

1976 No. 183

RESTRICTIVE TRADE PRACTICES

The Registration of Restrictive Trading Agreements
Regulations 1976

<i>Made</i> - - - -	10th February 1976
<i>Laid before Parliament</i>	19th February 1976
<i>Coming into Operation</i>	22nd March 1976

The Director General of Fair Trading (in these regulations referred to as “the Director”) in exercise of the powers conferred on him by sections 11 and 19 of the Restrictive Trade Practices Act 1956(a), as amended by section 8 of the Restrictive Trade Practices Act 1968(b) and section 94 of, and Schedule 10 to, the Fair Trading Act 1973(c) (in these regulations referred to respectively as “the Act of 1956”, “the Act of 1968” and “the Act of 1973”), hereby makes the following regulations:—

Citation, commencement, revocation and interpretation

1.—(1) These regulations may be cited as the Registration of Restrictive Trading Agreements Regulations 1976 and shall come into operation on 22nd March 1976.

(2) The Registration of Restrictive Trading Agreements Regulations 1968(d) are hereby revoked.

(3) In these regulations—

“agreement”, except in regulation 3, means an agreement subject to registration under Part I of the Act of 1956 and includes an agreement so subject by virtue of the application of that Part by or under any other enactment; and

“association” means an association as defined in section 112 of the Act of 1973 or a trade association within the meaning of section 6(8) of the Act of 1956.

(4) The Interpretation Act 1889(e) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Furnishing of particulars of agreements

2.—(1) Subject to the following provisions of these regulations, a person furnishing particulars of an agreement to the Director pursuant to section 10 of the Act of 1956 shall send or deliver to him within the time specified in section 6 of the Act of 1968 for furnishing those particulars the documents mentioned in paragraph (2) below.

(2) The documents to be sent or delivered pursuant to paragraph (1) are—

(a) three copies of any document setting out the terms of the agreement so far as they are in writing;

(a) 1956 c. 68.

(c) 1973 c. 41.

(e) 1889 c. 63.

(b) 1968 c. 66.

(d) S.I. 1968/1755 (1968 III, p. 4764).

- (b) where the agreement or part of it is not in writing, three copies of a memorandum in writing signed by the person furnishing particulars and setting out the terms thereof or such of the terms thereof as are not in writing, as the case may be.

(3) Where the documents sent or delivered pursuant to paragraph (1) above do not disclose the name and the address of any person party to the agreement, there shall also be sent or delivered therewith three copies of a document indicating that person's name and address:

Provided that where the members of an association, or persons represented thereon by members, are parties to an agreement as such or are to be treated as parties for the purposes of Part I of the Act of 1956, this paragraph shall not require the name or address of any of them to be provided if their number exceeds 100 and the certificate sent or delivered in accordance with regulation 7 indicates their number or their approximate number.

(4) At least one of the copies of any document mentioned in paragraph (2)(a) or (3) above shall be signed by, or identified by the signature of, the person furnishing particulars.

(5) In relation to an agreement in which a term is to be implied by virtue of section 6(7) of the Act of 1956 or section 112(3) of the Act of 1973 (specific recommendations to members of associations) references in this regulation to the terms of an agreement include references to the terms of any relevant recommendations.

Newly registrable agreements varied before registration

3. In the case of an agreement becoming subject to registration by virtue of an order made under section 5 of the Act of 1968 (information agreements relating to goods) or Part X of the Act of 1973 (agreements relating to services) which was made before the commencement of the relevant order and is varied not later than three months after such commencement but before particulars of the agreement are furnished to the Director, regulation 2(2) above shall have effect—

- (a) in a case where the original agreement was in writing, as if it referred to three copies of the original agreement incorporating the variations; or
- (b) in a case where the original agreement was not in writing, as if it referred to three copies of a memorandum signed by the person furnishing particulars and setting out the agreement as varied.

Common form agreements

4.—(1) Where particulars of an agreement are being or have been furnished to the Director pursuant to section 10 of the Act of 1956 and a person party thereto is also party to other agreements differing therefrom only as respects the other party thereto or the date of making, it shall be a sufficient compliance with regulation 2 in relation to those other agreements to send or deliver to the Director three copies of a memorandum which—

- (a) refers to the agreement of which the particulars are being or have been furnished;
- (b) indicates the dates of the other agreements and the names and addresses of the parties thereto; and
- (c) states that those agreements are otherwise identical to the agreement of which particulars are being or have been furnished.

(2) At least one of the copies of a memorandum sent or delivered pursuant to paragraph (1) above shall be signed by the person furnishing particulars.

(3) The proviso to regulation 2(3) above shall apply in relation to paragraph (1)(b) above as it applies in relation to the said regulation 2(3).

Extent of the obligation to furnish particulars of variations of agreements

5. The obligation to furnish particulars of any variation of an agreement to the Director pursuant to section 10 of the Act of 1956 shall apply only to variations whereby—

- (a) a further restriction is accepted by one or more of the parties; or
- (b) a restriction ceases to have effect; or
- (c) the application of an existing restriction is extended or reduced as regards the areas or places or the classes of persons, goods, processes of manufacture or services to which it relates; or
- (d) so far as restrictions are accepted as to the terms or conditions on which goods are to be supplied or acquired or any process of manufacture is to be applied to goods or any designated service is to be supplied or obtained, the terms or conditions are varied.

Furnishing of particulars of the variation or determination of an agreement

6.—(1) A person furnishing particulars of the variation or determination of an agreement to the Director pursuant to section 10 of the Act of 1956 shall send or deliver to him within the time specified in section 6 of the Act of 1968 for furnishing those particulars the documents hereinafter specified.

(2) The documents to be sent or delivered pursuant to paragraph (1) above are—

- (a) in a case where the variation or determination is effected by an instrument in writing, three copies of the instrument;
- (b) in a case where the variation or determination is not effected by an instrument in writing, three copies of a memorandum in writing signed by the person furnishing particulars and setting out complete particulars of the variation or determination.

(3) At least one of the copies of any document mentioned in paragraph (2)(a) above shall be signed by, or identified by the signature of, the person furnishing particulars.

Certificate of particulars

7. A person sending or delivering documents to the Director in accordance with these regulations shall send or deliver therewith a certificate signed by him or on his behalf in whichever of the forms set out in the Schedule hereto (or forms commonly used before the commencement of these regulations) is appropriate.

Contents of the register

8.—(1) The particulars of agreements which shall be entered or filed in the register shall be—

- (a) copies of the documents duly sent or delivered to the Director pursuant to these regulations;
- (b) any documents or information obtained by him under sections 14 or 15 of the Act of 1956; and
- (c) any other particulars which any party to an agreement may furnish to him and which the Director thinks it appropriate to include in the register.

(2) Nothing in paragraph (1) above shall apply to any details as to parties or other persons, prices, terms or other matters as are material for the purpose only of defining the particular application from time to time of a continuing restriction accepted under an agreement of which particulars are entered or filed in the register, being details which the Director considers it unnecessary to enter or file therein.

The special section of the register

9.—(1) There shall be maintained a special section of the register which shall not be open to public inspection.

(2) There shall be entered or filed in the special section such particulars described in section 11(3) of the Act of 1956 (information the publication of which may be contrary to the public interest or may substantially damage legitimate business interests) as the Secretary of State may by virtue of that subsection direct.

(3) Where particulars are being furnished to the Director by a person who considers that any of them should be included in the special section of the register he shall send or deliver therewith a signed memorandum indicating the particulars in question and the grounds on which he considers that they should be included in that section.

Public inspection of the register

10. The public section of the register shall be open to public inspection between 10.00 a.m. and 4.30 p.m. except on Saturdays, Sundays and official holidays on which the Office of Fair Trading is closed.

Addressing of documents

11. Any documents to be sent or delivered to the Director pursuant to these regulations shall be addressed to—

The Office of Fair Trading (Registration),
Chancery House,
Chancery Lane,
London WC2A 1SP.

Application for extension of time for furnishing particulars

12.—(1) Any application to the Director for further time for furnishing any particulars in relation to any agreement beyond the time specified by section 6 of the Act of 1968 (as modified by the Act of 1973) shall be made in writing within the time so specified.

(2) Any such application shall—

- (a) identify the agreement to which it relates;
- (b) indicate the further time requested; and
- (c) state why it is impracticable to furnish particulars within the time so specified.

10th February 1976.

M. J. Methven,
Director General of Fair Trading.

SCHEDULE

Regulation 7

FORMS OF CERTIFICATE

(obtainable free of charge from the Office of Fair Trading)

Association Agreements

Form C.1/76

Restrictive Trade Practices Acts 1956 to 1973

CERTIFICATE in respect of an agreement constituted by

(a).....
 of the (b).....
 being an agreement relating to (c).....

and to which the only parties are members of the association or persons
 represented by those members.

I,
 herewith send/deliver to the Director General of Fair Trading in accordance
 with the Registration of Restrictive Trading Agreements Regulations 1976
 copies of particulars of an agreement which is subject to registration under
 Part I of the Restrictive Trade Practices Act 1956.

I CERTIFY

that the whole of the terms of that agreement (d) are contained in the following
 documents (three copies of each of which are attached):—

delete
 whichever
 alternative

and that [the names and addresses of the persons who are parties to it (e) are
 so contained] [the number of parties to it (e) exceeds 100, namely, approxi-
 mately]

appropriate

(i) Copies of Instruments in writing (f)

.....

(ii) Copies of a Memorandum of particulars not contained in Instruments mentioned in (i) above

.....

and that I have identified one copy of each of the documents at (i) above by
 my signature and have signed one copy of the memorandum at (ii) above.

Dated.....

Signed.....

Status (g) and address of signatory

On behalf of.....

.....

.....

 (a party to the above agreement)

NOTES

1. This Form should be used for the initial submission of particulars of an agreement which is constituted by the articles of association, rules, resolutions or bye-laws etc. of a trade association (as defined in section 6(8) of the Restrictive Trade Practices Act 1956) or an association of persons supplying services (as defined in section 112(1) of the Fair Trading Act 1973).

2. Notes referred to on the Form

- (a) Insert the title or some description identifying the document(s) constituting the agreement.
- (b) Insert the name of the association.
- (c) Insert a brief description of the goods, processes or services to which the agreement relates.
- (d) The whole of the terms of the agreement and not merely those involving restrictions must be provided. The documents must also include any recommendations by the association of the kind referred to in Section 6(7) of the Restrictive Trade Practices Act 1956 or Section 112(3) of the Fair Trading Act 1973.
- (e) The Acts regard all members of an association and persons (including companies, partnerships, etc.) represented on it by members as parties to the agreement. The documents supplied must include a list of all such members and represented persons and their addresses, *unless* they exceed 100 in number when only their approximate number must be stated.
- (f) Insert the title or some description identifying each document.
- (g) e.g. "Secretary of the.....Association", "a partner of Messrs.Solicitors", etc.

Common form agreements**RESTRICTIVE TRADE PRACTICES ACTS 1956 TO 1973**

CERTIFICATE in respect of agreements in common form between

(a).....

 relating to (b).....

I,
 herewith send/deliver to the Director General of Fair Trading in accordance
 with the Registration of Restrictive Trading Agreements Regulations 1976
 copies of particulars of (c).....

 agreements subject to registration under Part I of the Restrictive Trade Practices
 Act 1956.

CERTIFI-
 CATE A

I CERTIFY that all the agreements referred to above have a party or parties
 in common and are in the same form except for the identity of another party
 or parties or the date thereof or both, and that the whole of the terms (d) of
 those agreements together with the name(s) and address(es) of the common
 party or parties (e) to all of them

delete if
 inappropriate

[other than the names of the members or persons represented by the members
 of the.....

who number approximately.....]
 and the separate party or parties to each of them are contained in the following
 documents (three copies of each of which are attached):—

(i) Copies of Instruments in writing (f)

(ii) Copies of a Memorandum of particulars not contained in instruments
 mentioned in (i) above

(iii) Copies of a Memorandum of the name(s) and address(es) of the separate
 party or parties and dates of agreements similar to the agreement
 whose terms are set out in the documents mentioned in (i) or (ii)
 above

and that I have identified one copy of each of the documents at (i) above by
 my signature and have signed one copy of the memoranda at (ii) and (iii)
 above.

CERTIFI-
 CATE B

I CERTIFY that the Memorandum (three copies of which are attached and
 one copy of which I have signed) sets out in accordance with regulation 4 of
 the Registration of Restrictive Trading Agreements Regulations 1976 particulars
 of agreements subject to registration under Part I of the Restrictive Trade
 Practices Act 1956.

Dated..... Signed.....

Status (g) and address of signatory On behalf of.....

(a party to all the above agreements)

NOTES

1. This Form (Certificate A) should be used for the initial submission of particulars of a series of agreements in common form. Where particulars are being furnished of subsequent agreements made in common form to agreements of which particulars have already been furnished, complete Certificate B.

2. Notes referred to on the Form

- (a) Insert the name of the party (or parties) common to all agreements together with a description of the business of the other parties e.g. wholesalers, etc.
- (b) Insert a brief description of the goods, processes or services to which the agreements relate.
- (c) Insert the number (in figures) of agreements to which the certificate applies.
- (d) The whole of the terms of the agreements and not merely those involving restrictions must be provided.
- (e) Where an association is party to an agreement the Acts regard its members and persons (including companies, partnerships, etc.) represented on it by members as parties. The documents supplied must include a list of all such members and represented persons and their addresses, *unless* they exceed 100 in number when only their approximate number must be stated.
- (f) Insert the title or some description identifying each document.
- (g) e.g. "Secretary of the Association", "a partner of Messrs., Solicitors", etc.

**Agreements other than association
and common form agreements**

RESTRICTIVE TRADE PRACTICES ACTS 1956 TO 1973

CERTIFICATE in respect of an agreement between

(a).....

.....

relating to (b).....

.....

I,
herewith send/deliver to the Director General of Fair Trading in accordance
with the Registration of Restrictive Trading Agreements Regulations 1976
copies of particulars of an agreement subject to registration under Part I of
the Restrictive Trade Practices Act 1956.

complete
or delete as
appropriate

I CERTIFY that the whole of the terms of that agreement (c) and the names
and addresses of the persons who are parties (d) to it [(d) other than the names
and addresses of the members or persons represented by the members of the

.....

.....

who number approximately.....]
are contained in the following documents (three copies of each of which are
attached):—

(i) Copies of Instruments in writing (e)

.....

.....

.....

(ii) Copies of a Memorandum of particulars not contained in Instruments
mentioned in (i) above

and that I have identified one copy of each of the documents at (i) above by
my signature and have signed one copy of the memorandum at (ii) above.

Dated..... Signed.....

Status (f) and address of signatory On behalf of.....

.....

.....

.....

(a party to the above agreement)

NOTES

1. This Form should be used for the initial submission of particulars of any agreement other than

- (i) an agreement which is constituted by the articles of association, rules, resolutions, bye-laws etc. of a trade association (as defined in section 6(8) of the Restrictive Trade Practices Act 1956) or an association of persons supplying services (as defined in section 112(1) of the Fair Trading Act 1973); and
- (ii) a series of agreements in common form where one party (or group of parties) is common to all of them while the other is different in each case.

2. Notes referred to on the Form

- (a) Insert the names of at least two parties and indicate whether there are also other parties. If an association is a party, insert its name—but see also (d) below.
- (b) Insert a brief description of the goods, processes or services to which the agreement relates.
- (c) The whole of the terms of the agreement and not merely those involving restrictions must be provided.
- (d) Where an association is party to an agreement the Acts regard its members and persons (including companies, partnerships, etc.) represented on it by members as parties. The documents supplied must include a list of all such members and represented persons and their addresses, *unless* they exceed 100 in number when only their approximate number must be stated.
- (e) Insert the title or some description identifying each document.
- (f) e.g. “Secretary of the.....Association”, “a partner of Messrs., Solicitors”, etc.

Variation or Determination**RESTRICTIVE TRADE PRACTICES ACTS 1956 TO 1973**

CERTIFICATE in respect of the variation or determination of an agreement particulars of which have already been furnished to the Director General.

I,
herewith send/deliver to the Director General of Fair Trading in accordance
with the Registration of Restrictive Trading Agreements Regulations 1976
copies of particulars of the variation/determination (a) of the agreement
[entered on the Register of Restrictive Trading Agreements under the number
(b).....] [of which the Director General's reference number is
.....] made between
.....

I CERTIFY that the whole of the particulars of that variation/determination (a) are contained in the following documents (three copies of each of which are attached):—

(i) Copies of Instruments in writing (c)

.....
.....
.....
.....

(ii) Copies of a Memorandum of particulars not contained in Instruments mentioned in (i) above

.....
.....

and that I have identified one copy of each of the documents at (i) above by my signature and have signed one copy of the memorandum at (ii) above.

Dated Signed

Status (d) and address of signatory On behalf of

.....
.....
.....
(a party to the above agreement)

NOTES

Notes referred to on the Form

- (a) Delete whichever word is inappropriate.
- (b) Insert the number of the agreement on the Register or the reference number used by the Office in any correspondence relating to the original agreement and delete whichever wording in square brackets is inappropriate.
- (c) Insert the title of or some description identifying each document sent.
- (d) e.g. "Secretary of the Association", or "A partner of Messrs., Solicitors".

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations relate to the furnishing of particulars of restrictive trading agreements to the Director General of Fair Trading in accordance with the Restrictive Trade Practices Acts 1956 to 1973, and to the keeping by him under those Acts of a register of such agreements.

The regulations replace the Registration of Restrictive Trading Agreements Regulations 1968 (S.I. 1968/1755) which are revoked.

The main changes are—

- (a) provision is made in relation to restrictive agreements affecting the supply of services, particulars of which must be furnished to the Director once the Registration of Restrictive Trading Agreements (Services) Order comes into operation on 22nd March 1976;
- (b) the number of copies of any agreement or memorandum of an agreement to be furnished is reduced from four to three;
- (c) the procedure for furnishing particulars of a series of standard form agreements is simplified; and
- (d) the exemption from the obligation to furnish the names and addresses of persons party to agreements as members of trade associations applies where more than 100 names and addresses are involved (instead of more than 200).

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