
Changes to legislation: There are currently no known outstanding effects for the Fair Trading Act 1973, SCHEDULE 11. (See end of Document for details)

SCHEDULES

SCHEDULE 11

Sections 139, 140.

TRANSITIONAL PROVISIONS AND SAVINGS

General provisions

- 1 (1) Subject to the following provisions of this Schedule, in so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.
- (2) In relation to the Commission (by whichever of the names mentioned in section 4(1) of this Act it was for the time being called) sub-paragraph (1) of this paragraph applies, in particular, to any appointment of a member of the Commission (including any appointment, or extension of the term of service, of a chairman or deputy chairman of the Commission) or of any of the staff of the Commission, any reference made to the Commission, any proceedings or report of the Commission on such a reference, and any order made in consequence of any such report.
- (3) A provision of this Act shall, for the purposes of this Schedule, be regarded as corresponding to an enactment repealed by this Act if (notwithstanding that it differs, whether to a small extent or substantially, from that enactment) it fulfils in this Act a purpose similar to that which that enactment fulfilled in the repealed enactments; and any reference in this Schedule to provisions of the repealed enactments corresponding to any provisions of this Act shall be construed accordingly.
- (4) In this Schedule “the repealed enactments” means the enactments repealed by this Act, and “the commencement of this Act”, where that expression occurs in any provision of this Schedule,—
 - (a) if the same day is appointed under section 140 of this Act for the repeal of all those enactments, means the day so appointed, or
 - (b) if different days are appointed under that section for the repeal of different enactments, means such day as may be specified for the purposes of this sub-paragraph in an order made by the Secretary of State by statutory instrument; and different days may be so specified in relation to different provisions of this Schedule.
- 2 For the purposes of the operation of paragraph 1 of this Schedule, anything done by or in relation to the Board of Trade shall be treated as having been done by or in relation to the Secretary of State, whether apart from this paragraph it would fall to be so treated or not.
- 3 Without prejudice to any express amendment made by this Act, where an Act (whether passed before, or in the same Session as, this Act) or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to any corresponding provision of this Act.

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- 4 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, and there is a corresponding provision in this Act, this Act shall have effect as if that corresponding provision had been in force when that period began to run.
- 5 Without prejudice to paragraph 1 of this Schedule, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to or in contravention of any corresponding provisions of the repealed enactments.
- 6 Nothing in this Act shall affect the repealed enactments in their operation in relation to offences committed before the commencement of this Act.

Reference made to Commission before commencement of Act

- 7 (1) Any reference made to the Commission under the repealed enactments, and any report of the Commission made before the commencement of this Act on any such reference, shall have effect in accordance with paragraph 1 of this Schedule if made in accordance with such of the repealed enactments as were applicable to it, and shall so have effect notwithstanding that the reference or report was not made in accordance with the corresponding provisions of this Act.
- (2) In the case of any such reference on which the Commission have not made their report before the commencement of this Act—
- (a) any proceedings of the Commission on that reference after the commencement of this Act shall be conducted in accordance with the repealed enactments as if they had not been repealed, and
- (b) any report of the Commission on that reference shall be made in accordance with those enactments and not in accordance with any corresponding provisions of this Act;
- but nothing in this sub-paragraph shall be construed as excluding the operation of any provisions of this Act relating to any functions of the Director in relation to the Commission, to the transmission to the Director of copies of reports of the Commission, or to any other action authorised or required to be taken in relation to or in consequence of a report made by the Commission.
- (3) In particular, but without prejudice to the generality of the preceding sub-paragraphs, any reference, proceedings or report to which either of those sub-paragraphs applies shall have effect, or shall be conducted or made, as mentioned in that sub-paragraph notwithstanding that the reference or report related or relates to the question whether conditions to which the Act of 1948 applied prevailed or prevail, and not to the existence or possible existence of a monopoly situation within the meaning of this Act.
- (4) For the purposes of the operation of sub-paragraph (2) of this paragraph in relation to a report made by the Commission after the commencement of this Act, section 29(1) of the Act of 1956 (whereby conditions to which the Act of 1948 applied were not to be considered to prevail by reason of any agreement to which Part I of the Act

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of 1956 applied) shall be construed as if section 6(1) of the Act of 1956 had been originally enacted as amended by section 95 of this Act.

Report of Commission made before 5th August 1965

- 8 An order made under section 56 of this Act in consequence of a report made by the Commission before the commencement of the Act of 1965 shall not exercise any of the powers specified in Part II of Schedule 8 to this Act; and accordingly the powers conferred by section 89 of this Act shall not be exercisable in consequence of any such report.

Undertaking given in consequence of report on reference made under repealed enactments

- 9 (1) This paragraph applies to any undertaking given to a Minister which is certified by the Secretary of State to have been given in relation to matters dealt with in a report made by the Commission on a reference under section 2 of the Act of 1948 or on a reference under section 6 of the Act of 1965 and which either—
- (a) was given before the commencement of this Act, or
 - (b) is given after the commencement of this Act in a case where no request under subsection (1) of section 88 of this Act has been made to the Director to carry out consultations in accordance with that subsection.
- (2) A copy of any certificate given by the Secretary of State under the preceding subparagraph shall be furnished to the Director; and the Minister to whom any such undertaking was or is given shall furnish particulars of it to the Director.
- (3) Subsection (4) of section 88 of this Act shall have effect in relation to any undertaking to which this paragraph applies as if—
- (a) it were an undertaking of which particulars have been furnished to the Director under subsection (2) of that section, and
 - (b) any reference in subsection (4) of that section to the report of the Director were a reference to a report made by the Commission as mentioned in subparagraph (1) of this paragraph.
- (4) The preceding provisions of this paragraph shall have effect without prejudice—
- (a) to the duty of the Commission under section 86 of this Act to transmit to the Director copies of reports which were made by the Commission before the commencement of this Act and which, by virtue of paragraphs 1 and 7 of this Schedule, have effect as if made under this Act, or
 - (b) to any duty of the Director, where requested by the appropriate Minister or Ministers to do so with respect to any such report, to carry out such consultations as are mentioned in section 88(1) of this Act.

Functions of Director in relation to orders made under Acts of 1948 and 1965

- 10 Subsection (5) of section 88 of this Act shall have effect in relation to any order which was made under section 10 of the Act of 1948 or under section 3 or section 6 of the Act of 1965 and which, by virtue of paragraph 1 of this Schedule, has effect as if made under this Act, as that subsection has effect in relation to orders made under this Act in the circumstances specified in that subsection.

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Provisions consequential upon transfer of functions from Registrar to Director

- 11 (1) Except as provided by paragraph 15 of this Schedule, in relation to any time after the commencement of this Act, anything which has before the commencement of this Act been done by or in relation to the Registrar shall have effect as if it had been done by or in relation to the Director.
- (2) Sub-paragraph (1) of this paragraph applies, in particular, to any regulations made by the Registrar, any register kept or document issued by the Registrar, any particulars furnished to the Registrar, and any application to or proceedings before ^{F1}... any ^{F1}... court, tribunal or authority, made or instituted by or against the Registrar or to which the Registrar was otherwise a party; and such proceedings, if pending at the commencement of this Act, may accordingly be continued by or against the Director, or with the Director being otherwise treated as a party to them, as the circumstances may require, and for the purpose of so continuing them anything done by or in relation to the Registrar in connection with any such proceedings shall be treated as having been done by or in relation to the Director.
- (3) In this Schedule “the Registrar” means the Registrar of Restrictive Trading Agreements.

Textual Amendments

F1 Words in [Sch. 11 para. 11\(2\)](#) repealed (10.3.2013) by [The Competition Act 1998 \(Consequential Provisions\) Order 2013 \(S.I. 2013/294\)](#), arts. 1, 2, [Sch.](#)

12, 13. ^{F2}

Textual Amendments

F2 [Schs. 10, 11](#) paras. 12, 13 repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), [Sch. 6](#)

Pension benefits

- 14 The repeal by this Act of the following enactments, that is to say, Part II of Schedule 1 to the Act of 1965 and section 3(4)(d) of the ^{M1}Superannuation (Miscellaneous Provisions) Act 1967, shall not affect the operation of those enactments in relation to any person who was appointed to be chairman or deputy chairman of the Commission before the commencement of this Act; and, in relation to any such person, a recommendation made under paragraph 5 of that Schedule shall have effect whether made before or after the commencement of this Act.

Marginal Citations

M1 [1967 c. 28.](#)

- 15 (1) The repeal by this Act of subsections (7) and (8) of section 1 of the Act of 1956 shall not affect the operation of those subsections in relation to any person who was appointed to be the Registrar before the commencement of this Act; and, in relation to any such person, a determination made under subsection (7) of that section shall have effect whether made before or after the commencement of this Act.

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- (2) Paragraph 11 of this Schedule shall not have effect for the purposes of the operation of subsection (7) or subsection (8) of section 1 of the Act of 1956 in accordance with the preceding sub-paragraph.

Trade Descriptions Act 1968, s. 30

- 16 The repeal by this Act of subsections (2) to (4) of section 30 of the ^{M2}Trade Descriptions Act 1968 shall not affect the operation of those subsections in their application to any case where a notice under subsection (2) of that section, or a certificate under subsection (4) of that section or a document purporting to be such a certificate, has been given or issued before the commencement of this Act; and the duty imposed by section 130(1) of this Act shall not apply where such a notice has been so given.

Marginal Citations

M2 1968 c. 29.

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