



Control of Prices Regulations 2021

Sir Tom J. Marsters, KBE

Queen's Representative

Order in Executive Council

At Avarua, Rarotonga this 24th day of August, 2021

Present:

His Excellency the Queen's Representative in Executive Council

Pursuant to section 32A of the Control of Prices Act 1966, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

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Regulations

1 Title

These regulations are the Control of Prices Regulations 2021.

2 Commencement

These regulations come into force on the day after the date on which they are made.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Control of Prices Act 1966

Justice of the Peace means a Justice of the Peace for the Cook Islands appointed under the Constitution

northern Pa Enua means the islands of Manihiki, Nassau, Palmerston, Penrhyn, Pukapuka, Rakahanga, and Suvarrow

occupier means, in relation to a place, the person apparently in control of the place (but a person under 14 years of age cannot be an occupier)

place includes any premises, vehicle, or other thing

southern Pa Enua means the islands of Aitutaki, Atiu, Mangaia, Manuae, Mauke, Mitiaro, and Takutea.

(2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Complaints and investigations

4 Making a complaint

(1) A person may make a complaint to the Tribunal that another person has contravened, is contravening, or is about to contravene the Act.

(2) The complaint may be made in person, by phone call, or in writing, including by email.

- (3) The complainant must provide their identity to the Tribunal, but their identity may be protected on request (except to the extent that disclosure is required by law).
- (4) The complaint must identify—
 - (a) the person complained about; and
 - (b) the trade practice or the item of goods or the service that is the subject of the complaint and, for an item of goods or a service, where it is for sale.

5 Investigating a complaint

- (1) The Tribunal must begin investigating a complaint within 10 working days after receiving it.
- (2) An investigation may include—
 - (a) a request to the party that is the subject of the complaint for books or documents under **regulation 6**; and
 - (b) any follow-up request under **regulation 7**.
- (3) The Tribunal may advise the complainant whether the complaint is under investigation and must advise the complainant of the outcome of the investigation.

Requests for books and documents

6 Requests for books or documents

- (1) This regulation applies to requests for books or documents—
 - (a) under section 19(b) of the Act for inquiries undertaken in relation to making a price order; and
 - (b) for other investigations and inquiries under the Act.
- (2) A request for books or documents must—
 - (a) be in form 1 of **Schedule 1** of these regulations; and
 - (b) be addressed to the person believed to be in possession of the books or documents requested; and
 - (c) be delivered by hand or sent by email to the person believed to be in possession of the books or documents requested.
- (3) The request must—
 - (a) describe the books or documents requested with enough details to reasonably enable them to be provided; and
 - (b) set a date that is—
 - (i) 5 working days after the date of the request by which the documents must be provided to the Tribunal, for documents requested in relation to making a price order;
 - (ii) 10 working days after the date of the request by which the documents must be provided to the Tribunal, for documents requested in relation to other investigations, inspections, and inquiries under the Act; and
 - (c) specify whether a physical copy or an electronic copy, or both, of the books or documents must be provided.

7 Follow-up requests for books or documents

- (1) This regulation applies when a book or document has been requested in accordance with **regulation 6** but the book or document is not provided by the date specified in the request.
- (2) The Tribunal or a person authorised in writing by the Tribunal may make a follow-up request, which must—
 - (a) be in form 2 of **Schedule 1**; and
 - (b) be addressed to the person believed to be in possession of the books or documents requested; and
 - (c) be delivered by hand or sent by email to that person.
- (3) The follow-up request must—
 - (a) describe the book or document requested with enough details to enable it to be provided; and
 - (b) set a date that is—
 - (i) 2 working days from the date of the request by which the information must be provided to the Tribunal, for information requested in relation to making a price order; or
 - (ii) 5 working days from the date of the request by which the information must be provided to the Tribunal, for information requested in relation to other investigations and inquiries under the Act; and
 - (c) invite the recipient of the request to contact the Tribunal if there is difficulty in complying with the request; and
 - (d) specify the offence and penalty if the person fails to comply with the request.

Searches

8 Searches

- (1) This regulation applies to the entry and search of a place for books or documents under section 19(d) or another provision of the Act.
- (2) Any entry, search, and seizure may only be carried out by a member of the Tribunal or a person authorised in writing by the Tribunal and only—
 - (a) with the consent of the occupier of the place; or
 - (b) if authorised by a warrant issued under **regulation 9**.

9 Entry, search, and seizure under search warrant

- (1) A Judge or Justice of the Peace may, on application, issue a search warrant for books or documents for the purposes of the Act and these regulations.
- (2) The application must be in form 1 of **Schedule 2** and must—
 - (a) be made by a member of the Tribunal or a person authorised in writing by the Tribunal; and
 - (b) be accompanied by written information (given on oath or affirmation) in support of the application, including—
 - (i) a statement that a follow-up request for the books or documents has not been complied with within the time specified in the request; and

- (ii) the reasons that the person making the application suspects that the books or documents sought are in the possession of the occupier.
- (3) A warrant under these regulations to enter or search a place authorises the member of the Tribunal or other authorised person named in the warrant, and any other member of the Tribunal or authorised person, to execute the warrant with any assistance that is necessary.
- (4) A warrant must be in form 2 of **Schedule 2**.

10 Period of warrants and execution on multiple occasions

- (1) A search warrant must specify the day, not more than 14 days after its issue, on which it ceases to be in force.
- (2) A warrant may be executed on 1 occasion or multiple occasions while it is in force, as specified in the warrant.
- (3) Another warrant may be issued before or after the warrant has ceased to be in force.

11 Restrictions on issue of search warrant

A search warrant may not be issued to seize a book or document held by a lawyer that is a communication of a kind to which legal professional privilege normally applies.

12 Search powers

A search warrant authorises the person executing it to exercise the powers specified in the warrant.

13 Seizure of books or documents under search warrant

- (1) A person who seizes any books or documents under a search warrant must provide the occupier of the place where the books are seized with a notice in form 3 of **Schedule 2**.
- (2) If a person executing a search warrant is uncertain whether any item found may be lawfully seized and it is not reasonably practicable to determine whether that item can be seized at the place that is being searched, the person executing the warrant may, subject to subclause (1), remove the item for the purpose of examination or analysis to determine whether it may be lawfully seized.

14 Powers of persons called on to assist

- (1) A person called on to assist a person executing a search warrant is subject to the control of the person with the overall responsibility for executing the warrant.
- (2) A person called on to assist a person executing a search warrant may exercise the powers in the warrant that are specified to apply to persons assisting.
- (3) If a Police officer is assisting a person executing a search warrant, that Police officer may, without any direction or supervision by the person he or she is assisting, exercise any power ordinarily exercisable by that Police officer.
- (4) The person executing a search warrant must—
 - (a) accompany any assistant on the first occasion when the assistant enters the place; and
 - (b) provide such other supervision of any assistant as is reasonable in the circumstances.

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- (5) Subclause (4) does not apply if the assistant is a Police officer.

Making price orders

15 Calculations when Tribunal makes price orders for goods

- (1) The Tribunal must calculate and take into account the amounts in subclause (2) that apply to goods, when fixing prices for a price order for those goods.
- (2) The amounts are—
- (a) the maximum landing cost:
 - (b) levies payable:
 - (c) the operating allowance:
 - (d) the profit contribution:
 - (e) value-added tax payable:
 - (f) maximum retail margins in Rarotonga, the southern Pa Enua, and the northern Pa Enua:
 - (g) other amounts as approved by order in Executive Council.

Fines

16 Maximum fines

Maximum fines for offences under the Act are set out in the following table:

Provision of Act imposing penalty for offence	Maximum amount of fine
23(2)(a)(i)	\$5,000
23(2)(a)(iii)	\$100 for each day the offence continues
23(2)(b)(i)	\$30,000
23(2)(b)(ii)	\$250 for each day the offence continues
24(1A)(a)(i)	\$5,000
24(1A)(a)(iii)	\$100 for each day the offence continues
24(1A)(b)(i)	\$30,000
24(1A)(b)(ii)	\$250 for each day the offence continues
24A(2)(a)(i)	\$5,000
24A(2)(a)(iii)	\$100 for each day the offence continues
24A(2)(b)(i)	\$30,000
24A(2)(b)(ii)	\$250 for each day the offence continues
25(2)(a)	\$5,000
25A(1A)(a)(i)	\$5,000
25A(1A)(a)(iii)	\$100 for each day the offence continues
25A(1A)(b)(i)	\$30,000
25A(1A)(b)(ii)	\$250 for each day the offence continues
25A(2)(b)(i)(A)	\$5,000
25A(2)(b)(i)(B)	\$100 for each day the offence continues

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25A(2)(b)(ii)(A)	\$30,000
25A(2)(b)(ii)(B)	\$250 for each day the offence continues
26(2)(a)(i)	\$2,000
26(2)(a)(ii)	\$50 for each day the offence continues
26(2)(b)(i)	\$30,000
26(2)(b)(ii)	\$100 for each day the offence continues

Warrants of appointment and identity cards

17 Warrants of appointment

A person appointed as a member of the Tribunal under sections 5 to 7 of the Act must be issued with a warrant of appointment in form 1 of **Schedule 3**.

18 Identity cards

An inspector appointed under section 22G of the Act must be issued with—

- (a) a warrant of appointment in form 2 of **Schedule 3**; and
- (b) an identity card certifying their appointment in form 3 of **Schedule 3**.

Delegation of powers

19 Delegation of powers of president

- (1) The President may delegate his or her powers under the Act to a member of the Tribunal during a period when the President is absent or otherwise unable to fulfil his or her duties.
- (2) A delegation must be in writing.
- (3) The President may not delegate the power of delegation.

Schedule 1

Form 1 Request for books or documents

r 7

*Section 19(b), Control of Prices Act 1966;
Regulation 7, Control of Prices Regulations 2021*

To *[name (full name if known) of person required to produce books or documents]*

You are required by this order to produce to the Price Tribunal the following book(s) or documents(s):

[Specify the book(s) or document(s) to be provided.]

The books(s) or documents(s) must be produced to *[full name]*, member/authorised representative* of the Price Tribunal, by 4 pm on *[day, date]* at *[place]*.

*Select one.

You are also required by this order to allow copies of or extracts from the book(s) or document(s) to be made.

The book(s) or document(s) are required as part of an inquiry or investigation under the Control of Prices Act 1966.

Name of Price Tribunal member/authorised representative*:

*Select one.

Signature:

Date:

Form 2
Follow-up request for books or documents

r 7

*Section 19(b), Control of Prices Act 1966,
regulation 7, Control of Prices Regulations 2021*

To *[name (full name if known) of person required to produce books or documents]*

This is a follow-up request because the book(s) or document(s) requested in the order to you dated *[date of request]* has/have not been produced.

The book(s)/documents(s) is/are*:

*Select one.

[Specify the book(s) or document(s) to be produced.]

The books(s) or documents(s) must be produced to *[full name]*, member/authorised representative* of the Price Tribunal, by 4 pm on *[day, date]* at *[place]*.

*Select one.

You must also allow copies of or extracts from the book(s) or document(s) to be made.

The book(s) or document(s) are required as part of an inquiry or investigation under the Control of Prices Act 1966.

Please contact *[name of Price Tribunal member or authorised representative]* as soon as possible if there is a difficulty complying with the request.

It is an offence under the Control of Prices Act 1966 not to comply with this request. The maximum penalty on conviction for the offence is \$2000 for an individual and \$30,000 for any other person. The maximum fine for continuing offences is \$50 a day for an individual and \$100 a day for any other person.

Name of Price Tribunal member/authorised representative*:

*Select one.

Signature:

Date:

Schedule 2

Form 1

Application for search warrant to enter and search place *Regulation 9, Control of Prices Regulations 2021*

r 9

Name of applicant:

Details of warrant applied for:

[address or other description of the place to be searched.]

[description of the books or documents that the applicant wishes to search for and seize.]

[period for which warrant is sought, which must not be longer than 14 days, and number of times it is proposed to execute warrant]

Name of applicant:

Position:

Signature:

Date:

Note

The application must be accompanied by written information (given on oath or affirmation) in support of the application, including—

- (a) a statement that a follow-up request for the books or documents has not been complied with within the time specified in the request; and
- (b) the reasons that the person making the application suspects that the books or documents sought are in the possession of the occupier.

Form 2
Search warrant to enter and search place
Regulation 9, Control of Prices Regulations 2021

r 9

To every member of the Tribunal or authorised person

- 1 I am satisfied, on an application made in accordance with regulation 9 of the Control of Prices Regulations 2021 (the regulations) by *[full name of applicant]*, that, in relation to *[specify address or description of place that may be entered and searched]*,—
 - (c) a follow-up request for books or documents, made under regulation 7 of the regulations, has not been complied with within the time specified in the request; and
 - (d) the books or documents that are the subject of the follow-up request are reasonably likely to be in the possession of the occupier of the place.

- 2 This warrant authorises you, under regulation 9 of the regulations, to—
 - (a) enter and search *[address or description of place]* and any item in that place, at any reasonable time with the knowledge of the occupier; and
 - (b) request any person to assist with the entry and search; and
 - (c) use any force in respect of any property that is reasonable for the purposes of carrying out the search and any lawful seizure; and
 - (d) seize *[describe, in reasonable detail, what may be seized]*; and
 - (e) bring and use in the place searched any equipment, to use any equipment found on the place, and extract electricity from the place to operate the equipment that is reasonable to use in the circumstances, for the purposes of carrying out the entry and search; and
 - (f) copy any document, or part of a document, that may be lawfully seized;
 - (g) use any reasonable measures to access a computer system or other data storage device located (in whole or part) at the place if any intangible material that is the subject of the search may be in that computer system or other device; and
 - (h) if any intangible material accessed under paragraph (g) is the subject of the search or may otherwise be lawfully seized, to copy that material (including by means of previewing, cloning, or other forensic methods either before or after removal for examination); and
 - (i) to take photographs, sound and video recordings, and drawings of the place searched, and of anything found in or on that place, if the person exercising the power has reasonable grounds to believe that the photographs or sound or video recordings or drawings may be relevant to the purposes of the entry and search.

- 3 A person assisting you (other than a Cook Islands Police officer) is subject to your control and has the power to do any of the following:
 - (a) enter the place to be searched;
 - (b) while in your company and under your direction, use reasonable force in respect of any property for the purposes of carrying out the entry and search and any lawful seizure;

- (c) search areas within the place that you determine may be lawfully searched:
 - (d) seize anything that you determine may be lawfully seized:
 - (e) take photographs, sound and video recordings, and drawings of the place and things found in the place, if you determine those things may be lawfully done:
 - (f) bring into the place searched and use any equipment, make use of any equipment found in or on the place, and extract electricity from the place for the purpose of operating the equipment if you determine those things may be lawfully done:
 - (g) use any reasonable measures to access a computer system or other data storage device located (in whole or in part) at the place if you determine those things may be lawfully done:
 - (h) copy any document, or part of a document, that you determine may be lawfully copied:
 - (i) copy any document, or part of a document, that the person executing the warrant has determined may be lawfully copied.
- 4 This warrant may be executed from the date of issue until the close of [*date that is not later than 14 days after issue*].
- 5 This warrant is subject to the following conditions: [*specify any conditions*].
- 6 This warrant may be executed on 1 occasion/[*specify number*] occasions*.
*Select one.

Name of Judge/Justice of the Peace*:

*Select one.

Signature:

Date:

Form 3
Notice to occupier of books or documents seized under search warrant
Regulation 13, Control of Prices Regulations 2021

r 13

To the occupier

I have seized books or documents under the authority of a search warrant issued under the Control of Prices Regulations 2021.

The books or documents seized are—

[List books and documents seized]

Please contact *[name]* at *[address]* to enable the books and documents to be returned to you within a reasonable time after copies or extracts are taken from them or they are otherwise no longer required.

Name of person executing warrant:

Position:

Signature:

Date:

Schedule 3

Form 1

Warrant of appointment for member of Price Tribunal *Sections 5 to 7, Control of Prices Act 1966*

r 17

I appoint [*name*] as President/member/associate member* of the Price Tribunal.
* Select one.

Name of Minister of Finance:

Signature:

Date:

Form 2
Warrant of appointment of inspector
Section 22G, Control of Prices Act 1966;
Public Service Act 2009

r 18

On the recommendation of the Minister, I appoint [*name*] as an inspector of the Price Tribunal for the purpose ensuring compliance with Part IIA (Weights and Measures) of the Control of Prices Act 1966.

Name of President of Price Tribunal:

Signature:

Date:

Form 3
Identity card for inspector
Section 22G, Control of Prices Act 1966

r 18

Full name:

Identification number:

[photo of warrant holder]

Signature of warrant holder:

This is to certify that the person whose name, photograph, and signature appear on this warrant—

- is an inspector appointed under section 22G of the Control of Prices Act 1966 and the Public Service Act 2009; and
- may exercise the powers conferred on inspectors by the Control of Prices Act 1966.

Name of President of Price Tribunal:

Signature:

Date:


Clerk of the Executive Council

These regulations are administered by the Ministry of Finance and Economic Management.

These regulations were made on the 24th day of August 2021.