



# Fair Trading Act 1973

## 1973 CHAPTER 41

### PART II

#### REFERENCES TO CONSUMER PROTECTION ADVISORY COMMITTEE

##### Modifications etc. (not altering text)

- C1** Pt. II: power to repeal conferred (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. **10(3)(a)**, 279; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

##### *General provisions*

**<sup>F1</sup>13** **Meaning of “consumer trade practice”.**

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##### Textual Amendments

- F1** Ss. 13-21 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 10(1)(b), 279, **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

**<sup>F1</sup>14** **General provisions as to references to Advisory Committee.**

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##### Textual Amendments

- F1** Ss. 13-21 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 10(1)(b), 279, **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

*Changes to legislation: There are currently no known outstanding effects for the Fair Trading Act 1973, Part II. (See end of Document for details)*

**F1 15 Exclusion from s. 14 in respect of certain services.**

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**Textual Amendments**  
F1 Ss. 13-21 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 10(1)(b), 279, Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

**F1 16 Restriction on references under s. 14 in respect of certain goods and services.**

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**Textual Amendments**  
F1 Ss. 13-21 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 10(1)(b), 279, Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

**F1 17 Reference to Advisory Committee proposing recommendation to Secretary of State to make an order.**

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**Textual Amendments**  
F1 Ss. 13-21 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 10(1)(b), 279, Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

**F1 18 No such recommendation to be made except in pursuance of reference to which s. 17 applies.**

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**Textual Amendments**  
F1 Ss. 13-21 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 10(1)(b), 279, Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

**F1 19 Scope of recommendation proposed in reference to which s. 17 applies.**

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**Textual Amendments**  
F1 Ss. 13-21 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 10(1)(b), 279, Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

*Changes to legislation: There are currently no known outstanding effects for the Fair Trading Act 1973, Part II. (See end of Document for details)*

**F120 Time-limit and quorum for report on reference to which s. 17 applies.**

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**Textual Amendments**

- F1** Ss. 13-21 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 10(1)(b), 279, [Sch. 26](#); S.I. 2003/766, art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), [Sch.](#))

**F121 Report of Advisory Committee on reference to which s. 17 applies.**

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**Textual Amendments**

- F1** Ss. 13-21 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 10(1)(b), 279, [Sch. 26](#); S.I. 2003/766, art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), [Sch.](#))

*Order in pursuance of report of Advisory Committee*

**F222 Order of Secretary of State in pursuance of report on reference to which s. 17 applies.**

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**Textual Amendments**

- F2** S. 22 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 10(1)(c), 279, [Sch. 26](#) (with s. 10(2)); S.I. 2003/766, art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), [Sch.](#))

**23 Penalties for contravention of order under s. 22.**

Subject to the following provisions of this Part of this Act, any person who contravenes a prohibition imposed by an order under section 22 of this Act, or who does not comply with a requirement imposed by such an order which applies to him, shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding £400;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

**24 Offences due to default of other person.**

Where the commission by any person of an offence under section 23 of this Act is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

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## 25 Defences in proceedings under s. 23.

- (1) In any proceedings for an offence under section 23 of this Act it shall, subject to subsection (2) of this section, be a defence for the person charged to prove—
- (a) that the commission of the offence was due to a mistake, or to reliance on information supplied to him, or to the act or default of another person, an accident or some other cause beyond his control, and
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (2) If in any case the defence provided by the preceding subsection involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing, giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (3) In proceedings for an offence under section 23 of this Act committed by the publication of an advertisement, it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements, and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under section 23 of this Act.

## 26 Limitation of effect of orders under s. 22.

A contract for the supply of goods or services shall not be void or unenforceable by reason only of a contravention of an order made under section 22 of this Act; and, subject to the provisions of [<sup>F3</sup>section 18 of the <sup>M1</sup>Interpretation Act 1978] (which relates to offences under two or more laws), the provisions of this Part of this Act shall not be construed as—

- (a) conferring a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of such an order, or
- (b) affecting any restriction imposed by or under any other enactment, whether public, local or private, or
- (c) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Part of this Act.

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### Textual Amendments

**F3** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

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### Marginal Citations

**M1** 1978 c. 30.

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*Changes to legislation:* There are currently no known outstanding effects for the Fair Trading Act 1973, Part II. (See end of Document for details)

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### *Enforcement of orders*

#### **27 Enforcing authorities.**

- (1) It shall be the duty of every local weights and measures authority to enforce within their area the provisions of any order made under section 22 of this Act; . . . <sup>F4</sup>
- (2) Nothing in subsection (1) shall be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.

#### **Textual Amendments**

**F4** Words repealed by [Weights and Measures Act 1985 \(c. 72, SIF 131\)](#), s. 98, [Sch. 13 Pt. I](#)

#### **28 Power to make test purchases.**

A local weights and measures authority may make, or may authorise any of their officers to make on their behalf, such purchases of goods, and may authorise any of their officers to obtain such services, as may be expedient for the purpose of determining whether or not the provisions of any order made under section 22 of this Act are being complied with.

#### **29 Power to enter premises and inspect and seize goods and documents.**

<sup>F5</sup>(1) A duly authorised officer of a local weights and measures authority, or a person duly authorised in writing by the Secretary of State, may at all reasonable hours, and on production, if required, of his credentials, exercise the following powers, that is to say—

- (a) he may, for the purpose of ascertaining whether any offence under section 23 of this Act has been committed, inspect any goods and enter any premises other than premises used only as a dwelling;
  - (b) if he has reasonable cause to suspect that an offence under that section has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on a business or employed in connection with a business to produce any books or documents relating to the business and may take copies of, or of any entry in, any such book or document;
  - (c) if he has reasonable cause to believe that such an offence has been committed, he may seize and detain any goods for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed;
  - (d) he may seize and detain any goods or documents which he has reason to believe may be required as evidence in proceedings for such an offence;
  - (e) he may, for the purpose of exercising his powers under this subsection to seize goods, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of an order made under section 22 of this Act are duly observed, require any person having authority to do so to break open any container or open any vending machine and, if that person does not comply with the requirement, he may do so himself.
- (2) A person seizing any goods or documents in the exercise of his powers under this section shall inform the person from whom they are seized and, in the case of goods

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seized from a vending machine, the person whose name and address are stated on the machine as being the proprietor's or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed.

- (3) If a justice of the peace, on sworn information in writing,—
- (a) is satisfied that there is reasonable ground to believe either—
    - (i) that any goods, books or documents which a person has power under this section to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under section 23 of this Act, or
    - (ii) that any offence under section 23 has been, is being or is about to be committed on any premises, and
  - (b) is also satisfied either—
    - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier, or
    - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent, and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise any such officer or other person as is mentioned in subsection (1) of this section to enter the premises, if need be by force.

In the application of this subsection to Scotland, “justice of the peace” shall be construed as including a sheriff and a magistrate.

- (4) A person entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under subsection (3) of this section he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.
- (5) Nothing in this section shall be taken to compel the production by a [<sup>F6</sup>relevant lawyer] of a document containing a privileged communication made by or to him in that capacity or to authorise the taking of possession of any such document which is in his possession.

[<sup>F7</sup>(6) “Relevant lawyer” means a barrister, advocate, solicitor, or other legal representative communications with whom may be the subject of a claim to privilege.]]

#### Textual Amendments

- F5** Ss. 29-33 repealed in part (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 1, Sch. 2 para. 15, **Sch. 4 Pt. 1** Note (with reg. 28(2)(3))
- F6** Words in s. 29(5) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 21 para. 30(a)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F7** S. 29(6) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 21 para. 30(b)** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

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**Modifications etc. (not altering text)**

- C2** S. 29(1)(c)(d) powers of seizure extended (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), ss. 50, 138(2), [Sch. 1 para. 16](#) (with ss. 52-54, 68); S.I. 2003/708, art. 2(a)

**30 Offences in connection with exercise of powers under s. 29.**

- [<sup>F5</sup>(1) Subject to subsection (6) of this section, any person who—
- (a) wilfully obstructs any such officer or person as is mentioned in subsection (1) of section 29 of this Act acting in the exercise of any powers conferred on him by or under that section, or
  - (b) wilfully fails to comply with any requirement properly made to him by such an officer or person under that section, or
  - (c) without reasonable cause fails to give to such an officer or person so acting any other assistance or information which he may reasonably require of him for the purpose of the performance of his functions under this Part of this Act, shall be guilty of an offence.
- (2) If any person, in giving any such information as is mentioned in subsection (1)(c) of this section, makes any statement which he knows to be false, he shall be guilty of an offence.
- [<sup>F8</sup>(3) . . . . .
- (4) If any person who is neither a duly authorised officer of a weights and measures authority nor a person duly authorised in that behalf by the Secretary of State purports to act as such under section 29 of this Act or under this section, he shall be guilty of an offence.
- (5) Any person guilty of an offence under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding [<sup>F9</sup>level 3 on the standard scale]; and any person guilty of an offence under subsection (2)<sup>F10</sup> ... or subsection (4) of this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £400;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (6) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate that person or (where that person is [<sup>F11</sup>married or a civil partner] the spouse or civil partner] of that person.]

**Textual Amendments**

- F5** Ss. 29-33 repealed in part (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 1, [Sch. 2 para. 15](#), [Sch. 4 Pt. 1](#) Note (with reg. 28(2)(3))
- F8** S. 30(3) repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 247(b), 279, [Sch. 26](#); S.I. 2003/1397, art. 2(1), [Sch.](#) (with art. 6)
- F9** Words substituted (E.W.) by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), ss. 289F, 289G and (N.I.) by S.I. 1984/703 (N.I. 3), [arts. 5, 6](#)
- F10** Words in s. 30(5) repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/1397, art. 2(1), [Sch.](#) (with arts. 6, 8)

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**F11** Words in s. 30(6) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(10\)\(b\), Sch. 27 para. 47](#); S.I. 2005/3175, art. 2(2)

### 31 Notice of test.

[<sup>F5</sup>Where any goods seized or purchased by a person in pursuance of this Part of this Act are submitted to a test, then—

- (a) if the goods were seized, he shall inform any such person as is mentioned in section 29(2) of this Act of the result of the test;
- (b) if the goods were purchased and the test leads to the institution of proceedings for an offence under section 23 of this Act, he shall inform the person from whom the goods were purchased, or, in the case of goods sold through a vending machine, the person mentioned in relation to such goods in section 29(2) of this Act, of the result of the test;

and where, as a result of the test, proceedings for an offence under section 23 of this Act are instituted against any person, he shall allow that person to have the goods tested on his behalf if it is reasonably practicable to do so.]

#### Textual Amendments

**F5** Ss. 29-33 repealed in part (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\), reg. 1, Sch. 2 para. 15, Sch. 4 Pt. 1](#) Note (with reg. 28(2)(3))

#### Modifications etc. (not altering text)

**C3** S. 31 applied (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\), s. 138\(2\), Sch. 2 para. 2](#); S.I. 2003/708, art. 2(k)

### 32 Compensation for loss in respect of goods seized under s. 29.

[<sup>F5</sup>(1) Where in the exercise of his powers under section 29 of this Act a person seizes and detains any goods, and their owner suffers loss by reason of their being seized or by reason that the goods, during the detention, are lost or damaged or deteriorate, unless the owner is convicted of an offence under section 23 of this Act committed in relation to the goods, the appropriate authority shall be liable to compensate him for the loss so suffered.

(2) Any disputed question as to the right to or the amount of any compensation payable under this section shall be determined by arbitration and, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

(3) In this section “the appropriate authority”—

- (a) in relation to goods seized by an officer of a local weights and measures authority, means that authority, and
- (b) in any other case, means the Secretary of State.]

#### Textual Amendments

**F5** Ss. 29-33 repealed in part (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\), reg. 1, Sch. 2 para. 15, Sch. 4 Pt. 1](#) Note (with reg. 28(2)(3))



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**Modifications etc. (not altering text)**

- C4** S. 32 applied (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), s. 138(2), [Sch. 2 para. 6](#); S.I. 2003/708, art. 2(k)

**33 Application of Part II to Northern Ireland.**

[<sup>F5</sup>(1) It shall be the duty of [<sup>F12</sup>the Department of Commerce for Northern Ireland] to enforce in Northern Ireland the provisions of any order under section 22 of this Act.

(2) In the application of this Part of this Act to Northern Ireland—

- (a) section 27 shall not apply;
- (b) in sections 28 and 29, any reference to a local weights and measures authority shall be construed as a reference to [<sup>F12</sup>the Department of Commerce for Northern Ireland], and the provisions of sections 30 to 32 shall be construed accordingly;
- (c) in section 29(3), any reference to a justice of the peace shall be construed as a reference to a resident magistrate; and
- <sup>F13</sup>(d) .....]

**Textual Amendments**

- F5** Ss. 29-33 repealed in part (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 1, [Sch. 2 para. 15](#), [Sch. 4 Pt. 1](#) Note (with reg. 28(2)(3))
- F12** Words substituted by virtue of [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 5 para. 8\(1\)](#)
- F13** S. 33(2)(d) repealed (31.1.1997) by [1996 c. 23](#), s. 107(2), [Sch. 4](#) (with s. 81(2)); S.I. 1996/3146, [art. 3](#)

**Changes to legislation:**

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