



Competition Act 1980

1980 CHAPTER 21

An Act to abolish the Price Commission; to make provision for the control of anti-competitive practices in the supply and acquisition of goods and the supply and securing of services; to provide for references of certain public bodies and other persons to the Monopolies and Mergers Commission; to provide for the investigation of prices and charges by the Director General of Fair Trading; to provide for the making of grants to certain bodies; to amend and provide for the amendment of the Fair Trading Act 1973; to make amendments with respect to the Restrictive Trade Practices Act 1976; to repeal the remaining provisions of the Counter-Inflation Act 1973; and for purposes connected therewith. [3rd April 1980]

Modifications etc. (not altering text)

- C1 Act excluded by [Financial Services Act 1986](#) (c. 60, SIF 69), ss. 126(1), 140, Sch. 11 paras. 12(1)(2), [36\(2\)](#)
- C2 Act amended by [Electricity Act 1989](#) (c. 29, SIF 44:1), [s. 100\(1\)](#); by [Companies Act 1989](#) (c. 40, SIF 27), s. 47(1), [Sch. 14 para. 10\(1\)\(2\)](#) and by S.I. 1990/593, art. 49(1), [Sch. 14 para. 10\(1\)](#)
Act amended (1.4.1996) by S.I. 1996/593, reg. 2, [Sch. 1](#)
- C3 Act modified (E.W.) (1.11.1991) by [New Roads and Street Works Act 1991](#) (c. 22, SIF 59, 108), [ss. 10\(1\)\(b\), 12\(4\)](#) (with s. 25(2)); S.I. 1991/2288, [art. 3](#), Sch.
- C4 Act modified (S.) (21.10.1991) by [New Roads and Street Works Act 1991](#) (c. 22, SIF 59, 108), [s. 33\(1\)\(b\)](#) (with s. 47(4)); S.I. 1991/2286, art. 2, [Sch. 1](#)
- C5 Act: power to apply conferred (E.W.) (1.12.1991) by [Water Industry Act 1991](#) (c. 56, SIF 130), [ss. 12\(5\), 223\(2\)](#) (with ss. 82(3), 186(1), 222(1), Sch 14 para. 6)
- C6 Act: definitions applied (E.W.) (1.12.1991) by [Water Industry Act 1991](#) (c. 56, SIF 130), [ss. 17\(4\), 31\(9\), 223\(2\)](#) (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)
- C7 Act modified (17.2.1994) by S.I. 1993/3160 (N.I. 15), [art. 32\(1\)\(b\)](#).
Act modified (3.1.1995) by 1994 c. 40, ss. 12(7), 82(2), [Sch. 4 paras. 5-8](#)
- C8 Act applied (1.3.1996) by 1986 c. 44, [s. 27\(6\)](#) (as substituted (1.3.1996) by 1995 c. 45, s. 10(1), [Sch. 3 para. 25](#); S.I. 1996/218, [art. 2](#))
Act applied (1.3.1996) by 1986 c. 44, [s. 36A\(9\)](#) (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), [Sch. 3 para. 43](#); S.I. 1996/218, [art. 2](#))
Act applied (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), [art. 18\(5\)](#) (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, [art. 2](#)

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Changes to legislation: Competition Act 1980 is up to date with all changes known to be in force on or before 02 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

C9 Act extended (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 23(8)** (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, **art. 2**

Commencement Information

II Act not in force at Royal Assent see s. 33(5); Act wholly in force at 12.8.1980

1 **F1**

Textual Amendments

F1 S. 1 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. II** Group 2

Control of anti-competitive practices

2 Anti-competitive practices.

- (1) The provisions of sections 3 to 10 below have effect with a view to the control of anti-competitive practices, and for the purposes of this Act a person engages in an anti-competitive practice if, in the course of business, that person pursues a course of conduct which, of itself or when taken together with a course of conduct pursued by persons associated with him, has or is intended to have or is likely to have the effect of restricting, distorting or preventing competition in connection with the production, supply or acquisition of goods in the United Kingdom or any part of it or the supply or securing of services in the United Kingdom or any part of it.
- (2) To the extent that a course of conduct is required or envisaged by a material provision of, or a material recommendation in, an agreement which is registered or subject to registration under the ^{M1}Restrictive Trade Practices Act 1976, that course of conduct shall not be regarded as constituting an anti-competitive practice for the purposes of this Act; and for the purposes of this subsection—
 - (a) a provision of an agreement is a material provision if, by virtue of the existence of the provision (taken alone or together with other provisions) the agreement is one to which that Act applies; and
 - (b) a recommendation is a material recommendation in an agreement if it is one to which a term implied into the agreement by any provision of section 8 or section 16 of that Act (terms implied into trade association agreements and services supply association agreements) applies.
- (3) For the purposes of this Act, a course of conduct does not constitute an anti-competitive practice if it is excluded for those purposes by an order made by the Secretary of State; and any such order may limit the exclusion conferred by it by reference to a particular class of persons or to particular circumstances.
- (4) Without prejudice to the generality of subsection (3) above, an order under that subsection may exclude the conduct of any person by reference to the size of his business, whether expressed by reference to turnover, as defined in the order, or to his share of a market, as so defined, or in any other manner.
- (5) For the purpose only of enabling the Director General of Fair Trading (in this Act referred to as “the Director”) to establish whether any person’s course of conduct is excluded by virtue of any such provision of an order under subsection (3) above

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as is referred to in subsection (4) above, the order may provide for the application, with appropriate modifications, of any provisions of sections 44 and 46 of the ^{M2}Fair Trading Act 1973 (power of Director to require information).

- (6) For the purposes of this section any two persons are to be treated as associated—
- (a) if one is a body corporate of which the other directly or indirectly has control either alone or with other members of a group of interconnected bodies corporate of which he is a member, or
 - (b) if both are bodies corporate of which one and the same person or group of persons directly or indirectly has control;
- and for the purposes of this subsection a person or group of persons able directly or indirectly to control or materially to influence the policy of a body corporate, but without having a controlling interest in that body corporate, may be treated as having control of it.
- (7) In this section “the supply or securing of services” includes providing a place or securing that a place is provided other than on a highway, or in Scotland a public right of way, for the parking of a motor vehicle (within the meaning of [^{F2}the Road Traffic Act 1988]).
- (8) For the purposes of this Act any question whether, by pursuing any course of conduct in connection with the acquisition of goods or the securing of services by it, a local authority is engaging in an anti-competitive practice shall be determined as if the words “in the course of business” were omitted from subsection (1) above; and in this subsection “local authority” means—
- (a) in England and Wales, a local authority within the meaning of the ^{M3}Local Government Act 1972, the Common Council of the City of London or the Council of the Isles of Scilly,
 - (b) in Scotland, a local authority within the meaning of the ^{M4}Local Government (Scotland) Act 1973, and
 - (c) in Northern Ireland, a district council established under the ^{M5}Local Government Act (Northern Ireland) 1972.

Textual Amendments

- F2** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, [Sch. 3 para. 19](#)

Modifications etc. (not altering text)

- C10** S. 2 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. [50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. [43\(3\)](#)
- C11** S. 2 amended by [S.I. 1987/2068](#), [art. 4](#)
- C12** S. 2 modified (transfer of functions) (1.4.1992) by [S.I. 1992/231](#), [art. 46\(3\)\(4\)](#); [S.R. 1992/117](#), [art. 3\(1\)](#)
- C13** S. 2 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by [1993 c. 43](#), s. [67\(3\)\(4\)](#); [S.I. 1994/571](#), [art. 4](#)
- C14** S. 2 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 31\(4\)\(c\)](#), [35\(4\)](#), [223\(2\)](#)(with [ss. 82\(3\)](#), [186\(1\)](#), [222\(1\)](#)), [Sch. 14 para. 6](#)

Marginal Citations

- M1** 1976 c. 34.
M2 1973 c. 41.

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M3 1972 c. 70.
M4 1973 c. 65
M5 1972 c. 9 (N.I.)

3 Preliminary investigation by Director of possible anti-competitive practice.

- (1) If it appears to the Director that any person has been or is pursuing a course of conduct which may amount to an anti-competitive practice, the Director may in accordance with this section carry out an investigation with a view to establishing whether that person has been or is pursuing a course of conduct which does amount to such a practice.
- (2) Before carrying out an investigation under this section, the Director shall—
 - (a) give to the Secretary of State and the person or persons whose conduct is to be investigated notice of the proposed investigation, together with an indication of the matters to be investigated, the person or persons concerned and the goods or services to which the investigation is to relate; and
 - (b) arrange for notice of the proposed investigation, together with an indication of the matters to be investigated, the person or persons concerned and the goods or services to which the investigation is to relate, to be published in such manner as the Director considers most suitable for bringing the proposed investigation to the attention of any other persons who, in the opinion of the Director, would be affected by or be likely to have an interest in the investigation.
- (3) The Secretary of State may by regulations prescribe the manner in which any notice is to be given under subsection (2) above, and the evidence which is to be sufficient evidence of its having been given, and of its contents and authenticity.
- (4) Subject to the following provisions of this section, where notice of a proposed investigation has been given in accordance with paragraph (a) and published in accordance with paragraph (b) of subsection (2) above, the Director shall proceed with the investigation as expeditiously as possible.
- (5) If, before the end of the period of two weeks beginning with the day on which the Secretary of State receives notice of a proposed investigation under paragraph (a) of subsection (2) above, the Secretary of State directs the Director not to proceed with the investigation the Director shall take no further action under this section with respect to the matters referred to in the notice; but nothing in this subsection shall prevent the Director from proceeding with a subsequent investigation, notwithstanding that it relates wholly or partly to the same matters.
- (6) Where the Secretary of State gives a direction under sub-section (5) above, he shall—
 - (a) give notice of the direction to the person or persons whose conduct was to be investigated; and
 - (b) arrange for the direction to be published in such manner as he considers most suitable for bringing it to the attention of any other person who, in his opinion, would have been affected by, or likely to have had an interest in, the direction.
- (7) For the purposes of an investigation under this section the Director may, by notice in writing signed by him—
 - (a) require any person to produce, at a time and place specified in the notice, to the Director or to any person appointed by him for the purpose, any documents

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which are specified or described in the notice and which are documents in his custody or under his control and relating to any matter relevant to the investigation; or

- (b) require any person carrying on any business to furnish to the Director such estimates, returns or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such estimates, returns or information are to be furnished;

but no person shall be compelled for the purpose of any such investigation to produce any document which he could not be compelled to produce in civil proceedings before the High Court or, in Scotland, the Court of Session or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

- (8) Subsections [F³(6)]to (8) of section 85 of the ^{M6}Fair Trading Act 1973 (enforcement provisions relating to notices under sub-section (1) of that section requiring production of documents etc.) shall apply in relation to a notice under subsection (7) above as they apply in relation to a notice under subsection (1) of that section [F⁴but as if, in subsection (7) of that section, for the words from “any one” to “the Commission” there were substituted “the Director”].
- (9) At any time before the completion of an investigation under this section the Director may, with the consent of the Secretary of State, determine not to proceed with the investigation and, in that event, he shall—
- (a) give notice of his determination to the person or persons whose conduct was being investigated; and
- (b) arrange for the determination to be published in such manner as he considers most suitable for bringing it to the attention of any other person who, in his opinion, would have been affected by, or likely to have had an interest in, the investigation.
- (10) As soon as practicable after the completion of an investigation under this section the Director shall, in such manner as he considers appropriate, publish a report stating, with reasons, whether in his opinion any course of conduct described in the report constituted or constitutes an anti-competitive practice and, if so—
- (a) specifying the person or persons concerned and the goods or services in question; and
- (b) stating, with reasons, whether he considers that it is appropriate for him to make a reference under section 5 below.

Textual Amendments

F3 “(6)” substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, [Sch. 20 para. 21](#)

F4 Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, [Sch. 20 para. 21](#)

Modifications etc. (not altering text)

C15 S. 3 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. [50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. [43\(3\)](#)

S. 3 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), s. [31\(4\)\(c\)](#), [35\(4\)](#), [223\(2\)](#) (with ss. [82\(3\)](#), [186\(1\)](#), [222\(1\)](#), [Sch. 14 para. 6](#))

C16 s. 3 modified (transfer of functions) (1.4.1992) by [S.I. 1992/231](#), [art. 46\(3\)\(4\)](#); [S.R. 1992/117](#), [art. 3\(1\)](#)

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C17 S. 3 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by 1993 c. 43, s. 67(3)(4); S.I. 1994/571, art. 5

Marginal Citations

M6 1973 c. 41.

4 Undertakings in consequence of Director's reports.

- (1) Where a report is published under section 3 above stating, in accordance with subsection (10)(b) of that section, that it is appropriate for the Director to make a reference under section 5 below, the Director shall consider any representations in writing which are made to him by a person specified in the report as a person who was or is engaged in an anti-competitive practice and which contain proposals as to what should be done in consequence of the conclusions of the report so far as they relate to that person.
- (2) Any such representations may include an undertaking by which the person who makes the representations agrees to be bound, if the undertaking is accepted by the Director, for a period specified in the representations.
- (3) At any time before the Director makes a reference under section 5 below in relation to a report under section 3 above, the Director may, by notice given to the person concerned, accept an undertaking which is offered by that person by reference to that report.
- (4) It shall be the duty of the Director—
 - [^{F5}(a) to arrange for—
 - (i) any undertaking accepted by him under this section, and
 - (ii) any variation or release of such an undertaking after the passing of the Companies Act 1989,

to be published in such manner as appears to him to be appropriate,]
 - (b) to keep under review the carrying out of any such undertaking and from time to time to consider whether, by reason of any change of circumstances, the undertaking is no longer appropriate and either the person concerned can be released from the undertaking or the undertaking needs to be varied or superseded by a new undertaking, and
 - (c) if it appears to him that the person by whom an undertaking was given has failed to carry it out, to give that person notice of that fact.
- (5) If at any time the Director concludes under subsection (4)(b) above—
 - (a) that any person can be released from an undertaking, or
 - (b) that an undertaking needs to be varied or superseded by a new undertaking,

he shall give notice to that person stating that he is so released, or specifying the variation or, as the case may be, the new undertaking which in his opinion is required.
- (6) Where a notice is served on any person under subsection (5) above specifying a variation or new undertaking, the notice shall state the change of circumstances by virtue of which the notice is served.
- (7) Subject to subsection (8) below, the Director may at any time, by notice given to the person concerned—

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- (a) agree to the continuation of an undertaking in relation to which he has given notice under subsection (5) above specifying a variation or new undertaking, or
 - (b) accept a new or varied undertaking which is offered by that person as a result of such a notice.
- (8) If the Director makes a reference under section 5 below in relation to a notice under subsection (5) above, he shall not, after the reference has been made, agree to the continuation of the undertaking in relation to which that notice was given or accept a new or varied undertaking which is offered as a result of that notice.
- (9) The Secretary of State may by regulations prescribe the manner in which any notice is to be given under this section, and the evidence which is to be sufficient evidence of its having been given, and of its contents and authenticity.

Textual Amendments

F5 S. 4(4)(a) substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, [Sch. 20 para. 22](#)

Modifications etc. (not altering text)

- C18** S. 4 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 50(3) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 43(3)
s. 4 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), s. 31(4)(c), 35(4), 223(2) (with ss. 82(3), 186(1), 222(1), [Sch. 14 para. 6](#))
- C19** S. 4 modified (transfer of functions) (1.4.1992) by [S.I. 1992/231](#), [art. 46\(3\)\(4\)](#); [S.R. 1992/117](#), [art. 3\(1\)](#)
- C20** S. 4 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by [1993 c. 43](#), s. 67(3)(4); [S.I. 1994/571](#), [art. 5](#)

5 Competition references.

- (1) In any case where—
- (a) a report has been published under section 3 above stating, in accordance with subsection (10)(b) of that section, that it is appropriate for the Director to make a reference under this section and the Director has not accepted from each of the persons specified in the relevant report such undertaking or undertakings as, in his opinion, covers or cover every course of conduct which is described in the report as constituting an anti-competitive practice, or
 - (b) the Director has given notice to any person under section 4(4)(c) above with respect to an undertaking given by that person, or
 - (c) the Director has given notice to any person under section 4(5) above specifying either a variation of an undertaking or a new undertaking which is required and has neither accepted a new or varied undertaking from that person nor agreed upon the continuation of the original undertaking,
- then, subject to the following provisions of this section, the Director may make a reference under this section to the Monopolies and Mergers Commission (in the following provisions of this Act referred to as a “competition reference”).
- (2) In this section a competition reference is referred to—
- (a) as a “report reference” if it is made by virtue of subsection (1)(a) above; and

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- (b) as a “notice reference” if it is made by virtue of subsection (1)(b) or subsection (1)(c) above.
- (3) No competition reference may be made within the period of four weeks beginning with the relevant date nor, subject to subsection (4) below, may such a reference be made after the expiry of the period of eight weeks beginning on that date; and in this subsection “the relevant date” means—
- (a) in the case of a report reference, the date on which was first published, in accordance with section 3(10) above, the report of the Director to which the reference relates; and
- (b) in the case of a notice reference, the date on which notice was given as mentioned in subsection (1)(b) or, as the case may be, subsection (1)(c) above.
- (4) If the Secretary of State so directs, subsection (3) above shall have effect in relation to a competition reference of a description specified in the direction as if for the period of eight weeks specified in that subsection there were substituted such longer period not exceeding twelve weeks as may be specified in the direction; but the Secretary of State shall not give a direction under this subsection unless, upon representations made to him by the Director, it appears to the Secretary of State that it would be appropriate in the case in question to allow the Director a longer period in which to negotiate one or more undertakings under section 4 above.
- (5) In this section and section 6 below “the relevant report” means—
- (a) in the case of a report reference, the report referred to in subsection (1)(a) above;
- (b) in the case of a notice reference made by virtue of subsection (1)(b) above, the report by reference to which the person to whom the notice was given under section 4(4)(c) above gave the undertaking to which that notice refers; and
- (c) in the case of a notice reference made by virtue of subsection (1)(c) above, the report by reference to which the person to whom the notice was given under section 4(5) above gave the undertaking which the Director proposes should be varied or superseded.

Modifications etc. (not altering text)

- C21** Ss. 5–8 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [s. 50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 43\(3\)](#)
S. 5 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 31\(4\)\(c\), 35\(4\), 223\(2\)](#), (with [ss. 82\(3\), 186\(1\), 222\(1\)](#), [Sch. 14 para. 6](#))
- C22** S. 5 modified (transfer of functions) (1.4.1992) by [S.I. 1992/231](#), [art. 46\(3\)\(4\)](#); [S.R. 1992/117](#), [art. 3\(1\)](#)
- C23** S. 5 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by [1993 c. 43](#), [s. 67\(3\)\(4\)](#); [S.I. 1994/571](#), [art. 5](#)

6 Scope of competition references.

- (1) In a competition reference the Director shall specify—
- (a) the person or persons whose activities are to be investigated by the Commission (in this section referred to as the person or persons “subject to the reference”),
- (b) the goods or services to which the investigation is to extend, and

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- (c) the course or courses of conduct to be investigated.
- (2) The Director may not under subsection (1) above specify in a competition reference any person who is not specified in the relevant report nor any goods or services which are not so specified nor any course of conduct which is not described in that report but, subject to that and subsection (3) below, the Director may under subsection (1) above specify such person or persons, such goods or services and such course or courses of conduct as he considers appropriate.
- (3) To the extent that the Director is of the opinion that an undertaking accepted by him under section 4 above covers the activities of any person specified in the relevant report, or any goods or services so specified, or any course of conduct described in that report, the Director shall exclude that person, those goods or services or, as the case may require, that course of conduct from the reference.
- (4) In subsection (3) above the reference to an undertaking accepted by the Director under section 4 above does not include—
- (a) an undertaking in respect of which notice has been served under subsection (4) (c) of that section, or
 - (b) an undertaking in respect of which the Director has given notice under subsection (5)(b) of that section specifying a new or varied undertaking, unless he has agreed upon its continuation with or without variation.
- (5) Subject to subsection (6) below, on a competition reference the Commission shall investigate and report on the following questions, namely—
- (a) whether any person subject to the reference was at any time during the period of twelve months ending on the date of the reference pursuing, in relation to goods or services specified in the reference, a course of conduct so specified or any other course of conduct which appears to be similar in form and effect to the one so specified; and
 - (b) whether, by pursuing any such course of conduct, a person subject to the reference was at any time during that period engaging in an anti-competitive practice; and
 - (c) whether, if any person was so engaging in an anti-competitive practice, the practice operated or might be expected to operate against the public interest.
- (6) The Director may at any time, by notice given to the Commission, restrict the scope of a competition reference by excluding from the reference—
- (a) some or all of the activities of any person subject to the reference,
 - (b) any goods or services specified in the reference, or
 - (c) any course of conduct so specified,

and, subject to section 7 below, on the receipt of such notice the Commission shall discontinue their investigation so far as it relates to any matter so excluded and shall make no reference to any such matter in their report.

Modifications etc. (not altering text)

C24 Ss. 5–8 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [s. 50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 43\(3\)](#)
S. 6 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 31\(4\)\(c\), 35\(4\), 223\(2\)](#) (with [ss. 82\(3\), 186\(1\), 222\(1\), Sch. 14 para. 6](#))

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- C25** S. 6 modified (transfer of functions) (1.4.1992) by S.I. 1992/231, **art. 46(3)(4)**; S.R. 1992/117, **art. 3(1)**
- C26** S. 6 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by 1993 c. 43, **s. 67(3)(4)**; S.I. 1994/571, **art. 5**

7 Supplementary provisions as to competition references.

- (1) On making a competition reference or on varying such a reference under section 6(6) above the Director shall send a copy of the reference or, as the case may be, the variation to the Secretary of State.
- (2) If, before the end of the period of two weeks beginning with the day on which the Secretary of State receives a copy of a competition reference under subsection (1) above, the Secretary of State directs the Commission not to proceed with the reference—
 - (a) the Commission shall not proceed with that reference, but
 - (b) nothing in paragraph (a) above shall prevent the Commission from proceeding with a subsequent competition reference, notwithstanding that it relates wholly or partly to the same matters.
- (3) If, before the end of the period of two weeks beginning with the day on which the Secretary of State receives a copy of a variation of a competition reference under subsection (1) above, the Secretary of State directs the Commission not to give effect to the variation—
 - (a) the Commission shall proceed with the reference as if that variation had not been made, but
 - (b) nothing in paragraph (a) above shall prevent the Commission from giving effect to any subsequent variation, notwithstanding that it relates wholly or partly to the matters to which that variation related.
- (4) On making a competition reference or on varying such a reference under section 6(6) above the Director shall arrange for the reference or, as the case may be, the variation to be published in such manner as he considers most suitable for bringing it to the attention of persons who, in his opinion, would be affected by it or be likely to have an interest in it.
- (5) Where the Secretary of State gives a direction under subsection (2) or subsection (3) above, the Secretary of State shall arrange for the direction to be published in such manner as he considers most suitable for bringing it to the attention of persons who, in his opinion, would have been affected by, or likely to have had an interest in, the reference or variation to which the direction relates.
- (6) Sections 70 (time limit for report on merger reference), 84 (public interest) and 85 (attendance of witnesses and production of documents) of the ^{M7}Fair Trading Act 1973 and Part II of Schedule 3 to that Act (performance of functions of Commission) shall apply in relation to competition references as if—
 - (a) the functions of the Commission in relation to those references were functions under that Act;
 - (b) the expression “merger reference” included a competition reference;
 - (c) in paragraph 11 of that Schedule the reference to section 71 of that Act were a reference to section 6(6) above; and

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- (d) in paragraph 16(2) of that Schedule the reference to section 56 of that Act were a reference to sections 9 and 10 below.

Modifications etc. (not altering text)

- C27** Ss. 5–8 modified (transfer of functions) by **Telecommunications Act 1984** (c. 12, SIF 96), **s. 50(3)** and (E.W.S.) by **Electricity Act 1989** (c. 29, SIF 44:1), **s. 43(3)**
S. 7 amended (E.W.)(1.12.1991) by **Water Industry Act 1991** (c. 56, SIF 130), **ss. 31(4)(c), 35(4), 223(2)** (with **ss. 82(3), 186(1), 222(1), Sch. 14 para. 6**)
- C28** S. 7 modified (transfer of functions) (1.4.1992) by **S.I. 1992/231**, **art 46(3)(4)**; **S.R. 1992/117**, **art. 3(1)**
Ss. 2-10 modified (N.I.) (10.6.1996) by **S.I. 1996/275** (N.I. 2), **art. 23(6)** (with **Sch. 7 paras. 2, 3(2)**); **S.R. 1996/216**, **art. 2**
- C29** S. 7 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by **1993 c. 43**, **s. 67(3)(4)**; **S.I. 1994/571**, **art. 5**
- C30** Ss. 2-10, 16: certain functions transferred (1.3.1996) by **1986 c. 44**, **s. 36A** (as inserted (1.3.1996) by **1995 c. 45**, **s. 10(1)**, **Sch. 3 para. 43**; **S.I. 1996/218**, **art. 2**)
Ss. 2-10, 16: certain functions transferred (N.I.) (10.6.1996) by **S.I. 1996/275** (N.I. 2), **art. 23(3)** (with **Sch. 7 paras. 2, 3(2)**); **S.R. 1996/216**, **art. 2**

Marginal Citations

- M7** 1973 c. 41.

8 Conclusions and reports of the Commission.

- (1) A report of the Commission on a competition reference shall be made to the Secretary of State.
- (2) Subject to section 6(6) above and subsection (3) below, a report on a competition reference shall state, with reasons, the conclusions of the Commission with respect to the following matters—
- whether any person whose activities were investigated was at any time during the period of twelve months referred to in paragraph (a) of subsection (5) of section 6 above pursuing any such course of conduct as is referred to in that paragraph; and
 - if so, whether by pursuing such a course of conduct any such person was at any time during that period engaging in an anti-competitive practice; and
 - if so, whether that anti-competitive practice operated or might be expected to operate against the public interest; and
 - if so, what are, or are likely to be, the effects adverse to the public interest.
- (3) If, on a competition reference, the Commission conclude that any person was pursuing such a course of conduct as is referred to in section 6(5)(a) above but that, by virtue of section 2(2) above, that course of conduct does not, in whole or in part, constitute an anti-competitive practice, the Commission shall state their conclusion in their report and shall not make any recommendation under subsection (4) below with respect to things done as mentioned in section 2(2) above.
- (4) If, on a competition reference, the Commission conclude that any person was at any time during the period of twelve months referred to in section 6(5)(a) above engaging in an anti-competitive practice which operated or might be expected to operate against the public interest, the Commission—

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- (a) shall, as part of their investigations, consider what action (if any) should be taken for the purpose of remedying or preventing the adverse effects of that practice; and
 - (b) may, if they think fit, include in their report recommendations as to such action including, where appropriate, action by one or more Ministers (including Northern Ireland departments) or other public authorities.
- (5) A copy of every report of the Commission on a competition reference shall be transmitted by the Commission to the Director; and the Secretary of State shall take account of any advice given to him by the Director with respect to any such report.

Modifications etc. (not altering text)

- C31** Ss. 5–8 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [s. 50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 43\(3\)](#)
S. 8 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 31\(4\)\(c\)](#), [35\(4\)](#), [223\(2\)](#), (with [ss. 82\(3\)](#), [196\(1\)](#), [222\(1\)](#), [Sch. 14 para. 6](#))
- C32** S. 8 modified (transfer of functions) (1.4.1992) by [S.I. 1992/231](#), [art. 46\(3\)\(4\)](#); [S.R. 1992/117](#), [art. 3\(1\)](#)
- C33** S. 8 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by [1993 c. 43](#), [s. 67\(3\)\(4\)](#); [S.I. 1994/571](#), [art. 5](#)
[Ss. 2-10](#) modified (N.I.) (10.6.1996) by [S.I. 1996/275 \(N.I. 2\)](#), [art. 23\(6\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); [S.R. 1996/216](#), [art. 2](#)
- C34** [Ss. 2-10, 16](#): certain functions transferred (1.3.1996) by [1986 c. 44](#), [s. 36A](#) (as inserted (1.3.1996) by [1995 c. 45](#), [s. 10\(1\)](#), [Sch. 3 para. 43](#); [S.I. 1996/218](#), [art. 2](#))
[Ss. 2-10, 16](#): certain functions transferred (N.I.) (10.6.1996) by [S.I. 1996/275 \(N.I. 2\)](#), [art. 23\(3\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); [S.R. 1996/216](#), [art. 2](#)

9 Undertakings following report on competition reference.

- (1) In any case where—
- (a) the report of the Commission on a competition reference concludes that any person specified in the report was engaging in an anti-competitive practice which operated or might be expected to operate against the public interest, and
 - (b) it appears to the Secretary of State that the effects of that practice which are adverse to the public interest might be remedied or prevented if that person or any other person specified in the report took or refrained from taking any action,
- the Secretary of State may by notice in writing request the Director to seek to obtain from the person or, as the case may be, each of the persons specified in the notice an undertaking to take or refrain from taking any action with a view to remedying or preventing those adverse effects.
- (2) Where the Secretary of State makes a request under subsection (1) above—
- (a) he shall at the same time send a copy of the notice by which the request is made to the person or, as the case may be, each of the persons from whom an undertaking is to be sought; and
 - (b) it shall be the duty of the Director to seek to obtain an undertaking or undertakings of the description requested.
- (3) In any case where—

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- (a) the Director is satisfied that a person from whom he has been requested to seek to obtain an undertaking is unlikely to give a suitable undertaking within a reasonable time, or
- (b) having allowed such time as in his opinion is reasonable for the purpose, he is satisfied that a suitable undertaking has not been given by the person in question,

the Director shall give such advice to the Secretary of State as he may think proper in the circumstances.

(4) Where, following a request under subsection (1) above, an undertaking has been accepted by the Director, it shall be his duty—

- (a) to give a copy of the undertaking [^{F6}and of any variation of it after the passing of the Companies Act 1989]to the Secretary of State;
- (b) to arrange for the undertaking [^{F7}and of any variation or release of it after that time]to be published in such manner as appears to him to be appropriate;
- (c) to keep under review the carrying out of the undertaking and from time to time to consider whether, by reason of any change of circumstances, the undertaking is no longer appropriate and either the person concerned can be released from the undertaking or the undertaking needs to be varied or to be superseded by a new undertaking; and
- (d) if it appears to him that any person can be so released or that an undertaking has not been or is not being fulfilled, or needs to be varied or superseded, to give such advice to the Secretary of State as he may think proper in the circumstances.

(5) If, following advice from the Director that a person can be released from an undertaking, the Secretary of State considers that it is appropriate for the Director to release him from it—

- (a) the Secretary of State shall request the Director to do so, and
- (b) the Director shall give the person concerned notice that he is released from the undertaking;

and regulations under subsection (9) of section 4 above shall apply in relation to such a notice as they apply to a notice under subsection (5) of that section.

(6) The Secretary of State shall take account of any advice given to him by the Director under this section (including advice as to the exercise by the Secretary of State of any of his powers under this Act).

Textual Amendments

- F6** Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, [Sch. 20 para. 23\(a\)](#)
- F7** Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, [Sch. 20 para. 23\(b\)](#)

Modifications etc. (not altering text)

- C35** [S. 9](#) modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. [50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. [43\(3\)](#)
[S. 9](#) amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), ss. [31\(4\)\(c\)](#), [35\(4\)](#), [223\(2\)](#) (with ss. [82\(3\)](#), [186\(1\)](#), [222\(1\)](#), [Sch. 14 para. 6](#))
- C36** [S. 9](#) modified (transfer of functions) (1.4.1992) by [S.I. 1992/231](#), [art. 46\(3\)\(4\)](#); [S.R. 1992/117](#), [art. 3\(1\)](#)
- C37** [S. 9](#) modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by [1993 c. 43](#), s. [67\(3\)\(4\)](#); [S.I. 1994/571](#), [art. 5](#)

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Ss. 2-10 modified (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 23(6)** (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, **art. 2**

C38 Ss. 2-10, 16: certain functions transferred (1.3.1996) by 1986 c. 44, **s. 36A** (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**)

Ss. 2-10, 16: certain functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 23(3)** (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, **art. 2**

10 Orders following report on competition reference.

- (1) If, in any case where the report of the Commission on a competition reference concludes that any person specified in the report was engaged in an anti-competitive practice which operated or might be expected to operate against the public interest—
- (a) the Secretary of State has not under section 9(1) above requested the Director to seek to obtain undertakings from one or more of the persons so specified, or
 - (b) following a request under subsection (1) of section 9 above, the Director has informed the Secretary of State that he is satisfied as mentioned in paragraph (a) or paragraph (b) of subsection (3) of that section, or
 - (c) the Director has informed the Secretary of State that an undertaking accepted by him under section 9 above from a person specified in the report has not been or is not being fulfilled,
- the Secretary of State may, if he thinks fit, make an order under this section.
- (2) Subject to the following provisions of this section, an order under this section may do either or both of the following, that is to say—
- (a) prohibit a person named in the order from engaging in any anti-competitive practice which was specified in the report or from pursuing any other course of conduct which is similar in form and effect to that practice; and
 - (b) for the purpose of remedying or preventing any adverse effects which are specified in the report as mentioned in section 8(2)(d) above, exercise one or more of the powers specified in Part I of Schedule 8 to the ^{M8}Fair Trading Act 1973 to such extent and in such manner as the Secretary of State considers necessary for that purpose.
- (3) No order may be made by virtue of paragraph (a) of subsection (2) above in respect of any person unless he is a person specified in the Commission's report and either—
- (a) he has not given an undertaking which the Director sought to obtain from him in pursuance of a request under section 9(1) above; or
 - (b) the Director was not requested under section 9(1) above to seek to obtain an undertaking from him; or
 - (c) the Director has informed the Secretary of State that an undertaking given by him and accepted by the Director under section 9 above has not been or is not being fulfilled.
- (4) In the ^{M9}Fair Trading Act 1973—
- (a) section 90 (general provisions as to orders under section 56 etc.) except subsection (2),
 - (b) section 91(2) (publication of proposals to make an order),
 - (c) section 93 (enforcement of certain orders), and
 - (d) Part I of Schedule 8 (powers exercisable by orders under section 56 etc.),
- shall have effect as if any reference in those provisions to an order under section 56 of that Act included a reference to an order under this section.

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Modifications etc. (not altering text)

- C39** S. 10 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [s. 50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 43\(3\)](#)
- C40** S. 10 modified (transfer of functions) (1.4.1992) by S.I. 1992/231, [art. 46\(3\)\(4\)](#); S.R. 1992/117, [art. 3\(1\)](#)
- C41** S. 10 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by 1993 c. 43, [s. 67\(3\)\(4\)](#); S.I. 1994/571, [art. 5](#)
S. 10 modified (13.5.1999) by 1994 c. 17, [s. 33\(3\)\(4\)\(b\)](#)(with s. 35(4)); S.I. 1999/1309, [art. 2](#), [Sch. Ss. 2-10](#) modified (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), [art. 23\(6\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); S.R. 1996/216, [art. 2](#)
- C42** S. 10 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 31\(4\)\(c\), 35\(4\), 223\(2\)](#), (with [ss. 82\(3\), 186\(1\), 222\(1\), Sch. 14 para. 6](#))
- C43** [Ss. 2-10, 16](#): certain functions transferred (1.3.1996) by 1986 c. 44, [s. 36A](#) (as inserted (1.3.1996) by 1995 c. 45, [s. 10\(1\)](#), [Sch. 3 para. 43](#); S.I. 1996/218, [art. 2](#))
[Ss. 2-10, 16](#): certain functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), [art. 23\(3\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); S.R. 1996/216, [art. 2](#)
- C44** S. 10(2)(a) extended (N.I.) (1.9.1995) by S.I. 1994/426 (N.I. 1), [art. 45\(1\)](#) (with [art. 16](#)); S.R. 1995/294, [art. 2](#), [Sch.](#)
- C45** S. 10(2)(a) modified (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), [art. 18\(1\)\(b\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); S.R. 1996/216, [art. 2](#)
- C46** S. 10(2)(b) amended by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), [ss. 144\(2\), 238\(2\)](#)

Marginal Citations

- M8** 1973 c. 41.
M9 1973 c. 41.

Further references and investigations

11 References of public bodies and certain other persons to the Commission.

- (1) The Secretary of State may at any time refer to the Commission any question relating to—
- the efficiency and costs of,
 - the service provided by, or
 - possible abuse of a monopoly situation by,
- a person falling within subsection (3) below and specified in the reference, including any question whether, in relation to a matter falling within paragraph (a), (b) or (c) above, the person is pursuing a course of conduct which operates against the public interest.
- (2) For the purposes of subsection (1)(c) above “monopoly situation” includes a monopoly situation which is limited to a part of the United Kingdom and, accordingly, for those purposes references to the United Kingdom in sections 6 and 7 of the ^{M10}Fair Trading Act 1973 shall be taken to include references to a part of the United Kingdom.
- (3) The persons referred to in subsection (1) above are—
- any body corporate—
 - which supplies goods or services by way of business,
 - the affairs of which are managed by its members, and

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- (iii) the members of which hold office as such by virtue of their appointment to that or another office by a Minister under any enactment; or
- [^{F8}(b) any person (not falling within paragraph (a) above) who provides in Northern Ireland a bus service within the meaning of section 14 of the Finance Act (Northern Ireland) 1966; or]
- [^{F9}(bb) any person who provides a railway passenger service in pursuance of an agreement entered into by London Regional Transport by virtue of section 3(2) of the [^{F10}London Regional Transport Act 1984]; or]
- [^{F11}(c) any statutory water undertaker, within the meaning of the ^{M11}Water Act 1973; or]
- [^{F11}(c) the National Rivers Authority;]
- (d) any board administering a scheme under the ^{M12}Agricultural Marketing Act 1958 [^{F12}or the ^{M13}Agricultural Marketing Act (Northern Ireland) 1964][^{F13}or the Agricultural Marketing (Northern Ireland) Order 1982]; or
- (e) any body corporate with a statutory duty to promote and assist the maintenance and development of the efficient supply of any goods or services by a body falling within paragraphs (a) to (d) above; or
- (f) any subsidiary, within the meaning of [^{F14}section 736 of]the [^{F15}Companies Act 1985], of a body falling within paragraphs (a) to (e) above.
- (4) The Secretary of State may by order exclude from subsection (3)(b) [^{F16}or (bb)]above persons of such descriptions as may be specified in the order.
- (5) No question concerning a person falling within subsection (3)(b) [^{F17}or (bb)]above or a subsidiary of a body falling within [^{F18}that subsection][^{F18}either of those paragraphs]may be referred to the Commission under this section unless it relates to the carriage of passengers by the person or, as the case may be, the subsidiary.
- (6) The Secretary of State may at any time by notice given to the Commission vary a reference under this section.
- (7) On making a reference under this section or on varying such a reference under subsection (6) above the Secretary of State shall arrange for the reference or, as the case may be, the variation to be published in such manner as he considers most suitable for bringing it to the attention of persons who in his opinion would be affected by it or be likely to have an interest in it.
- (8) On a reference under this section the Commission shall investigate and report on any question referred to them but shall exclude from their investigation and report consideration of—
- (a) any question relating to the appropriateness of any financial obligations or guidance as to financial objectives (however expressed) imposed on or given to the person in question by or under any enactment, or otherwise by a Minister; and
- (b) the question whether any course of conduct required or envisaged as mentioned in section 2(2) above operates against the public interest.
- (9) Sections 70 (time limit for report on merger reference), 84 (public interest) and 85 (attendance of witnesses and production of documents) of the ^{M14}Fair Trading Act 1973 and Part II of Schedule 3 to that Act (performance of functions of Commission) shall apply in relation to a reference under this section as if—

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- (a) the functions of the Commission under this section were functions under that Act;
 - (b) the expression “merger reference” included a reference to the Commission under this section;
 - (c) in paragraph 11 of that Schedule, the reference to section 71 of that Act were a reference to subsection (6) above; and
 - (d) in paragraph 16(2) of that Schedule, the reference to section 56 of that Act were a reference to section 12 below.
- (10) A report of the Commission on a reference under this section shall be made to the Secretary of State and shall state, with reasons, the conclusions of the Commission with respect to any question referred to them and, where the Commission conclude that the person specified in the reference is pursuing a course of conduct which operates against the public interest, the report may include recommendations as to what action (if any) should be taken by the person for the purpose of remedying or preventing what the Commission consider are the adverse effects of that course of conduct.
- (11) In this section “Minister” includes a Northern Ireland department and the head of such a department.

Textual Amendments

- F8** S. 11(3)(b) substituted by virtue of [Transport Act 1985 \(c. 67, SIF 126\)](#), **s. 114(1)(a)**
- F9** S. 11(3)(bb) inserted (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **s. 71(3)(a)**, Sch. 6 para. 15(1)(b)
- F10** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), **s. 114(1)(b)**
- F11** S. 11(3)(c) commencing “the National Rivers” substituted (E.W.) for s. 11(3)(c) commencing “any statutory water” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 59(1)**
- F12** Words repealed (*prosp.*) (but by S.R.s 1984 No. 422 and 1989 No. 47 the repeal came into operation in relation to the Pigs Marketing Board (Northern Ireland) on 31.12.1984 and in relation to the Milk Marketing Board for Northern Ireland on 1.4.1989 respectively) by [S.I. 1982/1080](#), (N.I. 12), art. 46(2), Sch. 9
- F13** Words inserted by [S.I. 1982/1080](#), (N.I. 12), art. 46(1), Sch. 8
- F14** Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 144(4), **Sch. 18 para. 22**
- F15** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, **Sch. 2**
- F16** Words inserted (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **s. 71(3)(a)**, Sch. 6 para. 15(2)
- F17** Words inserted (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **s. 71(3)(a)**, Sch. 6 para. 15(3)(a)
- F18** Words “either of those paragraphs” substituted (E.W.) for words “that subsection” by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **s. 71(3)(a)**, Sch. 6 para. 15(3)(b)

Marginal Citations

- M10** 1973 c. 41.
- M11** 1973 c. 37.
- M12** 1958 c. 47.
- M13** 1964 c. 13 (N.I.)
- M14** 1973 c. 41.

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VALID FROM 20/06/2003

[^{F19}11A References under section 11: time-limits

- (1) Every reference under section 11 above shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.
- (2) A report of the Commission on a reference under section 11 above shall not have effect (and no action shall be taken in relation to it under section 12 below) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the Secretary of State under subsection (3) below.
- (3) The Secretary of State may, if he has received representations on the subject from the Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than three months.
- (4) No more than one extension is possible under subsection (3) above in relation to the same reference.
- (5) The Secretary of State shall publish any extension made by him under subsection (3) above in such manner as he considers most suitable for bringing it to the attention of persons who in his opinion would be affected by it or be likely to have an interest in it.

Textual Amendments

F19 S. 11A-11D inserted (prosp.) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 {para. 10(3)}

VALID FROM 20/06/2003

11B References under section 11: powers of investigation and penalties

- (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3) below, for the purposes of references under section 11 above as they apply for the purposes of references under that Part—
 - (a) section 109 (attendance of witnesses and production of documents etc.);
 - (b) section 110 (enforcement of powers under section 109: general);
 - (c) section 111 (penalties);
 - (d) section 112 (penalties: main procedural requirements);
 - (e) section 113 (payments and interest by instalments);
 - (f) section 114 (appeals in relation to penalties);
 - (g) section 115 (recovery of penalties); and
 - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of subsection (1) above, have effect as if—

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- (a) subsection (2) were omitted;
 - (b) in subsection (4), for the word “publication” there were substituted “laying before both Houses of Parliament”; and
 - (c) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1) above, have effect as if—
- (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”;
 - (b) for the words “published (or given)”, in both places where they appear, there were substituted “made”; and
 - (c) the words “by this Part” were omitted.

Textual Amendments

F19 S. 11A-11D inserted (prosp.) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 {para. 10(3)}

VALID FROM 20/06/2003

11C References under section 11: further supplementary provisions

- (1) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions under this Act as it applies in relation to functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words “the OFT,” were omitted.
- (2) Section 125 of the Enterprise Act 2002 (offences by bodies corporate) shall apply for the purposes of this Act as it applies for the purposes of Part 3 of that Act.
- (3) For the purposes of section 12 below, a conclusion contained in a report of the Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.

Textual Amendments

F19 S. 11A-11D inserted (prosp.) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 {para. 10(3)}

VALID FROM 20/06/2003

11D Interim orders

- (1) Subsection (2) below applies where, in the circumstances specified in subsection (1) of section 12 below, the Secretary of State has under consideration the making of an order under subsection (5) of that section.
- (2) The Secretary of State may by order, for the purpose of preventing pre-emptive action—

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- (a) prohibit or restrict the doing of things which the Secretary of State considers would constitute pre-emptive action;
 - (b) impose on any person concerned obligations as to the carrying on of any activities or the safeguarding of any assets;
 - (c) provide for the carrying on of any activities or the safeguarding of any assets either by the appointment of a person to conduct or supervise the conduct of any activities (on such terms and with such powers as may be specified or described in the order) or in any other manner;
 - (d) do anything which may be done by virtue of paragraph 19 of Schedule 8 to the Enterprise Act 2002 (information powers).
- (3) An order under this section shall come into force at such time as is determined by or under the order.
 - (4) An order under this section shall, if it has not previously ceased to be in force, cease to be in force on the making of the order under section 12(5) below or (as the case may be) on the making of the decision not to make such an order.
 - (5) The Secretary of State shall publish any decision made by him not to make an order under section 12(5) below in such manner as he considers most suitable for bringing it to the attention of persons who in his opinion would be affected by it or be likely to have an interest in it.
 - (6) The Secretary of State shall, as soon as reasonably practicable, consider any representations received by him in relation to varying or revoking an order under this section.
 - (7) The following provisions of Part 3 of the Enterprise Act 2002 shall apply in relation to orders under this section as they apply in relation to orders under paragraph 2 of Schedule 7 to that Act—
 - (a) section 86(2) and (3)(enforcement orders: general provisions);
 - (b) section 87 (delegated power of directions); and
 - (c) section 94(1) to (5), (8) and (9)(rights to enforce orders).
 - (8) In this section “pre-emptive action” means action which might impede the making of an order under section 12(5) below.]

Textual Amendments

F19 S. 11A-11D inserted (prosp.) by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 {para. 10(3)}

12 Orders following report under section 11.

- (1) This section applies where a report of the Commission on a reference under section 11 above concludes that the person specified in the reference is pursuing a course of conduct which operates against the public interest.
- (2) If it appears to the Secretary of State that any other Minister has functions directly relating to the person specified in the reference or, in the case of a reference only concerning the activities of the person in a part of the United Kingdom, functions directly relating to the person in respect of his activities in that part, he shall send a copy

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of the report of the Commission on the reference to that Minister; and in subsection (3) below “the relevant Minister” means—

- (a) in a case where it appears to the Secretary of State that any Minister (including himself) has such functions, that Minister, and
- (b) in a case where it appears to the Secretary of State that no Minister has such functions, the Secretary of State.

(3) If—

- (a) the relevant Minister considers it appropriate for the purpose of remedying or preventing what he considers are the adverse effects of the course of conduct specified in the report of the Commission as operating against the public interest, and
- (b) the person specified in the reference does not fall within paragraph (d) of section 11(3) above and is not a subsidiary of a body falling within that paragraph,

he may by order direct the person to prepare within such time, if any, as may be specified in the order a plan for remedying or preventing such of those effects as are so specified; but where there is more than one relevant Minister no such order shall be made except by all the relevant Ministers acting jointly and where none of the relevant Ministers is the Secretary of State no such order shall be made except after consultation with him.

(4) It shall be the duty of a person to whom a direction is given under subsection (3) above to prepare such a plan as is mentioned in that subsection and to send a copy of that plan to the Minister or Ministers by whom the order containing the direction was made who shall lay it before Parliament; and, in a case where the plan involves the use by a body of its powers in relation to any subsidiary within the meaning of [^{F20}section 736 of]the [^{F21}Companies Act 1985], the plan shall specify the manner in which the body proposes using those powers.

(5) Whether or not an order has been or may be made under subsection (3) above, the Secretary of State may, if he considers it appropriate for the purpose of remedying or preventing what he considers are the adverse effects of the course of conduct specified in the report of the Commission as operating against the public interest, by order exercise one or more of the powers specified in Part I, excluding paragraph 10, of Schedule 8 to the ^{M15}Fair Trading Act 1973, to such extent and in such manner as he considers appropriate.

(6) In the ^{M16}Fair Trading Act 1973—

- (a) section 90 (general provisions as to orders under section 56 etc.) except subsections (2) and (3),
- (b) section 91(2) (publication of proposals to make an order),
- (c) section 93 (enforcement of certain orders), and
- (d) Part I (except paragraph 10) of Schedule 8 (powers exercisable by orders under section 56 etc.),

shall have effect as if any reference in those provisions to an order under section 56 of that Act included a reference to an order under subsection (5) above.

Textual Amendments

F20 Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 144(4), [Sch. 18 para. 22](#)

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F21 Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

Modifications etc. (not altering text)

C47 S. 12(5) amended by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), [ss. 144\(2\), 238\(2\)](#)

Marginal Citations

M15 1973 c. 41.

M16 1973 c. 41.

13 Investigations of prices directed by Secretary of State.

- (1) If so directed by the Secretary of State, the Director shall carry out an investigation into any price specified in the direction with a view to providing the Secretary of State with information of a description so specified relating to that price: but the giving of a direction under this section shall not affect the power of the Director to initiate an investigation under section 3 above (subject to subsection (5) of that section) into a course of conduct pursued by any person by or to whom the price specified in the direction is charged.
- (2) The Secretary of State shall not give a direction under this section unless he is satisfied that the price in question is one of major public concern and, in this connection, he shall have regard to whether—
 - (a) the provision or acquisition of the goods or services in question is of general economic importance; or
 - (b) consumers are significantly affected, whether directly or indirectly, by the price.
- (3) The Secretary of State may at any time vary or revoke a direction given under this section, but he shall not exercise his power to vary such a direction unless he is satisfied that the direction as proposed to be varied would be such as he could have given, having regard to subsection (2) above.
- (4) On giving a direction under this section or on varying or revoking such a direction, the Secretary of State shall arrange for the direction, variation or revocation to be published in such manner as he considers most suitable for bringing it to the attention of persons who, in his opinion, would be affected by, or be likely to have an interest in, the investigation to which the direction, variation or revocation relates.
- (5) A direction under this section shall specify a period within which the Director is to report on his investigation to the Secretary of State, and, before the expiry of the period specified in the direction (whether as originally given or as varied under subsection (3) above), the Director shall make a report on the investigation to the Secretary of State—
 - (a) stating his findings of fact which are material to the information which he is required to provide in accordance with the direction; and
 - (b) containing such additional observations (if any) as the Director considers should be brought to the attention of the Secretary of State as a result of the investigation.
- (6) Subsections (7) and (8) of section 3 above shall have effect in relation to an investigation under this section as they have effect in relation to an investigation under that section.

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Patents and agricultural schemes

14 F22

Textual Amendments

F22 S. 14 repealed by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(2), Sch. 8

15 Agricultural schemes: special provisions.

- (1) In subsection (1) of section 19A of the ^{M17}Agricultural Marketing Act 1958 (power of Minister to make orders under section 19 of that Act where report of Commission on monopoly reference contains certain conclusions) after the words “Fair Trading Act 1973” there shall be inserted the words “ or section 8 or 11 of the Competition Act 1980”.
- (2) The Secretary of State shall not—
 - (a) give a direction under subsection (5) of section 3 above or a consent under subsection (9) of that section in relation to an investigation under that section, or
 - (b) give a direction under section 7(2) or (3) above in relation to a competition reference, or
 - (c) make or vary a reference under section 11 above,in a case where the person to whom or to whose conduct or activities the investigation or reference relates falls within section 11(3)(d) above unless he has first consulted the relevant Minister.
- (3) Where the report of the Commission on a competition reference concludes that a board administering a scheme under the said Act of 1958 [^{F23}or the ^{M18}Agricultural Marketing Act (Northern Ireland) 1964][^{F24}or the Agricultural Marketing (Northern Ireland) Order 1982]was engaging in an anti-competitive practice which operated or might be expected to operate against the public interest, the Secretary of State shall not exercise any function under section 9 above except acting jointly with the relevant Minister and, in its application in such a case, section 9 above shall have effect as if the references in it to the Secretary of State (except the second reference in subsection (6)) were references to both the Secretary of State and the relevant Minister.
- (4) Before carrying out an investigation under section 3 above into any course of conduct being pursued by a person falling within section 11(3)(d) above the Director shall give notice as required by section 3(2)(a) above also to the relevant Minister and on making any competition reference arising from that investigation or varying such a reference under section 6(6) above the Director shall send a copy of the reference or, as the case may be, the variation to the relevant Minister.
- (5) In this section “the relevant Minister” means—
 - (a) in the case of a board administering a scheme under the said Act of 1958, the Minister who would have power to make an order under section 19 of that Act in relation to that board or the board administering that scheme, and
 - (b) in the case of a board administering a scheme under [^{F25}the said Act of 1964 [^{F26}or]the said Order of 1982], the Department of Agriculture for Northern Ireland.

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Textual Amendments

- F23** Words repealed (*prosp.*) (but by S.R.s 1984 No. 422 and 1989 No. 47 the repeal came into operation in relation to the Pigs Marketing Board (Northern Ireland) on 31.12.1984 and in relation to the Milk Marketing Board for Northern Ireland on 1.4.1989 respectively) by S.I. 1982/1080, (N.I. 12), art. 46(2), Sch. 9
- F24** Words inserted by S.I. 1982/1080, (N.I. 12), art. 46(1), Sch. 8
- F25** “the said Act of 1964 or” repealed (*prosp.*) (but by S.R.s 1984 No. 422 and 1989 No. 47 the repeal came into operation in relation to the Pigs Marketing Board (Northern Ireland) on 31.12.1984 and in relation to the Milk Marketing Board for Northern Ireland on 1.4.1989 respectively) by S.I. 1982/1080, (N.I. 12), art. 46(2), Sch. 9
- F26** “or the said Order of 1982” inserted by S.I. 1982/1080 (N.I. 12), art. 46(1), Sch. 8

Modifications etc. (not altering text)

- C48** The text of ss. 15(1), 22, 23, 27(4), 28, 30(1), 32(2), 33(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M17** 1958 c. 47.
- M18** 1964 c. 13 (N.I.)

General provisions about references and investigations

16 General provisions as to reports.

- (1) In making any report under this Act the Commission or the Director shall have regard to the need for excluding, so far as that is practicable—
- (a) any matter which relates to the private affairs of an individual, where the publication of that matter would or might, in the opinion of the Commission or the Director, as the case may be, seriously and prejudicially affect the interests of that individual, and
 - (b) any matter which relates specifically to the affairs of a body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Commission or the Director, as the case may be, seriously and prejudicially affect the interests of that body, unless in the opinion of the Commission or the Director, as the case may be, the inclusion of that matter relating specifically to that body is necessary for the purposes of the report.
- (2) For the purposes of the law relating to defamation, absolute privilege shall attach to any report of the Commission or of the Director under this Act.

Modifications etc. (not altering text)

- C49** S. 16 modified (transfer of functions) by Telecommunications Act 1984 (c. 12, SIF 96), s. 50(3) and (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 43(3)
- C50** S. 16 modified (transfer of functions) (1.4.1992) by S.I. 1992/231, art. 46(3)(4); S.R. 1992/117, art. 3(1)
- C51** S. 16 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by 1993 c. 43, s. 67(3)(4); S.I. 1994/571, art. 5

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C52 S. 16 amended (E.W.)(1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), ss. 31(4)(c), 35(4), 223(2) (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)

17 Laying before Parliament and publication of reports.

- (1) Subject to subsection (2) below, the Secretary of State shall lay a copy of any report made to him under section 8(1), 11(10) or 13(5) above before each House of Parliament and shall arrange for the report to be published in such manner as appears to him appropriate.
- (2) The Secretary of State shall not lay a copy of a report made to him under section 8(1) or 11(10) above before either House of Parliament unless at least twenty-four hours before doing so he has transmitted to every person specified in the reference a copy of the report in the form in which it is laid (or by virtue of subsection (3) below is treated as being laid) before each House of Parliament.
- (3) If a report made to him under section 8(1), 11(10) or 13(5) above is presented by command of Her Majesty to either House of Parliament otherwise than at or during the time of a sitting of that House, the presentation of the report shall for the purposes of this section be treated as the laying of a copy of it before that House by the Secretary of State.
- (4) If it appears to the Secretary of State that the publication of any matter in a report made to him under section 8(1), 11(10) or 13(5) above would be against the public interest, he shall exclude that matter from the copies of the report as laid before Parliament and from the report as published under this section.
- (5) Without prejudice to subsection (4) above, if the Secretary of State considers that it would not be in the public interest to disclose—
 - (a) any matter contained in a report made to him under section 8(1), 11(10) or 13(5) above relating to the private affairs of an individual whose interests would, in the opinion of the Secretary of State, be seriously and prejudicially affected by the publication of that matter, or
 - (b) any matter contained in such a report relating specifically to the affairs of a particular person whose interests would, in the opinion of the Secretary of State, be seriously and prejudicially affected by the publication of that matter,the Secretary of State shall exclude that matter from the copies of the report as laid before Parliament and from the report as published by virtue of subsection (1) above.
- (6) Any reference in sections 9, 10 or 12 above to a report of the Commission shall be construed as a reference to the report in the form in which copies of it are laid (or by virtue of subsection (3) of this section are treated as having been laid) before each House of Parliament under this section.

18 Information and advice about operation of Act.

The Director shall arrange for the dissemination in such form and manner as he considers appropriate of such information and advice as it may appear to him expedient to give the public in the United Kingdom about the operation of this Act.

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19 Restriction on disclosure of information.

- (1) Subject to subsection (2) below, no information obtained under or by virtue of the preceding provisions of this Act about any business shall, so long as the business continues to be carried on, be disclosed without the consent of the person for the time being carrying it on.
- (2) Subsection (1) above does not apply to any disclosure of information made—
 - (a) for the purpose of facilitating the performance of any functions under this Act or any of the enactments [^{F27}or subordinate legislation]specified in subsection (3) below of any Minister, any Northern Ireland department, the head of any such department, the Director [^{F28}the Director General of Telecommunications,][^{F29}the Director General of Gas Supply,][^{F30}the Civil Aviation Authority,][^{F31}the Director General of Water Services,][^{F32}the Director General of Electricity Supply,],the Commission or a local weights and measures authority in Great Britain; or
 - (b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings; or
 - (c) for the purposes of any civil proceedings brought under or by virtue of this Act or any of the enactments [^{F33}or subordinate legislation]specified in subsection (3) below; or
 - (d) in pursuance of a Community obligation.
- (3) The enactments [^{F34}and subordinate legislation]referred to in subsection (2) above are—
 - (a) the ^{M19}Trade Descriptions Act 1968;
 - (b) the ^{M20}Fair Trading Act 1973;
 - (c) the ^{M21}Consumer Credit Act 1974;
 - (d) the ^{M22}Restrictive Trade Practices Act 1976;
 - (e) the ^{M23}Resale Prices Act 1976; . . . ^{F35}
 - (f) the ^{M24}Estate Agents Act 1979.
 - [^{F36}(g) the Telecommunications Act 1984.]
 - [^{F37}(h) the Gas Act 1986.]
 - [^{F38}(h) Chapter XIV of Part I of the Financial Services Act 1986]
 - [^{F39}(i) the Airports Act 1986.]
 - [^{F40}(j) the Consumer Protection Act 1987.]
 - [^{F41}(k) the Control of Misleading Advertisements Regulations 1988]
 - [^{F42}(k) the Consumer Protection (Northern Ireland) Order 1987.]
 - [^{F43}(l) the Water Act 1989.][^{F44} the Water Industry Act 1991 or any of the other consolidation Acts (within the meaning of section 206 of that Act of 1991)]
 - [^{F45}(m) the Electricity Act 1989.]
 - [^{F46}(n) the Broadcasting Act 1990]
- (4) For the purpose of enabling information obtained under certain enactments to be used for facilitating the performance of functions under this Act, the following amendments shall be made in provisions respecting disclosure of information, namely—
 - (a) at the end of paragraph (aa) of the proviso to section 47(2) of the ^{M25}Agricultural Marketing Act 1958 there shall be added the words “or the Competition Act 1980” ;

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- [^{F47}(b) at the end of paragraph (aaa) of section 23(2) of the ^{M26}Agricultural Marketing Act (Northern Ireland) Act 1964 there shall be added the words “or the Competition Act 1980” ;]
 - (c) at the end of paragraph (a) of subsection (2) of section 133 of the Fair Trading Act 1973 there shall be added the words “the Competition Act 1980, or” ;
 - (d) in paragraph (a) of subsection (3) of section 174 of the Consumer Credit Act 1974 after the words “Estate Agents Act 1979” there shall be added the words “or the Competition Act 1980” ;
 - (e) at the end of paragraph (a) of subsection (1) of section 41 of the Restrictive Trade Practices Act 1976 there shall be added the words “or the Competition Act 1980” ; and
 - (f) in paragraph (a) of subsection 10 of the ^{M27}Estate Agents Act 1979 after the words “Restrictive Trade Practices Act 1976” there shall be added the words “or the Competition Act 1980”.
- (5) Nothing in subsection (1) above shall be construed—
- (a) as limiting the matters which may be included in any report of the Director or of the Commission made under this Act; or
 - (b) as applying to any information which has been made public as part of such a report or as part of the register kept for the purposes of the Act of 1976.
- (6) Any person who discloses information in contravention of this section shall be liable on summary conviction to a fine not exceeding the statutory maximum and, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.
- (7) In subsection (6) above “the statutory maximum”, in relation to a fine on summary conviction, means—
- (a) in England and Wales. . . ^{F48}, the prescribed sum within the meaning of [^{F49}section 32 of the Magistrates’ Courts Act 1980](at the passing of this Act £1,000); and
 - (b) in Scotland, the prescribed sum within the meaning of section 289B of the ^{M28}Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000); [^{F50}and]
 - [^{F51}(c) in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984.]

Textual Amendments

- F27** Words inserted by [S.I. 1988/915, art. 7\(6\)\(e\)\(i\)](#)
- F28** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\), s. 109, Sch. 4 para. 73\(1\), Sch. 5 para. 45](#)
- F29** Words inserted by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\), Sch. 7 para. 28\(1\)](#)
- F30** Words inserted by [Airports Act 1986 \(c. 31, SIF 9\), s. 83\(1\), Sch. 4 para. 7\(a\)](#)
- F31** Words inserted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\), s. 190\(1\), Sch. 25 para. 59\(2\)\(a\)](#)
- F32** Words inserted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\), s. 112\(1\), Sch. 16 para. 25\(a\)](#)
- F33** Words inserted by [S.I. 1988/915, art. 7\(6\)\(e\)\(i\)](#)
- F34** Words inserted by [S.I. 1988/915, art. 7\(6\)\(e\)\(ii\)](#)
- F35** Word repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\), s. 109\(6\), Sch. 7 Pt. I](#)
- F36** Para. (g) inserted in subsection (3) at the end by [Telecommunications Act 1984 \(c. 12, SIF 96\), s. 109, Sch. 4 para. 73\(2\), Sch. 5 para. 45](#)

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- F37** Para. (h) inserted (23.08.1986) in subsection (3) at the end by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1), [Sch. 7 para. 28\(2\)](#) (Royal Assent 25.7.1986)
- F38** Para. (h) inserted (18.12.1986) at the end of section 19(3) by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), s. 182, [Sch. 13 para. 5](#) (Royal Assent 7.11.1986)
- F39** Para. (i) inserted (1.10.1986) after paragraph (h) by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(1), [Sch. 4 para. 7\(b\)](#) (Royal Assent 8.7.1986)
- F40** Para. (j) inserted (1.10.1987) after paragraph (i) by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48(1), [Sch. 4 para. 7](#) (Royal Assent 15.5.1987)
- F41** Words inserted (20.6.1988) after the words “Consumer Protection Act 1987” by S.I. 1988/915, [art. 7\(6\)\(e\)\(ii\)](#) (made 23.5.1988)
- F42** Para. (k) inserted (1.3.1989) after paragraph (j) by S.I. 1987/2049 (N.I. 20), [art. 35\(1\)](#), [Sch. 3 para. 5](#) (made 26.11.1987)
- F43** Para. (l) inserted (1.9.1989) (E.W.) after paragraph (k) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 59\(2\)\(b\)](#) (Royal Assent 6.7.1989)
- F44** Words in s. 19(3)(l) inserted (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2, 4(2), [Sch. 1 para.34](#)
- F45** Para. (m) inserted (31.3.1990) (E.W.S.) after paragraph (l) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 25\(b\)](#) (Royal Assent 27.7.1989)
- F46** Para. (n) inserted (1.1.1991) after paragraph (m) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), [Sch. 20 para. 28](#) (Royal Assent 1.11.1990)
- F47** [S. 19\(4\)\(b\)](#) repealed (*prosp.*) (but by S.R.s 1984 No. 422 and 1989 No. 47 the repeal came into operation in relation to the Pigs Marketing Board (Northern Ireland) on 31.12.1984 and in relation to the Milk Marketing Board for Northern Ireland on 1.4.1989 respectively) by S.I. 1982/1080 (N.I. 12), [art. 46\(2\)](#), [Sch. 9](#)
- F48** Words repealed by S.I. 1984/703, (N.I. 3), [art. 19\(1\)\(2\)](#), [Sch. 6 para. 15\(a\)](#), [Sch. 7](#)
- F49** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, [Sch. 7 para. 206](#)
- F50** Word added by S.I. 1984/703, (N.I. 3), [art. 19\(1\)](#), [Sch. 6 para. 15\(b\)](#)
- F51** Words substituted by S.I. 1984/703 (N.I. 3), [art. 19\(1\)](#), [Sch. 6 para. 15\(c\)](#)

Modifications etc. (not altering text)

- C53** [S. 19](#) amended (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 43\(3\)](#)
[S.19](#) amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 31\(4\)\(c\)](#), 35(4), 223(2)(with ss. 82(3), 186(1), 222(1), [Sch. 14 para. 6](#))
- C54** [S. 19\(1\)](#) excluded by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [s. 197\(5\)\(c\)](#)
- C55** The text of [s. 19\(4\)](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M19** 1968 c. 29(109:1).
M20 1973 c. 41(124:1).
M21 1974 c. 39(60).
M22 1976 c. 34(124:1).
M23 1976 c. 53(124:1).
M24 1979 c. 38(124:4).
M25 1958 c. 47.
M26 1964 c. 13 (N.I.)
M27 1979 c. 38.
M28 1975 c. 21.

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Grants

20 Power to make grants to certain bodies.

If the Secretary of State is satisfied that—

- (a) the general advice of any body on matters of interest to users of goods and services would be useful to him in the formulation of policy concerning those matters and
 - (b) the body disseminates information of such interest,
- he may make a grant to the body on such terms as he thinks fit.

Amendments of Fair Trading Act 1973

21 Monopoly references by Secretary of State alone.

It is hereby declared that where it appears to the Secretary of State that—

- (a) a monopoly situation exists or may exist as mentioned in subsection (1) of section 51 of the ^{M29}Fair Trading Act 1973 (monopoly references by Ministers), and
- (b) the goods or services in question are of a description mentioned in subsection (2) of that section, and
- (c) none of the Ministers mentioned in subsection (3) of that section has such functions as are mentioned in subsection (2) of that section in relation to goods or services of that description,

the Secretary of State may make a monopoly reference with respect to the existence or possible existence of that situation acting alone; and accordingly any reference which has been made in such circumstances by the Secretary of State acting alone has been made in compliance with that section.

Marginal Citations

M29 1973 c. 41.

22 Disclosure of reports on monopoly references to persons named.

In section 83 of the Fair Trading Act 1973 (laying before Parliament of reports under that Act)—

- (a) at the beginning of subsection (1) there shall be inserted the words “Subject to subsection (1A) below” ;
- (b) after subsection (1) there shall be inserted the following subsection:—

“(1A) The Minister or Ministers to whom a report of the Commission on a monopoly reference is made shall not lay a copy of the report before either House of Parliament unless at least twenty-four hours before doing so he transmits or they transmit to every person named in the report as a person in whose favour a monopoly situation exists a copy of the report in the form in which it is laid (or by virtue of subsection (2) below is treated as being laid) before each House of Parliament.”

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Modifications etc. (not altering text)

C56 The text of ss. 15(1), 22, 23, 27(4), 28, 30(1), 32(2), 33(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

23 Amendment of s.137(3) of Fair Trading Act 1973.

In section 137(3) of the Fair Trading Act 1973 (definition of “the supply of services”) there shall be inserted after paragraph (b) the following words:—

“and

- (c) includes the making of arrangements for a person to put or keep on land a caravan (within the meaning of Part I of the Caravan Sites and Control of Development Act 1960) other than arrangements by virtue of which the person may occupy the caravan as his only or main residence.”

Modifications etc. (not altering text)

C57 The text of ss. 15(1), 22, 23, 27(4), 28, 30(1), 32(2), 33(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

24 Modification of provisions about performance of Commission’s functions.

- (1) The Secretary of State may by order make such modifications in Part II of Schedule 3 to the ^{M30}Fair Trading Act 1973 (performance of functions of Commission) as appear to him to be appropriate for improving the performance by the Commission of their functions.
- (2) An order under this section may contain such transitional, incidental or supplementary provisions as the Secretary of State thinks fit.

Modifications etc. (not altering text)

- C58** S. 24 applied with modifications (E.W.S.) by [Airports Act 1986 \(c. 31, SIF 9\)](#), [s. 44\(3\)](#)
- C59** S. 24 applied with modifications (E.W.S.) by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [ss. 24\(7\), 48\(3\)\(4\)](#)
- C60** S. 24 applied with modifications (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), [s. 16\(7\)](#)
- C61** S. 24 applied with modifications (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#) s. 12(8)
- C62** S. 24 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 39, [Sch. 4 para. 4\(7\)\(c\)](#)
S. 24 applied with modifications (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 14\(7\), 223\(2\)](#) (with [ss. 82\(3\), 186\(1\), 222\(1\)](#), [Sch. 14 para. 6](#))
- C63** S. 24 extended with modifications (1.4.1992) by [S.I. 1992/231](#), [art. 15\(8\)](#); [S.R. 1992/117](#), [art. 3\(1\)](#)
- C64** S. 24 applied (with modifications) (E.W.S.) (1.4.1994) by [1993 c. 43, s. 13\(8\)](#) (with saving in [s. 13\(9\)](#)); [S.I. 1994/571](#), [art. 5](#)
S. 24 applied (with modifications) (N.I.) (1.9.1995) by [S.I. 1994/426 \(N.I. 1\)](#), [art. 35\(3\)](#) (with [art. 16](#)); [S.R. 1995/294](#), [art. 2, Sch.](#)
S. 24 applied (with modifications) (N.I.) (10.6.1996) by [S.I. 1996/275 \(N.I. 2\)](#), [art. 15\(9\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); [S.R. 1996/216](#), [art. 2](#)

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Marginal Citations

M30 1973 c. 41.

Amendments of Restrictive Trade Practices Act 1976

25 Suspension of declarations under section 1(3) of Restrictive Trade Practices Act 1976 pending appeals.

Where on an application under section 1(3) of the ^{M31}Restrictive Trade Practices Act 1976 the Court declares at any time after the coming into force of this section that any restrictions or information provisions are contrary to the public interest, that declaration shall not have effect—

- (a) until the expiration of the period of 21 days beginning with the expiration of the period within which any party to that application may appeal against the declaration, and
- (b) in a case where such an appeal is brought, until the expiration of the period of 21 days after the date on which the appeal has been finally determined or withdrawn.

Marginal Citations

M31 1976 c. 34.

26 Suspension of declarations under section 1(3) of Restrictive Trade Practices Act 1976 pending revision of agreements.

- (1) Where the Court has declared under section 1(3) of the ^{M32}Restrictive Trade Practices Act 1976 that any restrictions or information provisions in an agreement are contrary to the public interest, any party to the agreement or to the proceedings in which the declaration was made may, at any time before the declaration comes into effect, submit a revised agreement or a draft of a revised agreement to the Court and the Court may declare that any restrictions or information provisions contained in the revised agreement by virtue of which the said Act of 1976 applies or would apply to that agreement are not contrary to the public interest.
- (2) Variations of the agreement in relation to which the declaration under section 1(3) of the said Act of 1976 was made may not be submitted to the Court under subsection (1) above unless particulars of them have been furnished to the Director under section 24(2) of that Act and a new agreement may not be so submitted unless it has been registered under that Act and particulars of any variation of it have been so furnished.
- (3) The duty of taking proceedings before the Court imposed on the Director by section 1(2)(c) of the said Act of 1976 shall not apply in respect of an agreement if the Court has declared under subsection (1) above that all the restrictions or information provisions by virtue of which that Act applies to the agreement are not contrary to the public interest.
- (4) Where any person who may make an application under subsection (1) above in relation to a declaration applies to the Court at any time before the declaration comes into effect for an extension of the period after which it will come into effect to enable an

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application to be made to the Court under subsection (1) above and it appears to the Court reasonable to do so, it may extend that period by such period (not exceeding six months on a first application under this subsection or three months on a second such application) as it thinks fit, but no more than two extensions may be made in respect of any declaration.

- (5) Where, following a declaration under section 1(3) of the said Act of 1976, an application is made under subsection (1) or (4), above, the declaration shall not come into effect until the application has been determined.
- (6) The Court may, if it thinks fit, grant an extension under subsection (4) above in relation to some but not all of the restrictions and information provisions in question and in that event—
 - (a) the period within which an application under subsection (1) above or a second application under subsection (4) above may be made shall not expire until the declaration has come into effect in relation to all the restrictions or information provisions, and
 - (b) subsection (5) above shall not prevent a declaration coming into effect in relation to any restriction or information provision in relation to which no extension was granted.
- (7) Notice of an application made under subsection (1) or (4) above shall be served on the Director in accordance with rules of court and the Director shall be entitled in accordance with such rules to appear and to be heard on the application.
- (8) Where a declaration is made under subsection (1) above the Director shall cause notice of it to be entered in the register kept by him under section 23 of the said Act of 1976—
 - (a) in the case of a declaration in relation to restrictions or information provisions contained in an agreement registered under the Act, on the making of the declaration, and
 - (b) in the case of a declaration in relation to restrictions or information provisions contained in a draft agreement, on the registration of an agreement in the form of the draft.
- (9) Sections 10 and 19 of the said Act of 1976 (public interest) shall apply to proceedings under this section as they apply to proceedings under Part I of that Act.

Marginal Citations

M32 1976 c. 34.

27 Recommendations by services supply associations.

- (1) An order under section 11 of the ^{M33}Restrictive Trade Practices Act 1976 (restrictive agreements as to services) may provide that section 16(3) of that Act (recommendations by services supply associations to members about services) shall not apply to recommendations of such descriptions as may be specified in the order and an order under section 12 of that Act (information agreements as to services) may make similar provision in relation to section 16(5) of that Act (recommendations by services supply associations to members about furnishing information).

- (2) Where—

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- (a) section 16 of that Act would (apart from this subsection) apply in relation to a recommendation by a services supply association, and
- (b) if the sole term of the agreement for the constitution of the association were a term by which each member of it agreed to comply with that recommendation, the agreement would be excluded by the terms of the order from the operation of an order made, or having effect as if made, under section 11 of that Act which came into force after 21st March 1976 and before the coming into force of this section.

subsection (3) of the said section 16 shall not apply and shall be deemed never to have applied in relation to that recommendation during the continuance in force of the order.

- (3) Subsection (2) above shall have effect in relation to a recommendation made before the repeal of section 112(3) of the ^{M34}Fair Trading Act 1973 as if each reference to section 16(3) of the 1976 Act included a reference to that section.
- (4) In the Table in Paragraph 5 of Schedule 2 to the said Act of 1976 (time within which particulars of agreements and variations to be furnished under that Act)—
 - (a) there shall be added at the end of the first column of paragraph (f) the words “not being a variation which becomes subject to registration by virtue of an order under section 11 or 12 above” ; and
 - (b) there shall be added at the end of the first column of paragraph (i) the words “other than a variation to which (ii) below applies” ; and
 - (c) after paragraph (i) there shall be added the following paragraph :—

“(ii)Variation of an agreement being a variation which extends or adds to the restrictions accepted or information provisions made under the agreement and which becomes subject to registration by virtue of the revocation or variation of an order made under section 11 or 12 above.

Within 1 month from the day on which the variation becomes so subject.”

Modifications etc. (not altering text)

C65 The text of ss. 15(1), 22, 23, 27(4), 28, 30(1), 32(2), 33(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M33 1976 c. 34.

M34 1973 c. 41.

28 Amendments to s. 19 of Restrictive Trade Practices Act 1976.

- (1) In section 19(1) of the ^{M35} Restrictive Trade Practices Act 1976 (which provides amongst other things that there is a presumption that a restriction or information provision is against the public interest unless the Court is satisfied the removal of it would deny benefit to the public as purchasers, consumers or users of any goods)—
 - (a) the word “vendors” shall be inserted before the word “purchasers” in both places where it occurs, and

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- (b) the words “or other property” shall be inserted—
- (i) after the words “users of any goods” in paragraph (b), and
 - (ii) after the words “users of goods” in the words following paragraph (h).
- (2) In subsection (2) of that section (“purchasers”, “consumers” and “users” to include persons purchasing, consuming and using for trade, business and public purposes) the word “vendors” shall be inserted before the word “purchasers” and the word “selling” shall be inserted before the word “purchasing”.

Modifications etc. (not altering text)

C66 The text of ss. 15(1), 22, 23, 27(4), 28, 30(1), 32(2), 33(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M35 1976 c. 34

29 Exemption of certain undertakings from Restrictive Trade Practices Acts.

- (1) The ^{M36}Restrictive Trade Practices Act 1976 shall not apply in relation to any agreement by virtue only of restrictions being accepted or information provisions being made under it which are comprised in undertakings which have been—
- (a) given pursuant to section [^{F52}75G or]88 of the ^{M37}Fair Trading Act 1973, or
 - (b) certified by the Secretary of State under paragraph 9 of Schedule 11 to the said Act of 1973, or
 - (c) accepted under section 4 or 9 above.
- (2) The said Act of 1976 and Part I of the ^{M38}Restrictive Trade Practices Act 1956 shall be deemed never to have applied in relation to any agreement by virtue only of restrictions being accepted or information provisions being made under it which are comprised in undertakings falling within paragraph (a) or (b) of subsection (1) above.

Textual Amendments

F52 Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, **Sch. 20 para. 24**

Marginal Citations

M36 1976 c. 34.

M37 1973 c. 41.

M38 1956 c. 68.

30 Exemption of copyright agreements from Restrictive Trade Practices Acts.

- (1) The following paragraph shall be inserted in Schedule 3 of the ^{M39}Restrictive Trade Practices Act 1976 (excepted agreements) after paragraph 5:—

Copyrights

“5A (1) This Act does not apply to—

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- (a) a licence granted by the owner or a licensee of any copyright ;
 - (b) an assignment of any copyright ; or
 - (c) an agreement for such a licence or assignment ;
- being a licence, assignment or agreement such as is described in sub-paragraph (2) or sub-paragraph (3) below.
- (2) The licence, assignment or agreement referred to in sub-paragraph (1) above is in relation to Part II of this Act one under which no such restrictions as are described in section 6(1) above are accepted or no such information provisions as are described in section 7(1) above are made except in respect of the work or other subject matter in which the copyright subsists or will subsist.
- (3) The licence, assignment or agreement referred to in sub-paragraph (1) above is in relation to Part III of this Act one under which—
- (a) in the case of an order under section 11 above, no restrictions in respect of matter specified in the order for the purposes of subsection (1)(b) of that section are accepted except in respect of the work or other subject-matter in which the copyright subsists or will subsist ; or
 - (b) in the case of an order under section 12 above, no information provision with respect to matters specified in the order for the purposes of subsection (1)(b) of that section is made except in respect of that work or other subject matter.
- (4) In relation to Scotland, references in this paragraph to an assignment mean an assignation.”
- (2) The said Act of 1976 and Part I of the ^{M40}Restrictive Trade Practices Act 1956 shall be deemed never to have applied in relation to—
- (a) a licence granted by the owner or a licensee of any copyright,
 - (b) an assignment or assignation of any copyright, or
 - (c) an agreement for such a licence, assignment or assignation,
- by virtue only of restrictions being accepted or information provisions being made under it in respect of the work or other subject-matter in which the copyright subsists or will subsist.

Modifications etc. (not altering text)

C67 The text of ss. 15(1), 22, 23, 27(4), 28, 30(1), 32(2), 33(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M39 1976 c. 34.

M40 1956 c. 68.

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Supplementary

31 Orders and regulations.

- (1) Any power of the Secretary of State to make orders or regulations under this Act shall be exercisable by statutory instrument.
- (2) An order under section 2(3) above shall be laid before Parliament and shall cease to have effect (but without prejudice to the making of a new statutory instrument) unless, within forty days of the making of the order, it is approved by a resolution of each House of Parliament; and in reckoning any period of forty days for the purposes of this subsection, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (3) Any statutory instrument containing regulations under this Act or an order under section 10, 11(4) or 12(3) or (5) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) No order shall be made under section 24(1) above unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

32 Financial provisions.

- (1) There shall be defrayed out of moneys provided by Parliament—
 - (a) any expenses incurred by the Secretary of State in consequence of the provisions of this Act; and
 - (b) any increase attributable to this Act in the sums payable out of moneys so provided under any other Act.
- (2) In section 135(2) of the ^{M41}Fair Trading Act 1973 (which provides for any expenses duly incurred by the Director or his staff in consequence of the provisions of that Act to be defrayed out of moneys provided by Parliament) for the words “of this Act” there shall be substituted the words “of this or any other Act”.

Marginal Citations

M41 1973 c. 41.

33 Short title, interpretation, repeals, commencement and extent.

- (1) This Act may be cited as the Competition Act 1980.
- (2) Except in so far as any provision of this Act otherwise provides, section 137 of the ^{M42}Fair Trading Act 1973 (general interpretation provisions) shall have effect in relation to sections 2 to 24 above as if those sections were contained in that Act; and for ease of reference the expressions which are used in those sections and have meanings assigned to them by the said section 137 are—
 - “the Act of 1976”
 - “agreement”
 - “business”
 - “the Commission”

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“consumer”
“the Director”
“enactment”
“goods”
“group”
“group of inter-connected bodies corporate”
“inter-connected bodies corporate”
“Minister”
“monopoly situation”
“practice”
“price”
“services”
“supply”
“the supply of services”.

- (3) Section 43 of the ^{M43}Restrictive Trade Practices Act 1976 (interpretation and construction) shall have effect in relation to sections 25 to 30 above as if those sections were contained in that Act; and for ease of reference the expressions which are used in those sections and have meanings assigned to them by the said section 43 are—

“agreement”
“the Court”
“the Director”
“goods”
“information provision”
“restriction”
“services supply association”
“supply”.

- (4) So much of the ^{M44}Counter-Inflation Act 1973 as remains in force immediately before the passing of this Act shall cease to have effect and, in consequence of that and of the preceding provisions of this Act, the enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (5) This Act shall come into operation on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions and for different purposes.
- (6) An order under this section appointing a day for the coming into operation of any provision of Schedule 2 to this Act may contain such savings with respect to the operation of that provision and such incidental and transitional provisions as appear to the Secretary of State to be appropriate.
- (7) Any reference in any provision of this Act to the appointed day shall be construed as a reference to the day appointed or, as the case may require, first appointed under this section for the coming into operation of that provision.
- (8) This Act extends to Northern Ireland.

Modifications etc. (not altering text)

C68 Power of appointment conferred by s. 33(5) fully exercised: [S.I. 1980/497](#), 1980/978

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Marginal Citations

M42 1973 c. 41.

M43 1976 c. 34.

M44 1973 c. 9.

Status: Point in time view as at 01/12/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Competition Act 1980 is up to date with all changes known to be in force on or before 02 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1. . . F53

Textual Amendments

F53 Sch. 1 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. II Group 2

SCHEDULE 2

Section 33 (4).

ENACTMENTS REPEALED

Modifications etc. (not altering text)

C69 The text of ss. 15(1), 22, 23, 27(4), 28, 30(1), 32(2), 33(4), Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
1973 c. 9.	The Counter-Inflation Act 1973.	Parts I, II and V, so far as unrepealed.
1974 c. 24.	The Prices Act 1974.	In the Schedule, in paragraph 11, the words "or of the Price Commission".
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the words "The Price Commission".
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the words "The Price Commission".
1975 c. 57.	The Remuneration, Charges and Grants Act 1975.	In section 2, subsection (4), in subsection (5) paragraph (b) and the word "or" immediately preceding it. Section 3.
1977 c. 33.	The Price Commission Act 1977.	The whole Act, except sections 16 and 17.
1978 c. 54.	The Dividends Act 1978.	The whole Act.
1979 c. 1.	The Price Commission (Amendment) Act 1979.	The whole Act.

Status:

Point in time view as at 01/12/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

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