



Competition Act 1980

1980 CHAPTER 21

Patents and agricultural schemes

14 Applications by Crown concerning patents

- (1) After subsection (2) of section 51 of the Patents Act 1977 (application by Crown in cases of monopoly or merger) there shall be inserted the following subsection: —

“(2A) Where—

- (a) on a reference under section 5 of the Competition Act 1980, a report of the Commission, as laid before Parliament, contains conclusions to the effect that—

- (i) any person was engaged in an anti-competitive practice in relation to a description of goods which consist of or include patented products or in relation to a description of services in which a patented product or process is used, and
(ii) that practice operated or might be expected to operate against the public interest; or

- (b) on a reference under section 11 of that Act, such a report contains conclusions to the effect that—

- (i) any person is pursuing a course of conduct in relation to such a description of goods or services, and
(ii) that course of conduct operates against the public interest,

the appropriate Minister or Ministers may, subject to subsection (3) below, apply to the comptroller for relief under subsection (5A) below in respect of the patent.”.

- (2) In subsection (3) of that section (publication of details of proposed applications under subsection (1) or (2) of that section) for the words " subsection (1) or (2)" there shall be substituted the words " subsection (1). (2) or (2A) ".

- (3) After subsection (5) of that section there shall be inserted the following subsection: —

“(5A) If on an application under subsection (2A) above it appears to the comptroller that the practice or course of conduct in question involved or involves

the imposition of any such condition as is mentioned in paragraph (a) of subsection (4) above or such a refusal as is mentioned in paragraph (b) of that subsection, the comptroller may by order cancel or modify any such condition or may, instead or in addition, make an entry in the register to the effect that licences under the patent are to be available as of right”.

15 Agricultural schemes: special provisions

- (1) In subsection (1) of section 19A of the Agricultural Marketing Act 1958 (power of Minister to make orders under section 19 of that Act where report of Commission on monopoly reference contains certain conclusions) after the words " Fair Trading Act 1973 " there shall be inserted the words " or section 8 or 11 of the Competition Act 1980 ".
- (2) The Secretary of State shall not—
 - (a) give a direction under subsection (5) of section 3 above or a consent under subsection (9) of that section in relation to an investigation under that section, or
 - (b) give a direction under section 7(2) or (3) above in relation to a competition reference, or
 - (c) make or vary a reference under section 11 above,in a case where the person to whom or to whose conduct or activities the investigation or reference relates falls within section 11(3)(d) above unless he has first consulted the relevant Minister.
- (3) Where the report of the Commission on a competition reference concludes that a board administering a scheme under the said Act of 1958 or the Agricultural Marketing Act (Northern Ireland) 1964 was engaging in an anti-competitive practice which operated or might be expected to operate against the public interest, the Secretary of State shall not exercise any function under section 9 above except acting jointly with the relevant Minister and, in its application in such a case, section 9 above shall have effect as if the references in it to the Secretary of State (except the second reference in subsection (6)) were references to both the Secretary of State and the relevant Minister.
- (4) Before carrying out an investigation under section 3 above into any course of conduct being pursued by a person falling within section 11(3)(d) above the Director shall give notice as required by section 3 (2) (a) above also to the relevant Minister and on making any competition reference arising from that investigation or varying such a reference under section 6(6) above the Director shall send a copy of the reference or, as the case may be, the variation to the relevant Minister.
- (5) In this section " the relevant Minister " means—
 - (a) in the case of a board administering a scheme under the said Act of 1958, the Minister who would have power to make an order under section 19 of that Act in relation to that board or the board administering that scheme, and
 - (b) in the case of a board administering a scheme under the said Act of 1964, the Department of Agriculture for Northern Ireland.