



Competition Act 1980

1980 CHAPTER 21

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 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until the expiration of the period of 21 days after the date on which the appeal has been finally determined or withdrawn.

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 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 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.

27 Recommendations by services supply associations

- (1) An order under section 11 of the 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—

- (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 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.”

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

(1) In section 19(1) of the 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 benefits 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
- (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 ".

29 Exemption of certain undertakings from Restrictive Trade Practices Acts

- (1) The 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 88 of the 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 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.

30 Exemption of copyright agreements from Restrictive Trade Practices Acts

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

“Copyrights

- 5A (1) This Act does not apply to—
- (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 matters 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 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 copy right,
- (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.