



Fair Trading Act 1973

1973 CHAPTER 41

An Act to provide for the appointment of a Director General of Fair Trading and of a Consumer Protection Advisory Committee, and to confer on the Director General and the Committee so appointed, on the Secretary of State, on the Restrictive Practices Court and on certain other courts new functions for the protection of consumers; to make provision, in substitution for the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948 and the Monopolies and Mergers Act 1965, for the matters dealt with in those Acts and related matters, including restrictive labour practices; to amend the Restrictive Trade Practices Act 1956 and the Restrictive Trade Practices Act 1968, to make provision for extending the said Act of 1956 to agreements relating to services, and to transfer to the Director General of Fair Trading the functions of the Registrar of Restrictive Trading Agreements; to make provision with respect to pyramid selling and similar trading schemes; to make new provision in place of section 30(2) to (4) of the Trade Descriptions Act 1968; and for purposes connected with those matters.

[25th July 1973]

Modifications etc. (not altering text)

- C1** Act applied (3.1.1995) by 1994 c. 40, ss. 7, 82(2)(a)(b), **Sch. 2 para. 15**
Act applied (E.W.S.) (1.3.1996) by 1986 c. 44, s. 27 (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 25**; S.I. 1996/218, art. 2)
Act applied (E.W.S.) (1.3.1996) by 1986 c. 44, s. 36A (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, art. 2)
Act applied (N.I.) (10.6.1996) by S.I. 1996/275, arts. 18(5), 23(8) (with Sch. 7 paras. 2, 3(2); S.R. 1996/216, art. 2)
- C2** Act amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 100(1)
- C3** Act modified (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 30(1)–(3)
- C4** Act restricted by S.I. 1990/593 (N.I. 5), art. 49(1), **Sch. 14 Pt. II para. 8**
- C5** Act amended (E.W.)(1. 11. 1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59), ss. 10(1)(a), 12(4), (with ss. 25(2), 167(2)); S.I. 1991/2288, art. 3, Sch.
- C6** Act amended (S.)(21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 108), s. 33(1)(a) (with ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch.1**

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- C7** Act modified (E.W.)(1. 11. 1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59\)](#), **ss. 10(2), 12(4)**, (with ss. 25(2), 167(2)); [S.I. 1991/2288](#), **art. 3**, Sch
- C8** Act modified (S.) (21.10.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 108\)](#), **s. 33(2)** (with ss. 47(4), 167(2)); [S.I. 1991/2286](#), **art. 2(1)**, **Sch. 1**
- C9** Act: power to apply conferred (E.W.)(01.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss. 12(5), 223(2)** (with ss. 82(3), 186(1), 188, 222(1), Sch. 14 para. 6).
- C10** Act: definitions applied (E.W.)(01.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss. 17(4), 31(9), 223(2)** (with ss. 82(3), 186(1), 188, 222(1), Sch. 14 para. 6).
- C11** Act modified (E.W.)(01.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss.34(1)(2),35(4), 223(2)** (with ss. 82(3), 186(1), 188, 222(1), Sch. 14 para. 6).
- C12** Act modified (17.2.1994) by [S.I. 1993/3160 \(N.I. 15\)](#), **art. 32(1)(a)** (with Sch. 9 para. 1).

PART I

INTRODUCTORY

F¹1 Director General of Fair Trading.

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Textual Amendments

F1 S. 1 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 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.)

F²2 General functions of Director.

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Textual Amendments

F2 S. 2 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)

F³3 Consumer Protection Advisory Committee.

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Textual Amendments

F3 S. 3 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 10(1)(a), 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. and see transitional provisions in [S.I. 2003/1397](#), arts. 6, 8)

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Textual Amendments

F4 S. 4 repealed (1.4.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(2), **Sch. 14 Pt. I** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**

F5 **Principal functions of Commission.**

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Textual Amendments

F5 S. 5 repealed (29.12.2003) by **The Enterprise Act 2002 and Media Mergers (Consequential Amendments) Order 2003** (S.I. 2003/3180), art. 1(1), **Sch. para. 1(2)** (with art. 3)

F6 **Monopoly situation in relation to supply of goods.**

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Textual Amendments

F6 Ss. 6-11 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, 11)

F67 **Monopoly situation in relation to supply of services.**

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Textual Amendments

F6 Ss. 6-11 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, 11)

F68 **Monopoly situation in relation to exports.**

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Textual Amendments

F6 Ss. 6-11 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, 11)

F69 **Monopoly situation limited to part of United Kingdom.**

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Textual Amendments

- F6** Ss. 6-11 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, 11)

F⁶10 **Supplementary provisions relating to ss. 6 to 9.**

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Textual Amendments

- F6** Ss. 6-11 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, 11)

F⁶11 **Meaning of “complex monopoly situation”.**

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Textual Amendments

- F6** Ss. 6-11 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, 11)

F⁷12 **Powers of Secretary of State in relation to functions of Director.**

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Textual Amendments

- F7** S. 12 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 9, 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.](#))

PART II

REFERENCES TO CONSUMER PROTECTION ADVISORY COMMITTEE

Modifications etc. (not altering text)

- C13** 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

F⁸13 **Meaning of “consumer trade practice”.**

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Textual Amendments

F8 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.)

^{F8}14 General provisions as to references to Advisory Committee.

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Textual Amendments

F8 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.)

^{F8}15 Exclusion from s. 14 in respect of certain services.

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Textual Amendments

F8 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.)

^{F8}16 Restriction on references under s. 14 in respect of certain goods and services.

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Textual Amendments

F8 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.)

^{F8}17 Reference to Advisory Committee proposing recommendation to Secretary of State to make an order.

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Textual Amendments

F8 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.)

^{F8}18 No such recommendation to be made except in pursuance of reference to which s. 17 applies.

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Textual Amendments

F8 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.)

F8 19 Scope of recommendation proposed in reference to which s. 17 applies.

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Textual Amendments

F8 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.)

F8 20 Time-limit and quorum for report on reference to which s. 17 applies.

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Textual Amendments

F8 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.)

F8 21 Report of Advisory Committee on reference to which s. 17 applies.

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Textual Amendments

F8 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

F9 22 Order of Secretary of State in pursuance of report on reference to which s. 17 applies.

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Textual Amendments

F9 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.)

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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.

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 [F¹⁰section 18 of the M¹Interpretation 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

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- (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.

Textual Amendments

F10 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

Marginal Citations

M1 [1978 c. 30.](#)

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; . . . ^{F11}
- (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

F11 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.

- (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;

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- (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 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 barrister, advocate or solicitor 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.

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Modifications etc. (not altering text)

- C14** 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.

- (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.
- ^{F12}(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 [^{F13}level 3 on the standard scale]; and any person guilty of an offence under subsection (2) ^{F14}... 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 married) the husband or wife of that person.

Textual Amendments

- F12** 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)
- F13** 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](#)
- F14** 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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31 Notice of test.

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.

Modifications etc. (not altering text)

C15 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.

- (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.

Modifications etc. (not altering text)

C16 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.

- (1) It shall be the duty of [^{F15}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;

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- (b) in sections 28 and 29, any reference to a local weights and measures authority shall be construed as a reference to [^{F15}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
- ^{F16}(d)

Textual Amendments

F15 Words substituted by virtue of [Northern Ireland Constitution Act 1973 \(c. 36\), Sch. 5 para. 8\(1\)](#)

F16 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](#)

PART III

ADDITIONAL FUNCTIONS OF DIRECTOR FOR PROTECTION OF CONSUMERS

Modifications etc. (not altering text)

C17 Pts. III, IV (ss. 34-56) amended (E.W.) (01.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\), ss. 31\(4\)\(a\), 35\(4\), 223\(2\)](#) (with [ss. 82\(3\), 186\(1\), 188, 222\(1\), Sch. 14 para. 6](#)).

Pt. III modified (1.4.1992) by [S.I. 1992/231 \(N.I. 1\), art. 46\(1\)](#); [S.R. 1992/117, art.3\(1\)](#)

Pt. III (ss. 34-43) modified (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\), s. 43\(1\)](#)

Pt. III (ss. 34-43) modified (E.W.) by [Water Act 1989 \(c. 15, SIF 130\), s. 28\(1\)](#)

Pt. III (ss. 34-43) modified by [Telecommunications Act 1984 \(c. 12, SIF 96\), s. 50\(1\)](#)

Pt. III (ss. 34-43): certain functions transferred (E.W.S.) (1.4.1994) by [1993 c. 43, s. 67\(1\)](#); [S.I. 1994/571, art. 5](#)

Pt. III (ss. 34-43) amended (E.W.S.) (1.4.1994) by [1993 c. 43, s. 67\(1\)](#); [S.I. 1994/571, art. 5](#)

Pt. III (ss. 34-43) modified (E.W.S.) (1.3.1996) by [1986 c. 44, s. 36A\(1\)](#) (as inserted (1.3.1996) by [1995 c. 45, s. 10\(1\), Sch. 3 para. 43](#); [S.I. 1996/218, art. 2](#))

Pt. III (ss. 34-43) modified (N.I.) (10.6.1996) by [S.I. 1996/275 \(N.I. 2\), art. 23\(1\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); [S.R. 1996/216, art. 2](#)

Pt. III (ss. 34-43) modified (1.6.2001) by [S.I. 2001/1422, reg. 3, Sch. 2](#)

^{F17}**34 Action by Director with respect to course of conduct detrimental to interests of consumers.**

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 5\(3\), Sch. 26](#); [S.I. 2003/1397, art. 2\(1\), Sch. \(with arts. 6, 7, 8\)](#)

^{F17}**35 Proceedings before Restrictive Practices Court.**

.....

Status: Point in time view as at 29/12/2004.

Changes to legislation: Fair Trading Act 1973 is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

^{F17}36 Evidence in proceedings under s. 35.

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

^{F17}37 Order of, or undertaking given to, Court in proceedings under s. 35.

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

^{F17}38 Provisions as to persons consenting to or conniving at courses of conduct detrimental to interests of consumers.

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

^{F17}39 Order of, or undertaking given to, Court in proceedings under s. 38.

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

^{F17}40 Provisions as to interconnected bodies corporate.

.....

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

F17 41 Concurrent Jurisdiction of other courts in certain cases.

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

F17 41A Meaning of “relevant Court”.

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

F17 42 Appeals from decisions or orders of courts under Part III.

.....

Textual Amendments

F17 Ss. 34-42 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 5(3), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 7, 8)

43 Legal aid in proceedings under Part III in Restrictive Practices Court.

(1) The paragraph set out in the next following subsection shall be inserted—

- (a) **F18**
- (b) **F19**
- (c) **F20**

(2) **F21**

Textual Amendments

- F18** S. 43(1)(a) repealed by Legal Aid Act 1974 (c. 4), **Sch. 5 Pt. I**
- F19** S. 43(1)(b) repealed by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), s. 45(3), **Sch. 5**
- F20** S. 43(1)(c) repealed by S.I. 1981/228 (N.I. 8), art. 42(2), **Sch. 4**
- F21** S. 43(2) repealed by S.I. 1981/228 (N.I. 8), art. 42(2), **Sch. 4** and by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), s. 45(3), **Sch. 5**

Status: Point in time view as at 29/12/2004.

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Modifications etc. (not altering text)

C18 The text of S. 43 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART IV

FUNCTIONS OF DIRECTOR AND COMMISSION IN RELATION TO
MONOPOLY SITUATIONS AND UNCOMPETITIVE PRACTICES

Powers for Director to require information

F22 44 General power for Director to require information.

.....

Textual Amendments

F22 Ss. 44-56G 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)

45

F22 46 Supplementary provisions as to requirements to furnish information.

.....

Textual Amendments

F22 Ss. 44-56G 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)

Monopoly references

F22 47 General provisions as to monopoly references

.....

Textual Amendments

F22 Ss. 44-56G 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)

Status: Point in time view as at 29/12/2004.

Changes to legislation: Fair Trading Act 1973 is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F2248 Monopoly reference limited to the facts.

.....

Textual Amendments
F22 Ss. 44-56G 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)

F2249 Monopoly reference not limited to the facts.

.....

Textual Amendments
F22 Ss. 44-56G 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)

F2250 Monopoly references by Director.

.....

Textual Amendments
F22 Ss. 44-56G 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)

F2251 Monopoly references by Ministers.

.....

Textual Amendments
F22 Ss. 44-56G 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)

F2252 Variation of monopoly reference.

.....

Textual Amendments
F22 Ss. 44-56G 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)

Status: Point in time view as at 29/12/2004.

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F2253 Publication of monopoly references and variations, and of directions relating to them.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F2254 Report of Commission on monopoly reference.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F2255 Time-limit for report on monopoly reference.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F2256 Order of appropriate Minister on report on monopoly reference.

.....

Textual Amendments

F22 Ss. 44-56G 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)

Undertakings as alternative to monopoly reference by Director

F2256A Proposals by Director.

.....

Textual Amendments

F22 Ss. 44-56G 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)

Status: Point in time view as at 29/12/2004.

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F22 56B Proposals under section 56A: preparatory steps.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F22 56C Proposals under section 56A: exclusion of sensitive information.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F22 56D Acceptance by Secretary of State of proposals under section 56A.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F22 56E Review of undertakings.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F22 56F Release, variation and replacement of undertakings.

.....

Textual Amendments

F22 Ss. 44-56G 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)

F22 56G Publication of undertakings etc.

.....

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Textual Amendments

- F22** Ss. 44-56G 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)

PART V

MERGERS

Modifications etc. (not altering text)

- C19** Pt. V (ss. 57-77) restricted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. [30\(4\)](#)
C20 Pt. V (ss. 57-77) applied (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), [ss. 29\(9\)\(b\)](#), 30(6)
C21 Pt. V (ss. 57-77) restricted (E.W.) (01.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 34\(4\)](#), [223\(2\)](#) (with [ss. 82\(3\)](#), [186\(1\)](#), [188](#), [222\(1\)](#), [Sch. 14 para. 6](#)).
C22 Pt. V (ss. 57-77) applied (E.W.) (01.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), [ss. 35\(2\)](#), [223\(2\)](#) (with [ss. 82\(3\)](#), [186\(1\)](#), [188](#), [222\(1\)](#), [Sch. 14 para. 6](#)).

Newspaper merger references

- ^{F23}**57** **Meaning of “newspaper”, “transfer of newspaper or of newspaper assets” and related expressions.**
.....

Textual Amendments

- F23** [Ss. 57-62](#) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 373](#), [411\(2\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

- ^{F23}**58** **Prohibition of certain newspaper mergers.**
.....

Textual Amendments

- F23** [Ss. 57-62](#) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 373](#), [411\(2\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

- ^{F23}**59** **Newspaper merger reference.**
.....

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F23 Ss. 57-62 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 373, 411(2), **Sch. 19(1)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F23 60 Time-limit for report on newspaper merger reference.

.....

Textual Amendments

F23 Ss. 57-62 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 373, 411(2), **Sch. 19(1)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F23 61 Report on newspaper merger reference.

.....

Textual Amendments

F23 Ss. 57-62 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 373, 411(2), **Sch. 19(1)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F23 62 Enforcement provisions relating to newspaper mergers.

.....

Textual Amendments

F23 Ss. 57-62 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 373, 411(2), **Sch. 19(1)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Other merger references

F24 63 Mergers references to which ss. 64 to 75 apply.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26** (with [Sch. 24](#)); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 64 Merger situation qualifying for investigation.

.....

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 65 **Enterprises ceasing to be distinct enterprises.**

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 66 **Time when enterprises cease to be distinct.**

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 66A **Obtaining control by stages.**

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 67 **Valuation of assets taken over.**

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Status: Point in time view as at 29/12/2004.

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F2468 Supplementary provisions as to merger situations qualifying for investigation.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2469 Different kinds of merger references.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Modifications etc. (not altering text)

C23 Ss. 64-77 modified (E.W.S.) (1.4.1994) by 1993 c. 43, s. 66(3); S.I. 1994/571, art. 5

F2470 Time-limit for report on merger reference.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2471 Variation of certain merger references.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2472 Report of Commission on merger reference.

.....

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2473 Order of Secretary of State on report on merger reference.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2474 Interim order in respect of merger reference.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2475 Reference in anticipation of merger.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Restriction on power to make merger reference where prior notice has been given

F2475A General rule where notice given by acquirer and no reference made within period for considering notice.

.....

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 75B The role of the Director.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 75C Cases where power to refer unaffected.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 75D Regulations

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F24 75E Interpretation of sections 75A to 75D.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Status: Point in time view as at 29/12/2004.

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F2475F Power to amend sections 75B to 75D.

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Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Undertakings as alternative to merger reference

F2475G Acceptance of undertakings.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2475H Publication of undertakings.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2475J Review of undertakings.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2475K Order of Secretary of State where undertaking not fulfilled.

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Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Supplementary

F2476 Functions of Director in relation to merger situations.

.....

Textual Amendments

F24 Ss. 63-76 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2577 Associated persons.

.....

Textual Amendments

F25 S. 77 repealed (29.12.2003) by The Enterprise Act 2002 and Media Mergers (Consequential Amendments) Order 2003 (S.I. 2003/3180), art. 1(1), **Sch. para. 1(3)** (with art. 3)

PART VI

REFERENCES TO COMMISSION OTHER THAN MONOPOLY AND MERGER REFERENCES

F2678 General references.

.....

Textual Amendments

F26 Ss. 78-80 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), ss. 208, 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F2679 References as to restrictive labour practices.

.....

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F26 Ss. 78-80 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), ss. 208, 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F26 **80 Variation of reference under Part VI.**

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Textual Amendments

F26 Ss. 78-80 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), ss. 208, 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

PART VII

PROVISIONS RELATING TO REFERENCES TO ADVISORY COMMITTEE OR TO COMMISSION

F27 **81 Procedure in carrying out investigations**

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Textual Amendments

F27 S. 81 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F28 **82 General provisions as to reports.**

.....

Textual Amendments

F28 S. 82 repealed (29.12.2003) by The Enterprise Act 2002 and Media Mergers (Consequential Amendments) Order 2003 (S.I. 2003/3180), art. 1(1), **Sch. para. 1(4)** (with art. 3)

F29 **83 Laying before Parliament and publication of reports.**

.....

Textual Amendments

F29 S. 83 repealed (29.12.2003) by The Enterprise Act 2002 and Media Mergers (Consequential Amendments) Order 2003 (S.I. 2003/3180), art. 1(1), **Sch. para. 1(5)** (with art. 3)

Status: Point in time view as at 29/12/2004.

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PART VIII

ADDITIONAL PROVISIONS RELATING TO REFERENCES TO COMMISSION

^{F30}84 Public interest.

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Textual Amendments

- F30** S. 84 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 26](#) (with [Sch. 24](#)); [S.I. 2003/1397, art. 2\(1\), Sch.](#) (with arts. 3(1), 6, 8); [S.I. 2004/3233, art. 2, Sch.](#) (with arts. 3-5)

^{F31}85 Attendance of witnesses and production of documents.

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Textual Amendments

- F31** S. 85 repealed (29.12.2003) by [The Enterprise Act 2002 and Media Mergers \(Consequential Amendments\) Order 2003 \(S.I. 2003/3180\), art. 1\(1\), Sch. para. 1\(6\)](#) (with art. 3)

^{F32}86 Director to receive copies of reports.

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Textual Amendments

- F32** S. 86 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 26](#) (with [Sch. 24](#)); [S.I. 2003/1397, art. 2\(1\), Sch.](#) (with arts. 3(1), 6, 8); [S.I. 2004/3233, art. 2, Sch.](#) (with arts. 3-5)

^{F33}87 Supplementary provisions as to laying reports before Parliament.

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Textual Amendments

- F33** S. 87 repealed (29.12.2003) by [The Enterprise Act 2002 and Media Mergers \(Consequential Amendments\) Order 2003 \(S.I. 2003/3180\), art. 1\(1\), Sch. para. 1\(7\)](#) (with art. 3)

^{F34}88 Action by Director in consequence of report of Commission on monopoly or merger reference.

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Status: Point in time view as at 29/12/2004.

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Textual Amendments

F34 Ss. 88-93A repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F3489 Interim order after report of Commission under s. 54 or s. 72.

.....

Textual Amendments

F34 Ss. 88-93A repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F3490 General provisions as to orders under ss. 56, 73, 74 and 89.

.....

Textual Amendments

F34 Ss. 88-93A repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F3491 Procedure relating to orders to which s. 90 applies.

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Textual Amendments

F34 Ss. 88-93A repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F3492 Investigation of company or association with reference to order to which s. 90 applies.

.....

Textual Amendments

F34 Ss. 88-93A repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

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F³⁴93 Enforcement of orders to which s. 90 applies.

.....

Textual Amendments
F34 Ss. 88-93A repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26 (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F³⁴93A Enforcement of undertakings.

.....

Textual Amendments
F34 Ss. 88-93A repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26 (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 4, 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

[F³⁵93B False or misleading information.

- (1) If a person furnishes any information—
 - ^{F36}(a)
 - (b) to the Commission in connection with the functions of the Commission under ^{F37}... the Airports Act 1986, and either he knows the information to be false or misleading in a material particular, or he furnishes the information recklessly and it is false or misleading in a material particular, he is guilty of an offence.
- (2) A person who—
 - (a) furnishes any information to another which he knows to be false or misleading in a material particular, or
 - (b) recklessly furnishes any information to another which is false or misleading in a material particular,
 knowing that the information is to be used for the purpose of furnishing information as mentioned in subsection (1)(a) or (b) of this section, is guilty of an offence.
- (3) A person guilty of an offence under subsection (1) or (2) of this section is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) Section 129(1) of this Act does not apply to an offence under this section.”]
- [^{F38}(5) This section shall not have effect in relation to the furnishing of information to the Commission in connection with its functions under any provision of the Enterprise Act 2002 as applied by virtue of ^{F39}... section 44B of the Airports Act 1986.]

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Textual Amendments

- F35** S. 93B inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), **s. 151**
- F36** S. 93B(1)(a) repealed (29.12.2003) by [The Enterprise Act 2002 and Media Mergers \(Consequential Amendments\) Order 2003 \(S.I. 2003/3180\)](#), art. 1(1), **Sch. para. 1(8)** (with art. 3)
- F37** Words in s. 93B(1)(b) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F38** S. 93B(5) inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 5(4)(b)**; [S.I. 2003/1397](#), art. 2(1), [Sch.](#) (with arts. 6, 8)
- F39** Words in s. 93B(5) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C24** S. 93B extended by [S.I. 1990/1715](#), **reg. 4**
S. 93B extended (3.1.1995) by [1994 c. 40](#), ss. 7, 82(2)(a)(b), **Sch. 2 para. 14**
- C25** S. 93B applied by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 39, **Sch. 4 para. 8(4)**
S. 93B applied (28.8.1996) by [S.I. 1996/2199](#), **reg. 25**
- C26** S. 93B modified (E.W.S.) (1.4.1994) by [1993 c. 43](#), **s. 67(9)**; [S.I. 1994/571](#), **art. 5**
S. 93B applied (with modifications) (1.2.2001) by [2000 c. 38](#), **s. 12(9)(10)(a)** (with s. 106); [S.I. 2001/57](#), **art. 3(1)**, **Sch. 2 Pt. I** (subject to transitional provision and saving in [Sch. 2 Pt. II](#))
S. 93B applied (with modifications) (1.2.2001) by [2000 c. 38](#), **s. 18(1)(2)(c)** (with s. 106); [S.I. 2001/57](#), **art. 3(1)**, **Sch. 2 Pt. I** (subject to transitional provision and saving in [Sch. 2 Pt. II](#))
S. 93B applied (with modifications) (26.3.2001) by [2000 c. 26](#), **s. 20(1)(2)(a)**; [S.I. 2000/2957](#), **art. 2(3)**, **Sch. 3**
S. 93B applied (with modifications) (26.3.2001) by [2000 c. 38](#), **s. 20(4)(5)(a)**; [S.I. 2000/2957](#), **art. 2(3)**, **Sch. 3**
S. 93B applied (with modifications) (1.10.2001) by [1989 c. 29](#), **s. 56C(7)(8)** (as inserted (1.10.2001) by [2000 c. 27](#), **ss. 43**, [104\(1\)\(2\)\(6\)](#)); [S.I. 2001/3266](#), **art. 2**, **Sch.** (subject to transitional provisions in arts. 3-20)
S. 93B applied (with modifications) (1.10.2001) by [1986 c. 44](#), **s. 42E(7)(8)** (as inserted (1.10.2001) by [2000 c. 27](#), **ss. 88**, [104\(1\)\(2\)\(6\)](#)); [S.I. 2001/3266](#), **art. 2**, **Sch.** (subject to transitional provisions in arts. 3-20)
S. 93B applied (with modifications) (*prosp.*) by [1993 c. 43](#), **Sch. 4A para. 10(2)(a)** (as inserted (*prosp.*) by [2000 c. 38](#), **ss. 231**, [275\(1\)](#), **Sch. 24**)
S. 93B modified (1.3.1996) by [1986 c. 44](#), **s. 36A(8)** (as inserted (1.3.1996) by [1995 c. 45](#), s. 1(1), **Sch. 3 para. 43**; [S.I. 1996/218](#), **art. 2**)
S. 93B modified (1.4.1999) by [1984 c. 12](#), **s. 50(6A)** (as inserted (1.4.1999) by [1998 c. 41](#), s. 54, **Sch. 10 Pt. IV para. 9(5)**; [S.I. 1999/505](#), **art. 2**, **Sch.**)
S. 93B modified (1.4.1999) by [1989 c. 29](#), **s. 43(6A)** (as inserted (1.4.1999) by [1998 c. 41](#), s. 54, **Sch. 10 Pt. IV para. 12(6)**; [S.I. 1999/505](#), **art. 2**, **Sch.**)
S. 93B modified (1.4.1999) by [1991 c. 56](#), **s. 31(8A)** (as inserted (1.4.1999) by [1998 c. 41](#), s. 54, **Sch. 10 Pt. IV para. 13(8)**; [S.I. 1999/505](#), **art. 2**, **Sch.**)
S. 93B modified (N.I.) (1.4.1999) by [S.I. 1992/231 \(N.I. 1\)](#), **art. 46(6A)** (as inserted (1.4.1999) by [1998 c. 41](#), s. 54, **Sch. 10 Pt. V para. 17(6)**; [S.I. 1999/505](#), **art. 2**, **Sch.**)
S. 93B modified (N.I.) (10.6.1996) by [S.I. 1996/275 \(N.I. 2\)](#), **art. 23(7)** (with [Sch. 7 paras. 2](#), [3\(2\)](#)); [S.R. 1996/216](#), **art. 2**

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PART IX

AMENDMENTS OF RESTRICTIVE TRADE PRACTICES ACTS

94 **Transfer of functions of Registrar to Director.**

- (1) Subject to the transitional provisions having effect by virtue of section 139 of this Act, the functions of the Registrar of Restrictive Trading Agreements are hereby transferred to the Director,^{F40} ...

^{F41}(2)

Textual Amendments

F40 Words in s. 94(1) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 16](#) Group 2

F41 S. 94(2) repealed by [Resale Prices Act 1976 \(c. 53\)](#), [Sch. 3 Pt. 1](#)

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 106.

Textual Amendments

F42 [Ss. 95–117](#) repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), [Sch. 6](#)

PART X

107—^{F43}
 117.

Textual Amendments

F43 [Ss. 95–117](#) repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), [Sch. 6](#)

PART XI

PYRAMID SELLING AND SIMILAR TRADING SCHEMES

[^{F44}118 **Trading schemes to which Part XI applies.**

- (1) This Part of this Act applies to any trading scheme if—
- (a) the prospect is held out to participants of receiving payments or other benefits in respect of any of the matters specified in subsection (2) of this section; and
 - (b) (subject to subsection (7) of this section) either or both of the conditions in subsections (3) and (4) of this section are fulfilled in relation to the scheme.
- (2) The matters referred to in paragraph (a) of subsection (1) of this section are—

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- (a) the introduction by any person of other persons who become participants in a trading scheme;
 - (b) the continued participation of participants in a trading scheme;
 - (c) the promotion, transfer or other change of status of participants within a trading scheme;
 - (d) the supply of goods or services by any person to or for other persons;
 - (e) the acquisition of goods or services by any person.
- (3) The condition in this subsection is that—
- (a) goods or services, or both, are to be provided by the person promoting the scheme (in this Part of this Act referred to as “the promoter”) or, in the case of a scheme promoted by two or more persons acting in concert (in this Part of this Act referred to as “the promoters”), by one or more of those persons; and
 - (b) the goods or services so provided—
 - (i) are to be supplied to or for other persons under transactions effected by participants (whether in the capacity of agents of the promoter or of one of the promoters or in any other capacity), or
 - (ii) are to be used for the purposes of the supply of goods or services to or for other persons under such transactions.
- (4) The condition in this subsection is that goods or services, or both, are to be supplied by the promoter or any of the promoters to or for persons introduced to him or any of the other promoters (or an employee or agent of his or theirs) by participants.
- (5) For the purposes of this Part of this Act a prospect of a kind mentioned in paragraph (a) of subsection (1) of this section shall be treated as being held out to a participant whether it is held out so as to confer on him a legally enforceable right or not.
- (6) This Part of this Act does not apply to any trading scheme—
- ^{F45}(a) [under which the promoter or any of the promoters or participants is to carry on, or to purport to carry on, a relevant regulated activity;]
 - (b) which otherwise falls within a description prescribed by regulations made by the Secretary of State by statutory instrument.
- ^{F46}(6A) [For the purposes of subsection (6)(a), “relevant regulated activity” means—
- (a) dealing in investments as principal or agent;
 - (b) arranging deals in investments;
 - (c) managing investments;
 - (d) safeguarding and administering investments;
 - (e) sending dematerialised instructions;
 - (f) establishing etc. a collective investment scheme;
 - (g) advising on investments,
- and paragraphs (a) to (g) must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section, and Schedule 2 to that Act.]
- (7) The Secretary of State may by order made by statutory instrument—
- (a) disapply paragraph (b) of subsection (1) of this section in relation to a trading scheme of a kind specified in the order; or
 - (b) amend or repeal paragraph (a) of subsection (6) of this section;

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and no such order, and no order varying or revoking any such order, shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(8) In this Part of this Act—

“goods” includes property of any description and a right to, or interest in, property;

“participant” means, in relation to a trading scheme, a person (other than the promoter or any of the promoters) participating in the scheme;

“trading scheme” includes any arrangements made in connection with the carrying on of a business, whether those arrangements are made or recorded wholly or partly in writing or not;

and any reference to the provision or supply of goods shall be construed as including a reference to the grant or transfer of a right or interest.

(9) In this section any reference to the provision or supply of goods or services by a person shall be construed as including a reference to the provision or supply of goods or services under arrangements to which that person is a party.]

Textual Amendments

F44 S. 118 substituted (6.2.1997) by 1996 c. 32, s. 1; S.I. 1997/29, art. 2

F45 S. 118(6)(a) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 284(2)

F46 S. 118(6A) inserted (1.12.2001) by S.I. 2001/3649, arts. 1, 284(3)

119 Regulations relating to such trading schemes.

(1) Regulations made by the Secretary of State by statutory instrument may make provision with respect to the issue, circulation or distribution of [^{F47}any form of advertisement, prospectus, circular or notice which contains any information]calculated to lead directly or indirectly to persons becoming participants in such a trading scheme, and may prohibit any such [^{F47}advertisement, prospectus, circular or notice] from being issued, circulated or distributed unless it complies with such requirements as to the matters to be included or not included in it as may be prescribed by the regulations.

(2) Regulations made by the Secretary of State by statutory instrument may prohibit the promoter or any of the promoters of, or any participant in, a trading scheme to which this Part of this Act applies from—

- (a) supplying any goods to a participant in the trading scheme, or
- (b) supplying any training facilities or other services for such a participant, or
- (c) providing any goods or services under a transaction effected by such a participant, or
- (d) being a party to any arrangements under which goods or services are supplied or provided as mentioned in any of the preceding paragraphs, or
- (e) accepting from any such participant any payment, or any undertaking to make a payment, in respect of any goods or services supplied or provided as mentioned in any of paragraphs (a) to (d) of this subsection or in respect of any goods or services to be so supplied or provided,

unless (in any such case) such requirements as are prescribed by the regulations are complied with.

Status: Point in time view as at 29/12/2004.

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- (3) Any requirements prescribed by regulations under subsection (2) of this section shall be such as the Secretary of State considers necessary or expedient for the purpose of preventing participants in trading schemes to which this Part of this Act applies from being unfairly treated; and, without prejudice to the generality of this subsection, any such requirements may include provisions—
- (a) requiring the rights and obligations of every participant under such a trading scheme to be set out in full in an agreement in writing made between the participant and the promoter or (if more than one) each of the promoters;
 - (b) specifying rights required to be conferred on every such participant, and obligations required to be assumed by the promoter or promoters, under any such trading scheme; or
 - (c) imposing restrictions on the liabilities to be incurred by such a participant in respect of any of the matters mentioned in paragraphs (a) to (e) of subsection (2) of this section.
- (4) Regulations made under subsection (2) of this section—
- (a) may include provision for enabling a person who has made a payment as a participant in a trading scheme to which this Part of this Act applies, in circumstances where any of the requirements prescribed by the regulations were not complied with, to recover the whole or part of that payment from any person to whom or for whose benefit it was paid, and
 - (b) subject to any provision made in accordance with the preceding paragraph, may prescribe the degree to which anything done in contravention of the regulations is to be treated as valid or invalid for the purposes of any civil proceedings.
- (5) The power to make regulations under this section may be exercised so as to make different provision—
- (a) in relation to different descriptions of trading schemes to which this Part of this Act applies, or
 - (b) in relation to trading schemes which are or were in operation on a date specified in the regulations and trading schemes which are or were not in operation on that date,
- or in relation to different descriptions of participants in such trading schemes.

Textual Amendments

F47 Words in s. 119(1) substituted (6.2.1997) by 1997 c. 32, s. 2(1)(a)(b); S.I. 1997/29, art. 2

120 Offences under Part XI.

- (1) Subject to the next following section, any person who issues, circulates or distributes, or causes another person to issue, circulate or distribute, an [^{F48}advertisement, prospectus, circular or notice] in contravention of any regulations made under subsection (1) of section 119 of this Act shall be guilty of an offence.
- (2) Any person who contravenes any regulations made under subsection (2) of that section shall be guilty of an offence.

Status: Point in time view as at 29/12/2004.

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- (3) If any person who is a participant in a trading scheme to which this Part of this Act applies, or has applied or been invited to become a participant in such a trading scheme,
- (a) makes any payment to or for the benefit of the promoter or (if there is more than one) any of the promoters, or to or for the benefit of a participant in the trading scheme, and
 - (b) is induced to make that payment by reason that the prospect is held out to him of receiving payments or other benefits in respect of the introduction of other persons who become participants in the trading scheme,
- any person to whom or for whose benefit that payment is made shall be guilty of an offence.
- (4) If the promoter or any of the promoters of a trading scheme to which this Part of this Act applies, or any other person acting in accordance with such a trading scheme, by holding out to any person such a prospect as is mentioned in subsection (3)(b) of this section, attempts to induce him—
- (a) if he is already a participant in the trading scheme, to make any payment to or for the benefit of the promoter or any of the promoters or to or for the benefit of a participant in the trading scheme, or
 - (b) if he is not already a participant in the trading scheme, to become such a participant and to make any such payment as is mentioned in the preceding paragraph,
- the person attempting to induce him to make that payment shall be guilty of an offence.
- (5) In determining, for the purposes of subsection (3) or subsection (4) of this section, whether an inducement or attempt to induce is made by holding out such a prospect as is therein mentioned, it shall be sufficient if such a prospect constitutes or would constitute a substantial part of the inducement.
- (6) Where the person by whom an offence is committed under subsection (3) or subsection (4) of this section is not the sole promoter of the trading scheme in question, any other person who is the promoter or (as the case may be) one of the promoters of the trading scheme shall, subject to the next following section, also be guilty of that offence.
- (7) Nothing in subsections (3) to (6) of this section shall be construed as limiting the circumstances in which the commission of any act may constitute an offence under subsection (1) or subsection (2) of this section.
- (8) In this section any reference to the making of a payment to or for the benefit of a person shall be construed as including the making of a payment partly to or for the benefit of that person and partly to or for the benefit of one or more other persons.

Textual Amendments

F48 Words in s. 120(1) substituted (6.2.1997) by 1996 c. 32, s. 2(2); S.I. 1997/29, art. 2

121 Defences in certain proceedings under Part XI.

- (1) Where a person is charged with an offence under subsection (1) of section 120 of this Act in respect of an advertisement, it shall be a defence for him to prove that he is a person whose business it is to publish or arrange for the publication of advertisements,

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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 that subsection.

- (2) Where a person is charged with an offence by virtue of subsection (6) of section 120 of this Act, it shall be a defence for him to prove—
- (a) that the trading scheme to which the charge relates was in operation before the commencement of this Act, and
 - (b) that the act constituting the offence was committed without his consent or connivance.

122 Penalties for offences under Part XI.

A person guilty of an offence under this Part of this Act shall be liable—

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

123 Enforcement provisions.

- (1) The provisions of sections 29 to 32 of this Act shall have effect for the purposes of this Part of this Act as if in those provisions—
- (a) references to a weights and measures authority or a duly authorised officer of such an authority were omitted, and
 - (b) any reference to an offence under section 23 of this Act were a reference to an offence under this Part of this Act.
- (2) For the purposes of the application to Northern Ireland of those provisions as applied by the preceding subsection—
- (a) any reference to the Secretary of State shall be construed as a reference to [^{F49}the Department of Commerce for Northern Ireland], and
 - (b) paragraphs (c) and(d) of section 33(2) of this Act shall have effect as they have effect for the purposes of the application of Part II of this Act to Northern Ireland.

Textual Amendments

F49 Words substituted by virtue of [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 5 para. 8\(1\)](#)

PART XII

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

^{F50}**124 Publication of information and advice.**

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Textual Amendments

F50 S. 124 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)

^{F51} 125 Annual and other reports of Director.

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Textual Amendments

F51 S. 125 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, 9)

126 ^{F52}

Textual Amendments

F52 S. 126 repealed by Patents Act 1977 (c. 37), Sch. 6

127 Additional power to make orders under Agricultural Marketing Act 1958.

The following section shall be inserted in the ^{M2}Agricultural Marketing Act 1958 after section 19 :—

- (1) The provisions of this section shall have effect where a report made by the Monopolies and Mergers Commission under section 54 of the Fair Trading Act 1973, as laid before Parliament, contains conclusions to the effect—
 - (a) that certain matters indicated in the report operate, or may be expected to operate, against the public interest, and
 - (b) that those matters consist of or include any provision of a scheme or any act or omission of a board administering a scheme.
- (2) In the circumstances mentioned in subsection (1) of this section, the Minister shall have the like power to make orders under section 19 of this Act as if those conclusions of the Monopolies and Mergers Commission—
 - (a) had been to the effect that the provision of the scheme in question, or the act or omission of the board to which those conclusions relate, were contrary to the interest of consumers of the regulated product, and
 - (b) had been contained in a report of a committee of investigation.”

Modifications etc. (not altering text)

C27 The text of section 127 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Status: Point in time view as at 29/12/2004.

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Marginal Citations

M2 1958 c. 47.

128 F53

Textual Amendments

F53 S. 128 repealed by Restrictive Trade Practices Act 1976 (c. 34), Sch. 6

^{F54}129 **Time-limit for prosecutions.**

- (1) No prosecution for an offence under this Act shall be commenced after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.
- (2) Notwithstanding anything in [^{F55}section 127(1) of the Magistrates' Courts Act 1980], a magistrates' court may try an information for an offence under this Act if the information was laid within twelve months from the commission of the offence.
- (3) Notwithstanding anything in [^{F56}section 136 of the Criminal Procedure (Scotland) Act 1995], summary proceedings in Scotland for an offence under this Act may be commenced within twelve months from the commission of the offence, and [^{F56}subsection (3) of the said section 136] shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (4) In the application of this section to Northern Ireland, for the references in subsection (2) to [^{F57}section 127(1) of the Magistrates' Courts Act 1980] and to the trial and laying of an information there shall be substituted respectively references to [^{F58}Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981] and to the hearing and determination and making of a complaint [^{F59}and as if in that subsection for the words "an offence under this Act" there were substituted the words "an offence under section 30(1) ^{F60}... of this Act"].

Textual Amendments

- F54 S. 129 applied (28.8.1996) by S.I. 1996/2199, reg. 26
- F55 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, Sch. 7 para. 118
- F56 Words in s. 129(3) substituted (S.) (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 9(a)(b)
- F57 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, Sch. 7 para. 118
- F58 Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), Sch. 6 para. 30
- F59 Words added (22.6.1980) by S.I. 1980/704 (N.I. 6), Sch. 1 Pt. II para. 70
- F60 Words in s. 129(4) repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26 (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

^{F61}130 **Notice to Director of intended prosecution.**

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Status: Point in time view as at 29/12/2004.

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Textual Amendments

- F61** S. 130 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)

^{F62}131 Notification of convictions and judgments to Director.

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Textual Amendments

- F62** S. 131 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)

132 Offences by bodies corporate.

- (1) Where an offence under section 23, ^{F63}... ^{F64}... [^{F65}section 93B] or Part XI of this Act, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Textual Amendments

- F63** Words in s. 132(1) repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26** (with [Sch. 24](#)); S.I. 2003/1397, art. 2(1), [Sch.](#) (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, [Sch.](#) (with arts. 3-5)
- F64** Words in s. 132 repealed (29.12.2003) by [The Enterprise Act 2002 and Media Mergers \(Consequential Amendments\) Order 2003 \(S.I. 2003/3180\)](#), art. 1(1), **Sch. para. 1(9)** (with art. 3)
- F65** Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, **Sch. 20 para. 17**

Modifications etc. (not altering text)

- C28** S. 132 applied (with modifications) (28.8.1996) by [S.I. 1996/2199](#), **reg. 27**

^{F66}133 General restrictions on disclosure of information.

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Textual Amendments

- F66** S. 133 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)

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134 Provisions as to orders.

- (1) Any statutory instrument whereby any order is made under any of the preceding provisions of this Act, other than a provision which requires a draft of the order to be laid before Parliament before making the order, or whereby any regulations are made under this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred by any provision of this Act to make an order by statutory instrument shall include power to revoke or vary the order by a subsequent order made under that provision.

135 Financial provisions.

- (1) The Secretary of State shall pay all remuneration, allowances or other sums payable under this Act to or in respect of persons who are or have been members of the Advisory Committee^{F67} . . . , and shall defray—
 - ^{F68}(a)
 - (b) to such amount as the Secretary of State with the approval of the Minister for the Civil Service may determine, all other expenses duly incurred by the Advisory Committee^{F67}
- (2) There shall be defrayed out of moneys provided by Parliament—
 - (a) all expenses incurred by the Secretary of State in consequence of the provisions of this Act;
 - (b) any expenses incurred in consequence of those provisions by any other Minister of the Crown or government department, not being a [^{F69}Northern Ireland department];
 - (c) the remuneration of, and any travelling or other allowances payable under this Act to, the Director and any staff of the Director, any other sums payable under this Act to or in respect of the Director, and any expenses duly incurred by the Director or by any of his staff in consequence of the provisions [^{F70}of this or any other Act];
 - (d) any increase attributable to this Act in the sums payable out of moneys so provided under the^{M3} Superannuation Act 1972.
- (3)^{F71}

Textual Amendments

- F67** Words in s. 135(1) repealed (1.4.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(15)(a), **Sch. 14 Pt. I** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F68** S. 135(1)(a) repealed (1.4.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(15)(b), **Sch. 14 Pt. I** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F69** Words substituted by virtue of Northern Ireland Act 1974 (c. 28), **Sch. 1 para. 2(1)(b)(4)**
- F70** Words substituted (4.4.1980) by Competition Act 1980 (c. 21), s. 32(2)
- F71** S. 135(3) repealed by S.I. 1973/2163, **Sch. 6**

Marginal Citations

- M3** 1972 c. 11.

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136 F72

Textual Amendments

F72 S. 136 repealed by Statute Law (Repeals) Act 1977 (c. 18), Sch. 1 Pt. XIII

137 General interpretation provisions.

(1) In this Act—

“the Act of 1948” means the ^{M4}Monopolies and Restrictive Practices (Inquiry and Control) Act 1948; ^{F73}

^{F74}
...
... ^{F75}
...

“the Act of 1965” means the ^{M5}Monopolies and Mergers Act 1965;

^{F76}
...
... ^{F77}
...

“contract of employment” means a contract of service or of apprenticeship, whether it is express or implied, and (if it is express) whether it is oral or in writing;

“scale” (where the reference is to the scale on which any services are, or are to be, made available, supplied or obtained) means scale measured in terms of money or money’s worth or in any other manner.

(2) Except in so far as the context otherwise requires, in this Act, . . . ^{F78} the following expressions have the meanings hereby assigned to them respectively, that is to say—

[^{F79}“the Advisory Committee” means the Consumer Protection Advisory Committee;]

“agreement” means any agreement or arrangement, in whatever way and in whatever form it is made, and whether it is, or is intended to be, legally enforceable or not;

“business” includes a professional practice and includes any other undertaking which is carried on for gain or reward or which is an undertaking in the course of which goods or services are supplied otherwise than free of charge;

^{F80}
...
...

“the Commission” means the [^{F81}Competition] Commission;

^{F80}
...
...

“consumer” (subject to subsection (6) of this section) means any person who is either—

(a) a person to whom goods are or are sought to be supplied (whether by way of sale or otherwise) in the course of a business carried on by the person supplying or seeking to supply them, or

(b) a person for whom services are or are sought to be supplied in the course of a business carried on by the person supplying or seeking to supply them,

and who does not receive or seek to receive the goods or services in the course of a business carried on by him;

[^{F79}“the Director” means the Director General of Fair Trading;]

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“enactment” includes an enactment of the Parliament of Northern Ireland;
“goods” includes buildings and other structures, and also includes ships,
aircraft and hovercraft, . . . ^{F82};

^{F80}
...

^{F80}
...

“merger situation qualifying for investigation” has the meaning assigned
to it by section 64(8) of this Act;

“Minister” includes a government department but shall not by virtue of
this provision be taken to include the establishment consisting of the Director
and his staff, and, except where the contrary is expressly provided, does not
include any [^{F83}Northern Ireland department];

^{F80}
...

^{F80}
...

“practice” means any practice, whether adopted in pursuance of an
agreement or otherwise;

^{F80}
...

^{F80}
...

“supply”, in relation to the supply of goods, includes supply by way of sale,
lease, hire or hire-purchase, and, in relation to buildings or other structures,
includes the construction of them by a person for another person;

^{F80}
...

^{F80}
...

- (3) In the provisions of this Act ^{F78}... “the supply of services” does not include the
rendering of any services under a contract of employment but, ^{F78}... ,—
- (a) includes the undertaking and performance for gain or reward of engagements
(whether professional or other) for any matter other than the supply of goods,
and
 - (b) includes both the rendering of services to order and the provision of services
by making them available to potential users [^{F84}, and
 - (c) includes the making of arrangements for a person to put or keep on land a
caravan (within the meaning of Part I of the ^{M6}Caravan Sites and Control of
Development Act 1960) other than arrangements by virtue of which the person
may occupy the caravan as his only or main residence][^{F85}and
 - (d) includes the making of arrangements for the use by public service vehicles
(within the meaning of the Public Passenger Vehicles Act 1981) of a parking
place which is used as a point at which passengers on services provided by
means of such vehicles may be taken up or set down.][^{F86}and
 - (e) includes the making of arrangements permitting use of the tunnel system
(within the meaning of the Channel Tunnel Act 1987) by a person operating
services for the carriage of passengers or goods by rail.][^{F87}and
 - (f) [^{F88}includes the making of arrangements, by means of such an agreement as
is mentioned in paragraph 29 of Schedule 2 to the Telecommunications Act
1984, for the sharing of the use of any electronic communications apparatus,
and]
 - (g) includes the supply of network services and station services, within the
meaning of Part I of the Railways Act 1993;

and any reference in those provisions to services supplied or to be supplied, or to
services provided or to be provided, shall be construed accordingly.

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- [The Secretary of State may by order made by statutory instrument—
- ^{F89}(3A) (a) provide that “the supply of services” in the provisions of this Act is to include, or to cease to include, any activity specified in the order which consists in, or in making arrangements in connection with, permitting the use of land; and
- (b) for that purpose, amend or repeal any of paragraphs (c), (d), (e) or (g) of subsection (3) above.
- (3B) No order under subsection (3A) above is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (3C) The provisions of Schedule 9 to this Act apply in the case of a draft of any such order as they apply in the case of a draft of an order to which section 91(1) above applies.]
- (4) ^{F90}
- (5) For the purposes of the provisions of this Act . . . ^{F78}, any two bodies corporate are to be treated as interconnected if one of them is a body corporate of which the other is a subsidiary (within the meaning of [^{F91}section 736 of the Companies Act 1985]) or if both of them are subsidiaries (within the meaning of that section) of one and the same body corporate; and in those provisions “interconnected bodies corporate” shall be construed accordingly, and “group of interconnected bodies corporate” means a group consisting of two or more bodies corporate all of whom are interconnected with each other.
- (6) For the purposes of the application of any provision of this Act in relation to goods or services of a particular description or to which a particular practice applies, “consumers” means persons who are consumers (as defined by subsection (2) of this section) in relation to goods or services of that description or in relation to goods or services to which that practice applies.
- ^{F92}(7)
- (8) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.]

Textual Amendments

- F73** Words substituted by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), **Sch. 5**
- F74** Words in s. 137(1) repealed (1.3.2000) by S.I. 2000/311, **art. 9(6)**
- F75** Definition repealed by [Resale Prices Act 1976 \(c. 53\)](#), **Sch. 3 Pt. I**
- F76** Definition repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), **Sch. 6**
- F77** Words in s. 137(1) repealed (29.12.2003) by [The Enterprise Act 2002 and Media Mergers \(Consequential Amendments\) Order 2003 \(S.I. 2003/3180\)](#), art. 1(1), **Sch. para. 1(10)(a)** (with art. 3)
- F78** Words repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), **Sch. 6**
- F79** Words in s. 137(2) repealed (20.6.2003 for specified purposes) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 6, 8)
- F80** Words in s. 137(2) repealed (29.12.2003) by [The Enterprise Act 2002 and Media Mergers \(Consequential Amendments\) Order 2003 \(S.I. 2003/3180\)](#), art. 1(1), **Sch. para. 1(10)(b)** (with art. 3)
- F81** Definition in s. 137(2) substituted (1.4.1999) by S.I. 1999/506, **art. 14**
- F82** Words repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18**
- F83** Words substituted by virtue of [Northern Ireland Act 1974 \(c. 28\)](#), **Sch. 1 para. 2(1)(b)(4)**
- F84** Word and s. 137(3)(c) inserted (4.4.1980) by [Competition Act 1980 \(c. 21\)](#), **s. 23**
- F85** S. 137(3)(d) added by [Transport Act 1985 \(c. 67, SIF 126\)](#), **s. 116(1)**

Status: Point in time view as at 29/12/2004.

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- F86** S. 137(3)(e) added by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), **s. 33(10)**
- F87** S. 137(3)(f) inserted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), **s. 192(1)**
- F88** S. 137(3)(f) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 44** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F89** S. 137(3A)-(3C) inserted (1.4.1999) by 1998 c. 41, **s. 68** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F90** S. 137(4) repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18**
- F91** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, **Sch. 2**
- F92** S. 137(7) repealed (29.12.2003) by [The Enterprise Act 2002 and Media Mergers \(Consequential Amendments\) Order 2003 \(S.I. 2003/3180\)](#), art. 1(1), **Sch. para. 1(10)(c)** (with art. 3)

Modifications etc. (not altering text)

- C29** Reference to enactment of Parliament of Northern Ireland to be construed as including reference to Measure of Northern Ireland Assembly: [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 5 para. 1(1)(2)**

Marginal Citations

- M4** 1948 c. 66.
M5 1965 c. 50.
M6 1960 c. 62.

138 Supplementary interpretation provisions.

- (1) This section applies to the following provisions of this Act, that is to say, section 2(4),^{F93} ... section 137(6), and the definition of “consumer” contained in section 137(2).
- (2) For the purposes of any provisions to which this section applies it is immaterial whether any person supplying goods or services has a place of business in the United Kingdom or not.
- (3) For the purposes of any provisions to which this section applies any goods or services supplied wholly or partly outside the United Kingdom, if they are supplied in accordance with arrangements made in the United Kingdom, whether made orally or by one or more documents delivered in the United Kingdom or by correspondence posted from and to addresses in the United Kingdom, shall be treated as goods supplied to, or services supplied for, persons in the United Kingdom.
- (4) In relation to the supply of goods under a hire-purchase agreement, a credit-sale agreement or a conditional sale agreement, the person conducting any antecedent negotiations, as well as the owner or seller, shall for the purposes of any provisions to which this section applies be treated as a person supplying or seeking to supply the goods.
- [^{F94}(5) In subsection (4) of this section, the following expressions have the meanings given by, or referred to in, section 189 of the ^{M7}Consumer Credit Act 1974—
“antecedent negotiations”,
“conditional sale agreement”,
“credit-sale agreement”,
“hire-purchase agreement”.]
- (6) In any provisions to which this section applies—

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- (a) any reference to a person to or for whom goods or services are supplied shall be construed as including a reference to any guarantor of such a person, and
- (b) any reference to the terms or conditions on or subject to which goods or services are supplied shall be construed as including a reference to the terms or conditions on or subject to which any person undertakes to act as such a guarantor;

and in this subsection “guarantor”, in relation to a person to or for whom goods or services are supplied, includes a person who undertakes to indemnify the supplier of the goods or services against any loss which he may incur in respect of the supply of the goods or services to or for that person.

- (7) For the purposes of any provisions to which this section applies goods or services supplied by a person carrying on a business shall be taken to be supplied in the course of that business if payment for the supply of the goods or services is made or (whether under a contract or by virtue of an enactment or otherwise) is required to be made.

Textual Amendments

- F93** Words in s. 138 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#) (with [Sch. 24](#)); S.I. 2003/1397, art. 2(1), [Sch.](#) (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, [Sch.](#) (with arts. 3-5)
- F94** S. 138(5) substituted by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), s. 192(4), [Sch. 4 Pt. I para. 37](#)

Marginal Citations

- M7** 1974 c. 39.

139 Amendments, repeals and transitional provisions.

- (1) Subject to the transitional provisions and savings contained in Schedule 11 to this Act—
 - (a) the enactments specified in Schedule 12 to this Act shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential upon the preceding provisions of this Act), and
 - (b) the enactments specified in Schedule 13 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The provisions of Schedule 11 to this Act shall have effect for the purposes of this Act.

140 †Short title, citation, commencement and extent.

- (1) This Act may be cited as the Fair Trading Act 1973.
- ^{F95}(2)
- ^{F96}(3)
- (4) Where any provision of this Act, other than a provision contained in Schedule 11, refers to the commencement of this Act, it shall be construed as referring to the day appointed under this section for the coming into operation of that provision.
- (5) This Act extends to Northern Ireland.

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F95 S. 140(2) repealed by [Restrictive Trade Practices Act 1976 \(c. 34\)](#), **Sch. 6**

F96 S. 140(3) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 16** Group 2

Modifications etc. (not altering text)

C30 Unreliable marginal note.

C31 Power of appointment conferred by s. 140(3) fully exercised.

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SCHEDULES

F97 SCHEDULE 1

Section 1.

.....

Textual Amendments

F97 Sch. 1 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 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.)

F98 SCHEDULE 2

Section 3.

.....

Textual Amendments

F98 Sch. 2 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 10(1)(a), 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.)

F99 SCHEDULE 3

.....

Textual Amendments

F99 Sch. 3 repealed (1.4.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(2), Sch. 14 Pt. I (with s. 73); S.I. 1999/505, art. 2, Sch. 2

F107 SCHEDULE 4

Sections 14 and 109.

.....

Textual Amendments

F107 Sch. 4 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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F108 SCHEDULE 5

Sections 16, 50 and 51.

Textual Amendments

F108 Sch. 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)

F109 SCHEDULE 6

Section 19.

Textual Amendments

F109 Sch. 6 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)

F110 SCHEDULE 7

Sections 50 and 51.

Textual Amendments

F110 Sch. 7 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)

F111 SCHEDULE 8

Sections 56, 73, 74, 77, 89 and 91.

Textual Amendments

F111 Sch. 8 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26 (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F112 SCHEDULE 9

Section 91.

Status: Point in time view as at 29/12/2004.

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Textual Amendments

F112 Sch. 9 repealed (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26** (with Sch. 24); S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 6, 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F113SCHEDULE 10

Textual Amendments

F113 Schs. 10, 11 paras. 12, 13 repealed by Restrictive Trade Practices Act 1976 (c. 34), **Sch. 6**

F113

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

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(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.

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

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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 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 sub-paragraph 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 sub-paragraph (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

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- (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.

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 the Restrictive Practices Court, or any other 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.

12, 13. F114

Textual Amendments

F114 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 ^{M9}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.

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Marginal Citations

M9 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.
- (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 ^{M10}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

M10 1968 c. 29.

SCHEDULE 12

Section 139.

ENACTMENTS AMENDED

Acts	Amendment
F115	...
The M11 Agricultural Marketing Act 1958.	In section 47, in the proviso to subsection (2), after paragraph (a) there shall be inserted the following paragraph:— “(aa) made to the Monopolies and Mergers Commission, or to any member of that Commission or to any staff of that Commission, or to the Director General of Fair Trading or any staff appointed by thar Director General, if it is made for the purpose of enabling the

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	Commission or the Director General to perform any functions of theirs or his under the Fair Trading Act 1973.”
F116	F116
...	...
[^{F117} The M12 Agricultural Marketing Act (Northern Ireland) 1964.]	[^{F117} In section 23, in subsection (2), after paragraph (aa) there shall be inserted the following paragraph:— “(aaa) made to the Monopolies and Mergers Commission, or to any member of that Commission or to any staff of that Commission, or to the Director General of Fair Trading or any staff appointed by thar Director General, if it is made for the purpose of enabling the Commission or the Director General to perform any functions of theirs or his under the Fair Trading Act 1973.”]
...	...
F115	...
...	...
F118	...
...	...
F115	...
The M13 Local Government Act 1972.	In section 201, in subsection (6)(a), after the words “Trades Descriptions Acts 1968 and 1972” there shall be inserted the words “or the Fair Trading Act 1973”.

Textual Amendments

F115 Entries repealed by [Iron and Steel Act 1975 \(c. 64\)](#), [Sch. 7, Restrictive Practices Court Act 1976 \(c. 33\)](#), [Sch.](#), [Restrictive Trade Practices Act 1976 \(c. 34\)](#), [Sch. 6](#), [Resale Prices Act 1976 \(c. 53\)](#), [Sch. 3 Pt. I](#) and [Patents Act 1977 \(c. 37\)](#), [Sch. 6](#)

F116 Words in [Sch. 12](#) 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)

F117 Amendment of the [Agricultural Marketing Act \(Northern Ireland\) 1964](#) repealed (*prosp.*) (but by S.R.s [1984 No. 422](#) and [1989 No. 47](#) the repeal came into operation in relation to the [Pigs Marketing Board \(Northern Ireland\)](#) on 31.12.1984 and in relation to the [Milk Marketing Board for Northern Ireland](#) on 1.4.1989 respectively) by S.I. [1982/1080 \(N.I. 12\)](#), art. 46(2), [Sch. 9](#)

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F118 Amendment of the Pensions (Increase) Act 1971 repealed by [Judicial Pensions Act 1981 \(c. 20, SIF 71:2\)](#), s. 36(2), [Sch. 4](#)

Modifications etc. (not altering text)

C34 The text of the amendment to [Agricultural Marketing Act 1958 \(c. 47\)](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C35 The text of the amendment to the [Agricultural Marketing Act \(Northern Ireland\) 1964 \(c. 13\)](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C36 The text of the amendment to the [Local Government Act 1972 \(c. 70\)](#), s. 201(6)(a) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M11 6 & 7 Eliz. 2. c. 47.

M12 1964 c. 13

M13 1972 c. 70.

SCHEDULE 13

ENACTMENTS REPEALED

Modifications etc. (not altering text)

C37 The text of Sch. 13 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

SCHEDULE 13
ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
11 & 12 Geo. 6. c. 66.	The Monopolies and Restrictive Practices (Inquiry and Control) Act 1948.	The whole Act.
4 & 5 Eliz. 2. c. 68.	The Restrictive Trade Practices Act 1956.	In section 1, subsection (1), and subsections (3) to (8). In section 11(1), the words "assistant registrar or other". In section 23, subsection (4). In section 24, subsection (8). Section 29. In section 30, in subsection (3), the words from the beginning of the subsection to the word "and", and subsections (4), (6) and (7). Section 31. Section 33. In section 35, paragraph (e) of subsection (1). In section 36(1), the definition of "the Registrar".
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Part III of Schedule 1, and in the Part substituted for the said Part III by Schedule 3, the words "Registrar of Restrictive Trading Agreements".
6 & 7 Eliz. 2. c. 51.	The Public Records Act 1958.	In Schedule 2, the entries relating to section 17 of the Monopolies and Restrictive Practices (Inquiry and Control) Act 1948 and section 33 of the Restrictive Trade Practices Act 1956.
1964 c. 58.	The Resale Prices Act 1964.	In section 8, subsection (4). In section 11(f), the definition of "the Registrar".

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Chapter	Short Title	Extent of Repeal
1965 c. 50.	The Monopolies and Mergers Act 1965.	The whole Act.
1967 c. 28.	The Superannuation (Miscellaneous Provisions) Act 1967.	In section 3, paragraph (d) of subsection (4).
1968 c. 29.	The Trade Descriptions Act 1968.	In section 30, subsections (2) to (4).
1968 c. 66.	The Restrictive Trade Practices Act 1968.	Section 11.
1972 c. 68.	The European Communities Act 1972.	In section 10, subsection (3).

Status:

Point in time view as at 29/12/2004.

Changes to legislation:

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