



Fair Trading Act 1973

1973 CHAPTER 41

PART II

REFERENCES TO CONSUMER PROTECTION ADVISORY COMMITTEE

General provisions

13 Meaning of “consumer trade practice”.

In this Act “consumer trade practice” means any practice which is for the time being carried on in connection with the supply of goods (whether by way of sale or otherwise) to consumers or in connection with the supply of services for consumers and which relates—

- (a) to the terms or conditions (whether as to price or otherwise) on or subject to which goods or services are or are sought to be supplied, or
- (b) to the manner in which those terms or conditions are communicated to persons to whom goods are or are sought to be supplied or for whom services are or are sought to be supplied, or
- (c) to promotion (by advertising, labelling or marking of goods, canvassing or otherwise) of the supply of goods or of the supply of services, or
- (d) to methods of salesmanship employed in dealing with consumers, or
- (e) to the way in which goods are packed or otherwise got up for the purpose of being supplied, or
- (f) to methods of demanding or securing payment for goods or services supplied.

14 General provisions as to references to Advisory Committee.

- (1) Subject to sections 15 and 16 of this Act, the Secretary of State or any other Minister or the Director may refer to the Advisory Committee the question whether a consumer trade practice specified in the reference adversely affects the economic interests of consumers in the United Kingdom.

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- (2) The Secretary of State or any other Minister by whom a reference is made under this section shall transmit a copy of the reference to the Director.
- (3) On any reference made to the Advisory Committee under this section the Advisory Committee shall consider the question so referred to them and shall prepare a report on that question and (except as otherwise provided by section 21(3) of this Act) submit that report to the person by whom the reference was made.
- (4) Subject to the provisions of section 133 of this Act, it shall be the duty of the Director, where he is requested by the Advisory Committee to do so for the purpose of assisting the Committee in carrying out an investigation on a reference made to them under this section, to give to the Committee—
 - (a) any information which is in his possession and which relates to matters falling within the scope of the investigation, and
 - (b) any other assistance which the Committee may require, and which it is within his power to give, in relation to any such matters.
- (5) The Advisory Committee shall transmit to the Secretary of State a copy of every report which is made by them under this section to a person other than the Secretary of State, and shall transmit to the Director a copy of every report which is made by them under this section to a person other than the Director.

15 Exclusion from s. 14 in respect of certain services.

No reference under section 14 of this Act shall be made to the Advisory Committee by the Secretary of State or by any other Minister or by the Director if it appears to him—

- (a) that the consumer trade practice in question is carried on in connection only with the supply of services of a description specified in Schedule 4 to this Act, and
- (b) that a monopoly situation exists or may exist in relation to the supply of services of that description.

16 Restriction on references under s. 14 in respect of certain goods and services.

(1) No reference under section 14 of this Act shall be made to the Advisory Committee by the Director except with the consent of the appropriate Minister, if it appears to the Director that the consumer trade practice in question—

- (a) is carried on in connection only with the supply, by a body corporate to which this section applies, of goods or services of a description specified in Part I of Schedule 5 to this Act, . . . ^{F1}
- (b) ^{F1} ^{F2}or
- (c) is carried on in connection only with the supply of electricity by a licence holder within the meaning of Part I of the Electricity Act 1989.]

(2) This section applies to any body corporate which fulfils the following conditions, that is to say—

- (a) that the affairs of the body corporate are managed by its members, and
 - (b) that by virtue of an enactment those members are appointed by a Minister;
- and in this section “Minister” includes a [^{F3}Northern Ireland department], and “the appropriate Minister”, in relation to a body corporate, means the Minister by whom members of that body corporate are appointed.

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[^{F4}(2A) In this section “the appropriate Minister”, in relation to a licence holder within the meaning of Part I of the Electricity Act 1989, means the Secretary of State responsible for matters relating to energy.]

- (3) The Secretary of State may by order made by statutory instrument vary any of the provisions of Schedule 5 to this Act, either by adding one or more further entries or by altering or deleting any entry for the time being contained in it; and any reference in this Act to that Schedule shall be construed as a reference to that Schedule as for the time being in force.

Textual Amendments

- F1** Word “or” and s. 16(1)(b) repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109(6), [Sch. 7 Pt. I](#)
- F2** Word “or” and s. 16(1)(c) added (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 16\(2\)](#)
- F3** Words substituted by virtue of [Northern Ireland Act 1974 \(c. 28\)](#), [Sch. 1 para. 2\(1\)\(b\)\(4\)](#)
- F4** [S. 16\(2A\)](#) inserted (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 16\(3\)](#)

17 Reference to Advisory Committee proposing recommendation to Secretary of State to make an order.

- (1) This section applies to any reference made to the Advisory Committee by the Director under section 14 of this Act which includes proposals in accordance with the following provisions of this section.
- (2) Where it appears to the Director that a consumer trade practice has the effect, or is likely to have the effect,—
- of misleading consumers as to, or withholding from them adequate information as to, or an adequate record of, their rights and obligations under relevant consumer transactions, or
 - of otherwise misleading or confusing consumers with respect to any matter in connection with relevant consumer transactions, or
 - of subjecting consumers to undue pressure to enter into relevant consumer transactions, or
 - of causing the terms of conditions, on or subject to which consumers enter into relevant consumer transactions, to be so adverse to them as to be inequitable,
- any reference made by the Director under section 14 of this Act with respect to that consumer trade practice may, if the Director thinks fit, include proposals for recommending to the Secretary of State that he should exercise his powers under the following provisions of this Part of this Act with respect to that consumer trade practice.
- (3) A reference to which this section applies shall state which of the effects specified in subsection (2) of this section it appears to the Director that the consumer trade practice in question has or is likely to have.
- (4) Where the Director makes a reference to which this section applies, he shall arrange for it to be published in full in the London, Edinburgh and Belfast Gazettes.

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- (5) In this Part of this Act “relevant consumer transaction”, in relation to a consumer trade practice, means any transaction to which a person is, or may be invited to become, a party in his capacity as a consumer in relation to that practice.

18 No such recommendation to be made except in pursuance of reference to which s. 17 applies.

The Director shall not make any recommendation to the Secretary of State to exercise his powers under the following provisions of this Part of this Act except by way of making a reference to the Advisory Committee to which section 17 of this Act applies.

19 Scope of recommendation proposed in reference to which s. 17 applies.

- (1) In formulating any proposals which, in accordance with the provisions of section 17 of this Act, are included in a reference to which that section applies, the Director shall have regard—
- (a) to the particular respects in which it appears to him that the consumer trade practice specified in the reference may adversely affect the economic interests of consumers in the United Kingdom, and
 - (b) to the class of relevant consumer transactions, or the classes (whether being some or all classes) of such transactions, in relation to which it appears to him that the practice may so affect those consumers;
- and the proposed recommendation shall be for an order making, in relation to relevant consumer transactions of that class or of those classes, as the case may be, such provision specified in the proposals as the Director may consider requisite for the purpose of preventing the continuance of that practice, or causing it to be modified, in so far as it may so affect those consumers in those respects.
- (2) Without prejudice to the generality of the preceding subsection, for the purpose mentioned in that subsection any such proposals may in particular recommend the imposition by such an order of prohibitions or requirements of any description specified in Schedule 6 to this Act.
- (3) In that Schedule, in its application to any such proposals, “the specified consumer trade practice” means the consumer trade practice specified in the reference in which the proposals are made, “specified consumer transactions” means transactions which are relevant consumer transactions in relation to that consumer trade practice and are of a description specified in the proposals, and “specified” (elsewhere than in those expressions) means specified in the proposals.

20 Time-limit and quorum for report on reference to which s. 17 applies.

- (1) A report of the Advisory Committee on a reference to which section 17 of this Act applies shall not have effect, and no action shall be taken in relation to it under the following provisions of this Part of this Act, unless the report is made before the end of the period of three months beginning with the date of the reference or of such further period or periods (if any) as may be allowed by the Secretary of State.
- (2) The Secretary of State shall not allow any further period for such a report except after consulting the Advisory Committee and considering any representations made by them with respect to the proposal to allow a further period.

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- (3) No such further period shall be longer than three months; but (subject to subsection (2) of this section) two or more further periods may be allowed in respect of the same reference.
- (4) The quorum necessary for a meeting of the Advisory Committee held for the final settling of a report of the Committee on a reference to which section 17 of this Act applies shall be not less than two-thirds of the members of the Committee.

21 Report of Advisory Committee on reference to which s. 17 applies.

- (1) A report of the Advisory Committee on a reference to which section 17 of this Act applies shall state the conclusions of the Committee on the questions—
 - (a) whether the consumer trade practice specified in the reference adversely affects the economic interests of consumers in the United Kingdom, and
 - (b) if so, whether it does so be reason, or partly by reason, that it has or is likely to have such one or more of the effects specified in section 17(2) of this Act as are specified in the report.
- (2) If, in their conclusions set out in such a report, the Advisory Committee find that the consumer trade practice specified in the reference does adversely affect the economic interests of consumers in the United Kingdom, and does so wholly or partly for the reason mentioned in subsection (1)(b) of this section, the report shall state whether the Committee—
 - (a) agree with the proposals set out in the reference, or
 - (b) would agree with those proposals if they were modified in a manner specified in the report, or
 - (c) disagree with the proposals and do not desire to suggest any such modifications.
- (3) Every report of the Advisory Committee on a reference to which section 17 of this Act applies shall be made to the Secretary of State, and shall set out in full the reference on which it is made.

Modifications etc. (not altering text)

C1 S. 21 explained by [Competition Act 1980 \(c. 21\)](#), **ss. 21**, 33(5)

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