



COVERSHEET

Minister	Hon Nicola Willis	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Penalties for the Grocery Supply Code 2025 Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026 – authorisation for submission to Executive Council	Date to be published	13 May 2026

List of documents that have been proactively released

Date	Title	Author
December 2025	Penalties for the Grocery Supply Code 2025	Office of the Acting Minister for Commerce and Consumer Affairs (Grocery Sector)
3 December 2025	Penalties for the Grocery Supply Code 2025 ECO-25-MIN-0201 Minute	Cabinet Office
March 2026	Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026 – authorisation for submission to Executive Council	Office of the Acting Minister for Commerce and Consumer Affairs (Grocery Sector)
26 March 2026	Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026 – authorisation for submission to Executive Council LEG-26-MIN-0047 Minute	Cabinet Office

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

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Office of the Acting Minister of Commerce and Consumer Affairs (Grocery Sector)
Chair, Cabinet Legislation Committee

Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026 – authorisation for submission to Executive Council

Proposal

- 1 This paper seeks authorisation to submit the Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026 to the Executive Council.

Policy

- 2 In October 2025, the Commerce Commission (the **Commission**) finalised its review of the Grocery Supply Code 2023 (the **2023 Code**). The Commission found that the 2023 Code remains largely fit for its intended purpose of promoting fair conduct, transparency and competition in the grocery sector, but suggested improvements. The Commission made a new Grocery Supply Code 2025 (the **2025 Code**) by determination. The 2025 Code carries over the 2023 Code provisions with amendments to prevent regulated grocery retailers (**retailers**) from:
 - 2.1 buying excess stock at promotional prices to sell later at a higher price; and
 - 2.2 charging suppliers for wastage that occurs while products are in their control.
- 3 The 2025 Code also includes new provisions to:
 - 3.1 prevent retailers from retaliating against suppliers if suppliers exercise their rights under the 2025 Code or a grocery supply agreement, or if suppliers engage with the Commission or a dispute resolution service; and
 - 3.2 require retailers to keep certain written records for seven years and make these available to the Commission on request.
- 4 Under the Grocery Industry Competition Act 2023 (the **Act**), breaches of the Code are subject to pecuniary penalties. The Act allows the Commission to make the grocery supply code, but penalties may only be set through Order in

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Council. There are three tiers¹ of penalties available for breaches of a grocery supply code:

- 4.1 **Tier 1** maximum penalties of \$500,000 for an individual, and in any other case the greater of:
 - 4.1.1 \$10 million; and
 - 4.1.2 either 3 times the value of any commercial gain resulting from the contravention; or
 - 4.1.3 10% of the turnover of the person and all its interconnected bodies corporate in each accounting period the contravention occurred.
 - 4.2 **Tier 2** maximum penalties of \$200,000 for an individual, and in any other case the greater of:
 - 4.2.1 \$3 million; and
 - 4.2.2 either the value of any commercial gain resulting from the contravention; or
 - 4.2.3 3% of the turnover of the person and all its interconnected bodies corporate in each accounting period the contravention occurred.
 - 4.3 **Tier 4** maximum penalties of \$30,000 for an individual and \$300,000 in any other case.
- 5 Regulations 9 and 10 of the Grocery Industry Competition Regulations 2023 (the **Regulations**) specify which provisions of the Code give rise to pecuniary penalties under sections 127 and 129 of the Act.
- 6 On 3 December 2025, Cabinet agreed [ECO-25-MIN-0201 refers] to amend the Regulations to:
- 6.1 maintain existing Tier 2 and Tier 4 penalties under the Act for clauses carried over from the 2023 Code to the 2025 Code;
 - 6.2 prescribe Tier 2 penalties under the Act for breaches of the new retaliation prohibition in the 2025 Code; and
 - 6.3 prescribe Tier 4 penalties under the Act for breaches of the new record keeping requirements in the 2025 Code.
- 7 This paper seeks approval to amend the Regulations to set the penalty levels above for breaches of the 2025 Code. The amended regulations are attached.

¹ Tier 3 penalties do not apply to contraventions of the Code. Tier 3 only applies to contraventions of disclosure standards.

Timing and 28-day rule

- 8 The Regulations are set to come into force on 1 May 2026. I am not seeking a waiver of the 28-day rule.

Compliance

- 9 The Regulations comply with:
- 9.1 the principles of the Treaty of Waitangi;
 - 9.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 9.3 the principles and guidelines set out in the Privacy Act 2020;
 - 9.4 relevant international standards and obligations; and
 - 9.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 10 The Regulations are being made in accordance with sections 14(1)(a) and 196(4) of the Grocery Industry Competition Act. The Regulations are being recommended after the Commission has given recommendations on the Regulations and I have had regard to those recommendations.

Regulations Review Committee

- 11 I am not aware of any grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 12 The regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet, subject to the regulations being made on the recommendation of the Acting Minister of Commerce and Consumer Affairs (Grocery Sector) in accordance with sections 14(1)(a) and (b) and 196(4) of the Act.

Impact Analysis

- 13 The Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social or environmental impacts.

Publicity

- 14 The Commerce Commission will provide an update to suppliers and regulated Grocery Retailers when the 2025 Code comes into force.

Proactive release

- 15 This paper will be proactively released within 30 business days, with appropriate redactions, if needed.

Consultation

- 16 The Treasury, the Ministry of Regulation, the Ministry of Justice, Parliamentary Counsel Office, and the Commerce Commission were consulted on this paper. The Department of Prime Minister and Cabinet have been informed.

Recommendations

The Acting Minister of Commerce and Consumer Affairs (Grocery Sector) recommends that the Cabinet Legislation Committee:

- 1 **note** that the Commerce Commission has made a new Grocery Supply Code (the 2025 Code) by determination and that the 2025 Code:
 - 1.1 carries over the provisions of the Grocery Supply Code 2023 (the 2023 Code) with amendments;
 - 1.2 introduces a new retaliation prohibition;
 - 1.3 introduces new record keeping requirements for regulated grocery retailers.
- 2 **note** that on 3 December 2025, the Cabinet Economic Policy Committee agreed [ECO-25-MIN-0201 refers] to amend the Grocery Industry Competition Regulations 2023 (the Regulations) to:
 - 2.1 maintain existing Tier 2 and Tier 4 penalties under the Grocery Industry Competition Act 2023 (the Act) for clauses carried over from the 2023 Code to the 2025 Code;
 - 2.2 prescribe Tier 2 penalties under the Act for breaches of the new retaliation prohibition in the 2025 Code; and
 - 2.3 prescribe Tier 4 penalties under the Act for breaches of the new record keeping requirements in the 2025 Code.
- 3 **note** that the Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026 will give effect to the decisions referred to in recommendation 2 above;
- 4 **authorise** the submission to the Executive Council of the Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026; and
- 5 **note** that the Grocery Industry Competition (Grocery Supply Code) Amendment Regulations 2026 will come into force on 1 May 2026.

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Authorised for lodgement

Hon Nicola Willis

Acting Minister of Commerce and Consumer Affairs (Grocery Sector)

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