

## SCHEDULES

### SCHEDULE 3

Section 10.

#### NON-NOTIFIABLE AGREEMENTS: MODIFICATIONS OF THE RESTRICTIVE TRADE PRACTICES ACT 1976

The Restrictive Trade Practices Act 1976 shall be amended as follows.

2 In section 1 (registration of agreements) after subsection (2) there shall be inserted—

“(2A) In the case of a non-notifiable agreement, subsection (2)(a) and (b) above shall only apply where the Director considers that any restrictions or information provisions by virtue of which this Act applies to the agreement are of such significance as to call for investigation by the Court.”

3 (1) Section 24 (particulars and time for registration) shall be amended as follows.

(2) In subsection (1) (duty to furnish particulars of agreements subject to registration under the Act) after “under this Act” there shall be inserted “, other than a non-notifiable agreement,”.

(3) In subsection (2) (additional provisions about particulars to be furnished)—

(a) in paragraph (a), after “under this Act” there shall be inserted “and is not a non-notifiable agreement”, and

(b) in paragraph (b), for “such an agreement” there shall be substituted “an agreement which, at the time of the variation or determination, falls within paragraph (a) above”.

(4) After that subsection there shall be inserted—

“(2A) Subsections (1) and (2)(a) above shall not apply in relation to an agreement which ceases to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above.”

4 After section 25 there shall be inserted—

#### **“25A Registration of non-notifiable agreement: duty to inform parties**

(1) Where an agreement ceases to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above, he shall give notice of that fact to each of the parties to the agreement.

(2) Regulations under section 27 below may prescribe how notice under subsection (1) above is to be given and who is to be treated as a party to an agreement for the purposes of that subsection.”

5 (1) Section 26 shall be amended as follows.

(2) In subsection (2) (power of the Restrictive Practices Court to make declarations as to certain matters) for the words from “and” to the end there shall be substituted “,

declare whether or not it is subject to registration under this Act and declare whether or not it is a non-notifiable agreement.”

(3) For subsection (3) there shall be substituted—

“(3) Where a party to an agreement makes an application for a declaration under subsection (2) above, the Director shall not enter or file particulars of the agreement in the register during the time during which the proceedings and any appeal therein are pending.

(3A) Subsection (3) above shall not apply where—

- (a) the only question in relation to which the declaration is sought is whether or not the agreement is a non-notifiable agreement, and
- (b) the Director considers that any restrictions or information provisions by virtue of which this Act applies to the agreement are of such significance as to call for investigation by the Court.

(3B) Where—

- (a) a party to an agreement makes an application for a declaration under subsection (2) above,
- (b) the question in relation to which the declaration is sought is relevant to the existence of a duty to furnish particulars of the agreement under section 24 above, and
- (c) the application is made before the expiry of the time within which particulars of the agreement are required to be furnished if the duty to furnish particulars under that section applies,

then, if particulars of the agreement have not been furnished under that section before the commencement of the proceedings, that time shall be extended by a time equal to the time during which the proceedings and any appeal therein are pending, and such further time, if any, as the Court may direct.”

6 In section 36 (Director’s power to obtain information) after subsection (3) there shall be inserted—

“(3A) The Director may give notice to any person being party to an agreement which—

- (a) is a non-notifiable agreement, or
- (b) has ceased to be a non-notifiable agreement by virtue of the Director entering or filing particulars of it under section 1(2)(b) above,

requiring him to furnish such documents or information in his possession or control as the Director considers expedient for the purposes of, or in connection with, the registration of the agreement.”

7 (1) Schedule 2 (furnishing of particulars of agreements) shall be amended as follows.

(2) In paragraph 1, for sub-paragraph (1) there shall be substituted—

“(1) Subject to paragraph 2 below, no duty to furnish particulars in respect of an agreement which is subject to registration shall be affected by any subsequent variation or determination of the agreement.”

(3) In paragraph 2, in sub-paragraph (1), for “an agreement becomes subject to registration after it is made” there shall be substituted “, after an agreement is made,

it becomes an agreement in respect of which particulars fall to be furnished under section 24 above”.

(4) In that paragraph, in sub-paragraph (2), after “section 24(1) above” there shall be inserted “(so far as applicable)”.

(5) In that paragraph, in sub-paragraph (3), for “24” there shall be substituted “24(1)”.

(6) In paragraph 5(1) after entry (c) in the Table there shall be inserted—

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“(ca) Agreement which ceases to be a non-notifiable agreement.

Within 1 month from the day on which the agreement so ceases.”

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