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STATUTORY INSTRUMENTS

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**1982 No. 871**

**RESTRICTIVE TRADE PRACTICES**

**The Restrictive Practices Court (Amendment) Rules 1982**

<i>Made</i>	- - - -	<i>22nd June 1982</i>
<i>Laid before Parliament</i>		<i>5th July 1982</i>
<i>Coming into Operation</i>		<i>30th July 1982</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 9(1) and (2) of the Restrictive Practices Court Act 1976 and section 22(1) of the Restrictive Trade Practices Act 1976, hereby makes the following Rules:—

1. These Rules may be cited as the Restrictive Practices Court (Amendment) Rules 1982 and shall come into operation on 30th July 1982.

2. In these Rules a rule referred to by number means the rule so numbered in the Restrictive Practices Court Rules 1976.

3. Rule 2(2) shall be amended as follows:—

(a) after the definition of “the Act” there shall be added the following definition:—“

““the Act of 1980” means the Competition Act 1980”;

(b) for “expressions used in these Rules which are used in the Act have the same meaning in these Rules as in the Act.” shall be substituted “expressions used in these Rules which are used in the Act or the Act of 1980 have the same meaning in these Rules as in the Act or the Act of 1980.”.

4. After Rule 57 there shall be inserted the following new rules:—

**““Applications under section 26(4) of the Act of 1980**

**57A.**—(1) Any application to the Court under section 26(4) of the Act of 1980 shall be made by a notice in writing issued out of the office of the Court in the part of the United Kingdom in which the relevant proceedings under section 1(3) of the Act took place containing particulars of those parts of the declaration made in those proceedings the operation of which it is sought to suspend.

(2) A notice under paragraph (1) shall be issued by being sealed with the Court's seal by the proper officer of the Court and when issued shall be returned to the applicant who shall—

(a) leave a copy to be filed by the proper officer; and

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- (b) at the same time file with the proper officer an affidavit setting out the facts and matters on which he relies in support of the application; and
- (c) at the same time serve a copy of the notice and affidavit on the Director, who shall be made a respondent to the application.

**57B.**—(1) If the Director wishes to oppose any application made under section 26(4) of the Act of 1980 he shall, within 21 days in the case of a first application made thereunder, or within 14 days in the case of a second and final application made thereunder, of the service upon him of the applicant's notice and affidavit, file with the proper officer of the court an affidavit in reply setting out the grounds for his opposition and the facts and matters on which he relies and shall at the same time serve a copy thereof on the applicant.

(2) The applicant shall, no later than 7 days after the Director has served upon him an affidavit in accordance with paragraph (1), or after the period for doing so has expired, or after the Director has indicated that no such affidavit will be served, whichever period is the shortest, apply to the Court for the fixing of a date for the hearing of the application and the Court shall fix such a date.

(3) The Director shall, if no application is made under paragraph (2) within the period specified, apply to the Court for the fixing of a date for the hearing and the Court shall fix such a date.

**57C.** Except where the President of the Court or a judge, whether generally or in any particular case, otherwise directs every application under section 26(4) of the Act of 1980 shall be made to a judge who may—

- (a) dispose of it himself; or
- (b) refer it in whole or in part to a Court consisting of a presiding judge and at least two other members; or
- (c) refer it in whole or in part to the Clerk of the Court, or officer acting as Clerk of the Court in Scotland and Northern Ireland, as the case may be;

and references in these Rules to the Court shall be construed accordingly.

### **Applications under section 26(1) of the Act of 1980**

**57D.**—(1) An application to the Court under section 26(1) of the Act of 1980 shall be made by a notice in writing issued out of the office of the Court in the part of the United Kingdom in which the relevant proceedings under section 1(3) of the Act took place identifying the declaration made in those proceedings to which the application relates and containing particulars of the revised agreement, or a draft of the revised agreement, for which approval is sought.

(2) A notice under paragraph (1) shall be issued by being sealed with the Court's seal by the proper officer of the Court and when issued shall be returned to the applicant who shall—

- (a) leave a copy to be filed by the proper officer; and
- (b) at the same time file with the proper officer an affidavit setting out the facts and matters on which he relies in support of the application; and
- (c) at the same time serve a copy of the notice and of the affidavit on the Director and on all other parties to the agreement in relation to which the declaration under section 1(3) of the Act was made or to the proceedings in which that declaration was made.

**57E.** The Court may, on the application either of the Director or of the applicant at any time before the service of the notice and affidavit referred to in Rule 57D(2)(c) above, order that the requirements as to such service may be varied or dispensed with altogether.

**57F.—(1)** If the Director wishes to oppose an application made under section 26(1) of the Act of 1980 he shall, within 28 days of the service upon him of the applicant's notice and affidavit, file with the proper officer of the Court an affidavit in reply setting out the grounds for his opposition and the facts and matters on which he relies and shall at the same time serve a copy thereof on the applicant.

(2) Not later than 7 days after the Director has filed an affidavit in reply in accordance with paragraph (1), or after the time for doing so has expired, or after the Director has indicated that no such affidavit will be served, whichever period is the shortest, the applicant shall apply to the Court for directions and the provisions of these Rules relating to a reference to the Court by the Director shall apply with the necessary modifications to such directions and to all further proceedings on the application.

(3) If no application is made under paragraph (2) within the time specified, the Director shall himself apply to the Court for directions and the provisions of these rules relating to a reference to the Court by the Director shall apply with the necessary modifications to such directions and to all further proceedings on the application.”

Dated 22nd June 1982

*Hailsham of St. Marylebone, C*

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### EXPLANATORY NOTE

These Rules, which amend the Restrictive Practices Court Rules 1976, are consequential on the provisions of section 25 and 26 of the Competition Act 1980. These sections make provision for the suspension of the effect of declarations made under section 1(3) of the Restrictive Trade Practices Act 1976 and for the submission of revised agreements to the Restrictive Practices Court for approval.

The Rules insert six new rules into the 1976 Rules which lay down the procedures which are to be followed when applications are made:—

- (a) for the extension of the suspensory period under section 26(4) of the Act of 1980; and
- (b) to submit a revised agreement to the Restrictive Practices Court under section 26(1) of the Act of 1980.