



Resale Prices Act 1976

1976 CHAPTER 53

PART II

INDIVIDUAL MINIMUM RESALE PRICE MAINTENANCE

Applications to the Restrictive Practices Court in relation to exemptions

14 Exemption of goods by the Court

- (1) Upon an application under section 16 or section 17 below the Restrictive Practices Court ("the Court") may make an order in accordance with this section directing that goods of any class shall be exempted goods for the purposes of this Part of this Act.
- (2) The order referred to in subsection (1) above may be made if it appears to the Court that in default of a system of maintained minimum resale prices applicable to those goods—
 - (a) the quality of the goods available for sale, or the varieties of the goods so available, would be substantially reduced to the detriment of the public as consumers or users of those goods; or
 - (b) the number of establishments in which the goods are sold by retail would be substantially reduced to the detriment of the public as such consumers or users; or
 - (c) the prices at which the goods are sold by retail would in general and in the long run be increased to the detriment of the public as such consumers or users; or
 - (d) the goods would be sold by retail under conditions likely to cause danger to health in consequence of their misuse by the public as such consumers or users; or
 - (e) any necessary services actually provided in connection with or after the sale of the goods by retail would cease to be so provided or would be substantially reduced to the detriment of the public as such consumers or users;

and in any such case that the resulting detriment to the public as consumers or users of the goods in question would outweigh any detriment to them as such consumers

or users (whether by the restriction of competition or otherwise) resulting from the maintenance of minimum resale prices in respect of the goods.

In this section—

" necessary services ", in relation to goods, means services which, having regard to the character of the goods, are required to guard against the risk of injury, whether to persons or to premises, in connection with the consumption, installation or use of the goods, or are otherwise reasonably necessary for the benefit of consumers or users; and

" consumers " and " users " include persons consuming or using for the purpose or in the course of trade or business or for public purposes.

15 Who may apply to the Court

An application to the Court under section 16 or section 17 below may be made by—

- (a) the Director General of Fair Trading (" the Director ");
- (b) any supplier of goods of the class in question ; or
- (c) any trade association whose members consist of or include such suppliers.

16 New applications

- (1) Upon an application under this section the Court may make an order under section 14 above directing that goods of any class specified in the order other than goods in respect of which—
 - (a) a reference has been made under section 5 of the Resale Prices Act 1964, or
 - (b) a previous application has been made under this section,shall be exempted goods for the purposes of this Part of this Act.
- (2) No application shall be made under this section except with the Court's leave, and that leave shall not be granted except upon prima facie evidence of facts upon which an order could be made in accordance with section 14 in respect of the goods in question, or could be so made if any detriment to the public resulting from the maintenance of minimum resale prices were disregarded.

17 Court's power to review its decisions

- (1) Upon an application under this section the Court may—
 - (a) discharge any order previously made by the Court directing that goods of any class shall be exempted goods ;
 - (b) make an order under section 14 above directing that goods of any class shall be exempted goods for the purposes of this Act where the Court has in respect of that class of goods previously refused to make such an order or has previously discharged such an order.
- (2) No application shall be made under this section except with the Court's leave, and that leave shall not be granted except upon prima facie evidence of a material change in the relevant circumstances since the Court's last decision in respect of the goods in question.

18 Facts found under the Restrictive Trade Practices Act 1976

Upon an application under section 16 or section 17 above in respect of goods of any class which have been the subject of proceedings in the Court under Part I of the Restrictive Trade Practices Act 1976 (or under Part I of the Restrictive Trade Practices Act 1956) the Court may treat as conclusive any finding of fact made in those proceedings, and shall do so unless prima facie evidence is given of a material change in the relevant circumstances since those proceedings.

19 Effect of exemption order

Where an exemption order is made under section 14 above—

- (a) section 9 above does not apply in relation to any contract of sale or other agreement relating to exempted goods of the class specified in the order, or anything done in relation to such goods; and
- (b) notwithstanding section 11 above, a supplier may withhold supplies of any such goods from a dealer seeking to obtain them for resale in the United Kingdom on the ground that the dealer—
 - (i) has sold in the United Kingdom at a price below the resale price (which means the same in this paragraph as in section 11) exempted goods obtained, either directly or indirectly, from that supplier or has supplied such goods, either directly or indirectly to a third party who had done so, or
 - (ii) is likely, if the exempted goods are supplied to him, to sell them in the United Kingdom at a price below that price, or supply them, either directly or indirectly, to a third party who would be likely to do so.

20 Discharge of exemption order

Where, by virtue of a decision of the Court under section 17(1)(a) above, section 9 above takes effect, that section, so far as it affects the validity of any term or condition of a contract or agreement for or relating to the sale of any goods, or the effect of notice of any term or condition so relating, applies to contracts and agreements made and notices given before as well as after that section takes effect, and—

- (a) for the purposes of the jurisdiction of any court to grant an injunction in proceedings pending at the time when section 9 takes such effect, that section shall be treated as if it had taken effect before the cause of action arose; and
- (b) any injunction granted or undertaking given before section 9 takes such effect in or for the purpose of any proceedings shall be of no effect in so far as it would operate to require compliance with any term or condition which is void, or notice of which is invalidated, by virtue of that section.

21 Supplementary provisions as to applications to the Court

(1) Rules made by virtue of section 9(1) of the Restrictive Practices Court Act 1976 in relation to an application under this Part of this Act shall include provisions—

- (a) for enabling the Court, on the application of the Director or of any party interested, to give directions with respect to the goods to be included in or excluded from any application under this Part of this Act;
- (b) for securing that retailers, and trade associations representing employees in the distributive trades, who—

Status: This is the original version (as it was originally enacted).

- (i) have an interest in any such application, and
 - (ii) have given notice to the Director within such time and in such manner as may be prescribed by the rules,are entitled, whether in consequence of a representation order or otherwise, to be represented before the Court in the proceedings.
- (2) Without prejudice to the generality of section 9(1) of the Restrictive Practices Court Act 1976, rules made under that subsection in relation to an application under this Part of this Act may provide—
 - (a) for enabling a single application to be made to the Court in respect of a number of related classes of goods, or separate applications made in respect of related classes, to be heard together ;
 - (b) for enabling the Court to determine in a summary way any issue arising in relation to a class of goods where it appears to the Court that the class of goods and the circumstances of the case are substantially similar to the class of goods and circumstances considered in any previous proceedings before the Court;
 - (c) for enabling the Court to make an order for the payment by any party of costs in respect of proceedings in which he is guilty of unreasonable delay, or in respect of any improper, vexatious, prolix or unnecessary proceedings or any other unreasonable conduct on his part.
- (3) The Court does not have power to order the payment of costs by any party to proceedings on an application under this Part of this Act, except—
 - (a) so far as may be the case under rules made as provided by subsection (2) above ;
 - (b) as is provided by subsection (4) below.
- (4) The Court may order the payment by the Director of all or any of the following costs incurred by any other party—
 - (a) costs incurred on an application under section 16 above in respect of any issue determined in favour of that party, being an issue which in the Court's opinion substantially corresponds with an issue so determined in proceedings in respect of an agreement of which particulars are entered or filed in the register under the Restrictive Trade Practices Act 1976 (or under the Restrictive Trade Practices Act 1956) ;
 - (b) costs incurred on an application under section 17 above in respect of an issue determined in favour of that party.