)**

Replace section 3 with:

**“3 Head of responsible department to administer Act**

The head of the responsible department is, subject to the directions and control of the responsible Minister, responsible for the administration of this Act.”

**6 Section 13 amended (Registers and secretarial services)**

In section 13, replace “Financial Secretary” with “head of the responsible department”.

**7 Section 22I amended (Inspection of scales and measure instruments)**

(1) In section 22I(2), replace “a fee of \$5 shall be paid” with “a fee calculated in accordance with subsection (2A) must be paid”.

(2) In section 22I, after subsection (2), insert:

“(2A) The fee payable under subsection (2) is—

“(a) \$10 per instrument or scale or other article measured:

“(b) in a place or for a business where more than 5 instruments, scales, or articles are measured a flat fee of \$50.”

**8 Section 22J amended (Verified weights and measures)**

In section 22J(4)(a), replace “\$5.00” with “\$50”.

**9 Section 23 amended (Profiteering, black marketing, etc)**

Replace section 23(2) with:

“(2) A person who commits an offence against subsection (1) is liable on conviction to,—

“(a) in the case of an individual, any or all of the following:

“(i) a fine not exceeding the prescribed amount:

“(ii) imprisonment for a term not exceeding 3 years:

“(iii) if the offence is a continuing offence, a fine not exceeding the prescribed amount for every day on which the offence continues:

“(b) in any other case, either or both of the following:

“(i) a fine not exceeding the prescribed amount:

“(ii) if the offence is a continuing offence, a fine not exceeding the prescribed amount for every day on which the offence continues.”

**10 Section 24 amended (Breach of Price orders)**

Replace section 24(1) with:

- “(1) A person commits an offence if, while a price order is in force, the person—
- “(a) sells or agrees or offers to sell goods to which that price order relates for a price that is in breach of that order; or
  - “(b) commits a breach of or fails to comply with any obligations imposed on the person by any terms and conditions included in the price order under section 16(3).
- “(1A) A person who commits an offence against subsection (1) is liable on conviction to,—
- “(a) in the case of an individual, any or all of the following:
    - “(i) a fine not exceeding the prescribed amount;
    - “(ii) imprisonment for a term not exceeding 3 years;
    - “(iii) if the offence is a continuing offence, to a fine not exceeding the prescribed amount for each day on which the offence continues;
  - “(b) in any other case, either or both of the following:
    - “(i) to a fine not exceeding the prescribed amount;
    - “(ii) if the offence is a continuing offence, to a fine not exceeding the prescribed amount for each day on which the offence continues.”

**11 Section 24A replaced (Breach of trade practice restriction order)**

Replace section 24A with:

**“24A Breach of trade practice restriction order**

- “(1) A person who acts or does anything else that contravenes a trade practice restriction order issued by the Tribunal under section 22B commits an offence.
- “(2) A person who commits an offence against subsection (1) is liable on conviction to,—
- “(a) in the case of an individual, any or all of the following:
    - “(i) a fine not exceeding the prescribed amount;
    - “(ii) imprisonment for a term not exceeding 3 years;
    - “(iii) if the offence is a continuing offence, to a fine not exceeding the prescribed amount for each day on which the offence continues;
  - “(b) in any other case, either or both of the following:
    - “(i) a fine not exceeding the prescribed amount;
    - “(ii) if the offence is a continuing offence, a fine not exceeding the prescribed amount for each day on which the offence continues.”

**12 Section 25 replaced (Default of witnesses)**

Replace section 25 with:

**“25 Default of witnesses**

“(1) Every person who is summoned to appear before the Tribunal as a witness commits an offence if the person, without reasonable excuse,—

“(a) fails to appear before the tribunal as required by the summons; or

“(b) fails to take the oath or make an affirmation as a witness; or

“(c) fails or refuses to give evidence; or

“(d) fails or refuses to produce to the Tribunal any books or documents that he or she is required to produce.

“(2) A person who commits an offence against subsection (1) is liable on conviction to any or all of the following:

“(a) a fine not exceeding the prescribed amount;

“(b) imprisonment for a term not exceeding 1 year.”

**13 Section 25A amended (Offences under Part 11A – Weights and measures)**

(1) Replace section 25A(1) with:

“(1) A person commits an offence if the person wilfully obstructs, hinders, or resists any inspector in the exercise or performance of any power or function conferred by this Act.

“(1A) A person who commits an offence under subsection (1) is liable on conviction to,—

“(a) in the case of an individual, any or all of the following:

“(i) a fine not exceeding the prescribed amount;

“(ii) imprisonment for a term not exceeding 3 years;

“(iii) if the offence is a continuing one, a fine not exceeding the prescribed amount for each day on which the offence continues;

“(b) in any other case, either or both of the following:

“(i) a fine not exceeding the prescribed amount;

“(ii) if the offence is a continuing one, a fine not exceeding the prescribed amount for each day on which the offence continues.”

(2) Replace section 25A(2)(b) with:

“(b) a person who commits or attempts to commit an offence against paragraph (a) is liable on conviction to,—

“(i) in the case of an individual, either or both of the following:

“(A) a fine not exceeding the prescribed amount;

“(B) if the offence is a continuing one, to a fine not exceeding the prescribed amount for each day on which the offence continues;

“(ii) in any other case, either or both of the following:

“(A) a fine not exceeding the prescribed amount;

“(B) if the offence is a continuing one, a fine not exceeding the prescribed amount for each day on which the offence continues.”

**14 Section 26 amended (Other offences)**

Replace section 26(2) with:

- “(2) A person who commits or attempts to commit an offence against subsection (1) is liable on conviction to,—
- “(a) in the case of an individual, either or both of the following:
- “(i) a fine not exceeding the prescribed amount;
  - “(ii) if the offence is a continuing one, a fine not exceeding the prescribed amount for each day on which the offence continues;
- “(b) in any other case, to either or both of the following:
- “(i) a fine not exceeding the prescribed amount;
  - “(ii) if the offence is a continuing one, a fine not exceeding the prescribed amount for each day on which the offence continues.”

**15 Section 30 amended (Delegation of powers of Tribunal)**

In section 30(1), (2), (3), (5) and (7), replace “Financial Secretary” with “head of the responsible department” in each place.

**16 New section 32A inserted (Regulations)**

After section 32, insert:

**“32A Regulations**

- “(1) The Queen’s Representative may, by Executive Order in Council, make regulations—
- “(a) prescribing any thing required or authorised to be prescribed under this Act; and
  - “(b) prescribing any matter that is necessary or desirable for carrying this Act into effect.
- “(2) Without limiting subsection (1), regulations made under that subsection may include—
- “(a) regulations prescribing—
    - “(i) maximum fines not exceeding \$15,000 for individuals convicted of any offence against section 23(1), 24(1), 24A(1), 25(1), 25A(1) and (2)(a), or 26(1);
    - “(ii) maximum fines not exceeding \$60,000 for other persons convicted of any offence against section 23(1), 24(1), 24A(1), 25(1), 25A(1) and (2)(a), or 26(1);
    - “(iii) maximum fines not exceeding \$500 per day for continuing offences against section 23(1), 24(1), 24A(1), 25A(1) and (2)(a), or 26(1);
  - “(b) regulations—
    - “(i) amending the provisions of the Act setting out fees, weights, and measures in imperial measurements and substituting the corresponding amounts in decimal currency and metric measurements; and
    - “(ii) setting out those fees, measures, and weights in a schedule in the regulations or in some other convenient form;
  - “(c) regulations prescribing fees for things done under this Act:

- “(d) regulations providing for inspections and inquiries on behalf of the Tribunal, including—
- “(i) the making of requests in the prescribed manner for documents to be supplied within a specified period:
  - “(ii) the making of follow-up requests within a specified period:
  - “(iii) provision for the entry and search of premises, vehicles, or other things for documents and for the seizure of those documents if a request for documents is not complied with:
  - “(iv) providing for ancillary matters relating to entry, search and seizure of premises, vehicles, or other things (for example, notice requirements (if any)):
- “(e) regulating the timing of the publication of notices about orders:
- “(f) setting out procedures for the calculations incorporated into, or set out in, price orders, weight orders, and measurement orders.”

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This Act is administered by the Ministry of Finance and Economic Management.  
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