

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
41ST CONSTITUTION REGULAR SESSION, 2020



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

RETAIL PRICE MONITORING (AMENDMENT) ACT, 2020.

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RETAIL PRICE MONITORING (AMENDMENT) ACT, 2020.

AN ACT to amend Title 10, Chapter 11 of the MIRC, to empower, in accordance with the Legal Profession Act and Attorney General Act, the Police Prosecutor to prosecute misdemeanour cases to effectively enforce this Act; and to designate a Reporter to assist the Board in gathering retail price information; also to decrease the third offense fine consistently with the original jurisdiction of the District Court.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§101. Short title.

This Act may be cited as the Retail Price Monitoring (Amendment) Act, 2020..

§102. Amendments.

(1) *The Long Title of Retail Price Monitoring Act of 1992, is hereby amended to read as follows:*

“AN ACT to provide for the monitoring of retail prices charged in the Republic; to gather information on retail pricing; to encourage consumer education; and to repeal the Price Control Act 1975”.

(2) *Section 1103 of the Retail Price Monitoring Act of 1992 is hereby amended to insert a new subsection (11) after Subsection (10) to read as follows:*

- “(1) **“Police Prosecutor”** shall have the same meaning as the term “police prosecution in Section 502 of the *Legal Profession Act 1991*.”
- (3) *Section 1107 Subsections (2) (3) and (4) of the Retail Price Monitoring Act of 1992 is hereby amended to remove and insert new languages to read as follows:*
- “(2) The list prepared pursuant to Subsection (1) of the Section shall be transmitted to each local government, or such other persons who will assist in gathering and reporting retail price information, if the Board determines that there is a conflict of interest where the head or any member of the council is a retailer, the board, may designate such other person as reporter.
- (3) If such an interest is identified, that person shall remove themselves from any consideration or action on the issue at hand.
- (4) Each local government or reporter of information must indicate the following for each item on the list:
- (a) the name and address of each retailer and retail location offering the item for sale;
- (b) the current price being charged by each retailer; and
- (c) any other information relating to pricing and availability.
- (5) The information compiled by the local governments or other person as reporter shall be transmitted to the Board.
- (6) The information shall be updated every six months.
- (7) Summaries of the information shall be made available to the public.
- (4) *Section 1109(1),(2),(3) and (4) of the Retail Prince Monitoring Act of 1992 is hereby amended to read as follows:*
- (1) Whenever the Board determines, based upon information from the local governments or other person as reporter, information on the cost of transportation and shipping, and any other information the Board may receive, that prices charged by a retailer for any essential commodities on any atoll or island or

upon field trip and commercial vessels in the Republic are in excess of 25% over the total of the baseline price plus the relevant transportation, shipping and other associated costs as determined by the Board, the Board shall:

- (a) declare price controls in effect with respect to such essential commodities in the atolls and islands or vessels affected;
 - (b) issue a declaration imposing price controls which shall state:
 - (i) the reasons for the imposition;
 - (ii) the terms of the price restrictions imposed;
 - (iii) the information upon which the restrictions are based, the formula to be used in determining the maximum lawful price of affected essential commodities or both; and (iv) the areas and essential commodities affected.
 - (c) a copy of the declaration shall be filed with the Chief Secretary, the local government of all islands or atolls affected, and, as applicable, on the captain of the vessel, and
 - (d) shall be publicized in a way that will best bring the declaration to the attention of the residents of those islands or atolls or other relevant population.
- (2) In any declaration, or by regulation, the Board may make allowances for breakage, spillage, theft, and hardship cases as the Board deems equitable.
- (3) Whenever the Board determines, based upon information from the local governments or other person as reporter, information on the cost of transportation and shipping, and any other information the Board may receive, that prices charged by a retailer for any essential commodities on any atoll or island or upon field trip and commercial vessels in the Republic are in excess of 25% over baseline price for the essential commodity plus the relevant transportation, shipping, and other costs associated as determined by the Board, the Board shall implement the price control provisions of Section 1109.

- (4) Commencing the fourth day after the date upon which the declaration is filed with the Chief Secretary it shall be unlawful for any person to sell or offer to sell in the locality or upon the vessels specified in a declaration, an essential commodity at a price greater than the maximum lawful price specified in the declaration or as determined with reference to a declaration, except as may be specified by the Board in accordance with this Chapter.
- (5) *Section 111(1) and (2) of the Retail Price Monitoring act of 1992 is hereby amended to insert a new Subsection (1 A) to read as follows:*
 - (1) Any other provision of this Chapter and any provision of any declaration of the Board or resolution of the Nitijela to the contrary notwithstanding, if at any given time an essential commodity is sold or offered for sale at a price that does not exceed 25% over the total of the baseline price plus the cost of transportation, shipping, and other costs associated as determined by the Board for that essential commodity, such sale shall not constitute a violation of this Chapter or of any declaration issued under the authority of this Chapter. This provision shall not apply when the Board determines that the wholesale price represents the relevant baseline.
 - (2) Any person intending to sell or offer to sell, at a price which exceeds one hundred twenty-five percent (125%) of the baseline price plus shipping, transportation and other costs associated as determined by the Board for an essential commodity that is subject to a declaration must furnish to the Board at least the following information:
 - (a) the specific reason that the price will exceed the allowed mark up;
 - (b) copies of any and all invoices or other documentation showing the cost;
 - (c) evidence of their costs of doing business at the location in question; and
 - (d) any other relevant information.
- (6) *Section 1113 of the Retail Price Monitoring act of 1992 is hereby amended to insert a new Subsection (1 A) to read as follows:*

- “(1A) Subject to the *Legal Profession Act 1991* and the Attorney General Act of 2002, the local Government or other person as reporter through the police prosecutor, may prosecute any Petty misdemeanour and misdemeanour cases, in accordance with this Chapter.
- (6) *Section 1113 Subsection (5) of the Retail Price Monitoring Act of 1992 is hereby amended to remove and insert new languages to read as follows:*
- “(5) If the board is not so satisfied at the end of such ten (10) day period shall report the violation to the Attorney General or the police prosecutor for prosecution in accordance with this Chapter.”
- (7) *Section 1114 of the Retail Price Monitoring Act of 1992 is hereby repealed to read as follows:*
- “(1) Any person who violates for the first time any provision of this Chapter or any declaration or regulation issued hereunder shall be guilty of a petty misdemeanour and shall upon conviction be liable to a fine not exceeding \$400.00 or, if a natural person, to a term of imprisonment not exceeding six (6) months, or both.
- “(2) Any person who violates for the second time any provision of the Chapter or any declaration or regulation issued hereunder shall be guilty of a misdemeanour and shall upon conviction be liable to a fine not exceeding \$1,000 or, if a natural person, to a term of imprisonment not exceeding one (1) year or both.
- “(3) Any person who violates for the third time any provision of the Chapter or any declaration or regulation issued hereunder shall be guilty of a felony and shall upon conviction be liable to a fine not exceeding \$4,000 or, if a natural person, to a term of imprisonment not exceeding three (3) years, or both.
- “(4) Each sale or offer for sale of an essential commodity in violation of the Chapter or of declaration and regulations of the Board shall constitute a separation violation thereof and shall be punished as such. In making a determination on sentencing the Court shall take into account the overall circumstances of the person found guilty of a violation. The Court may, when appropriate, provide for a term of

imprisonment for the person within a corporation, partnership or other organization, that was responsible for the violation.

§103. Effective Date.

This Act shall come into force in accordance with the Article V, Section 21, of the Constitution and the Rules of Procedures of the Nitijela.

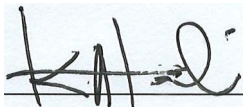
CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 18ND1 was passed by the Nitijela of the Republic of the Marshall Islands on the 21st day of May 2020; and

2. That I am satisfied that Nitijela Bill No: 18ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 4th day of June 2020.



Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:



Morean S. Watak
Clerk
Nitijela of the Marshall Islands