



# Restrictive Trade Practices Act 1976 (repealed 1.3.2000)

## 1976 CHAPTER 34

### PART V

#### MISCELLANEOUS AND SUPPLEMENTAL

#### **40 Order under s. 56 of Fair Trading Act 1973.**

- (1) The Court may, upon application made by any person who desires to make an agreement—
- which, if made, would be an agreement to which this Act applies, and
  - is one the making of which is unlawful by virtue of any order in force under section 56 of the <sup>M1</sup>Fair Trading Act 1973 or having effect as if made under that section,

declare whether or not any restrictions or information provisions by virtue of which this Act would apply to the agreement (not being such restrictions or information provisions as are described in paragraphs (b) to (d) of paragraph 6(1) of Schedule 3 to this Act) are contrary to the public interest.

- (2) The provisions of section 2(1) to (4) above apply with the necessary modifications in relation to any such declaration as they apply in relation to a finding under that section.
- (3) Where an application is made to the Court under subsection (1) above and—
- on that application the Court makes a declaration under that subsection in relation to a restriction proposed to be accepted or an information provision proposed to be made under an agreement, and
  - by virtue of an order under section 56 of the 1973 Act which is for the time being in force, the making or carrying out of an agreement under which that restriction was accepted or that information provision was made would be unlawful,

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the order under section 56 of the 1973 Act shall cease to have effect in so far as it renders unlawful the making or carrying out of an agreement under which that restriction is accepted or that information provision is made.

- (4) The Director shall be the respondent to any application made under this section; and the provisions of section 10 or section 19 above apply with the necessary modifications in relation to proceedings on any such application as they apply in relation to the proceedings mentioned in that section.

#### Marginal Citations

M1 1973 c. 41.

## 41 Disclosure of information.

- (1) Subject to subsection (2) below, no information with respect to any particular business which has been obtained under or by virtue of the provisions of this Act shall, so long as that business continues to be carried on, be disclosed without the consent of the person for the time being carrying on that business; but this subsection does not apply to any disclosure of information which is made—

- (a) for the purpose of facilitating the performance of any functions of the Director, [F1the Director General of Telecommunications,][F2the Director General of Gas Supply,][F3the Civil Aviation Authority,][F4the Director General of Water Services,][F5the Director General of Electricity Supply][F6the Director General of Electricity Supply for Northern Ireland][F7the Rail Regulator][F8the Authorised Conveyancing Practitioners Board, the Coal Authority] the Monopolies and Mergers Commission, the Secretary of State or any other Minister under this Act or the M2Fair Trading Act 1973 [F9or the M3Estate Agents Act 1979][F10or the M4Competition Act 1980][F11or the Telecommunications Act 1984][F12or Chapter XIV of Part I of the Financial Services Act 1986][F13or the Gas Act 1986][F14or the Airports Act 1986][F15or the Water Act 1989][F16the Water Industry Act 1991 or any of the other consolidation Acts (within the meaning of section 206 of that Act of 1991)][F17or the Electricity Act 1989][F18or the Electricity (Northern Ireland) Order 1992][F19or Part IV of the Airports (Northern Ireland) Order 1994][F20or the Broadcasting Act 1990][F21or the Control of Misleading Advertisements Regulations 1988][F22or the Courts and Legal Services Act 1990][F23or the Railways Act 1993][F24or the Coal Industry Act 1994];
- (b) in pursuance of a Community obligation;
- (c) for the purposes of any proceedings before the Court or of any other legal proceedings, whether civil or criminal, under this Act or the M5Fair Trading Act 1973 [F25or the Control of Misleading Advertisements Regulations 1988].

- (2) Nothing in subsection (1) above shall be construed—

- (a) as limiting the particulars which may be entered or filed in, or made public as part of, the register under this Act; or
- (b) as applying to any information which has been made public as part of that register.

- (3) Any person who discloses any information in contravention of this section is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £400;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) No prosecution for an offence under this section shall be commenced after the expiry of three years from the commission of the offence or one year from its discovery by the prosecutor whichever is the earlier.
- (5) Notwithstanding anything in [F20]section 127(1) of the M6Magistrates' Courts Act 1980], a magistrates' court may try an information for an offence under this section if the information was laid within twelve months from the commission of the offence.
- (6) Notwithstanding anything in [F21]section 331 of the M7Criminal Procedure (Scotland) Act 1975], summary proceedings in Scotland for an offence under this section may be commenced within twelve months from the commission of the offence, and [F21]subsection (3) of the said section 331] applies for the purposes of this subsection as it applies for the purposes of that section.
- (7) In the application of this section to Northern Ireland, for the references in subsection (5) above to [F22]section 127(1) of the M8Magistrates' Courts Act 1980] and to the trial and laying of an information there shall be substituted respectively references to [F23]Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981] and to the hearing and determination and making of a complaint.

#### Textual Amendments

- F1** Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 65, **Sch. 5 para. 45**
- F2** Words inserted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 23**
- F3** Words inserted by Airports Act 1986 (c. 31, SIF 9), s. 83(1), **Sch. 4 para. 5**
- F4** Words inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 53**
- F5** Words inserted (E.W.S.) after "the Director General of Water Supply" by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 19**
- F6** Words in s. 41(1)(a) inserted (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(1), **Sch. 12 para. 16(a)(b)**; S.R. 1992/117, **art. 3(1)**
- F7** Words in s. 41(1) inserted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 10(a)**; S.I. 1993/3237, **art. 2(2)**
- F8** Words in s. 41(1)(a) substituted (31.10.1994) by 1994 c. 21, s. 67(1), **Sch. 9 para. 17(a)(b)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F9** Words added by Estate Agents Act 1979 (c. 38, SIF 124:4), s. 10(4)(e)
- F10** Words added by Competition Act 1980 (c. 21, SIF 124:1), s. 19(4)(e)
- F11** Words inserted by Financial Services Act 1986 (c. 60, SIF 69), s. 182, **Sch. 13 para. 2**
- F12** S. 41(1)(a): by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2, 4(2), **Sch. 1 para. 31** words are expressed to be inserted (E.W.) (1.12.1991) after 'or the Water Act 1989,' in s. 4(1)(a)
- F13** Words inserted (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 19**
- F14** Words in s. 41(1)(a) inserted (1.9.1995) by S.I. 1994/426 (N.I. 1) art. 71(2), Sch. 9 para. 5; S.R. 1995/294, **art. 2**
- F15** Words inserted by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20 para. 25**
- F16** Words inserted by S.I. 1988/915, **art. 7(6)(c)(i)**
- F17** Words inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 124(3), 125(3), **Sch. 18 para. 19(b)**
- F18** Words in s. 41(1) inserted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 10(b)**; S.I. 1993/3237, **art. 2(2)**
- F19** Words inserted by S.I. 1988/915, **art. 7(6)(c)(ii)**

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- F20** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 140**
- F21** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **s. 460(7)**
- F22** Words substituted (with saving) by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 140**
- F23** Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 para. 43**

#### Modifications etc. (not altering text)

- C1** S. 41(1) excluded by Broadcasting Act 1990 (c. 42, SIF 96), **s. 197(5)(b)**

#### Marginal Citations

- M2** 1973 c. 41.
- M3** 1979 c. 38.
- M4** 1980 c. 21.
- M5** 1973 c. 41.
- M6** 1980 c. 43.
- M7** 1975 c. 21.
- M8** 1980 c. 43.

## 42 Orders and regulations.

- (1) Any statutory instrument by which—
- an order is made under section 18(5) [<sup>F24</sup>, 27A(1)(b)] or section 33(4) above; or
  - regulations are made under section 27(1) above;
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred by a preceding provision of this Act to make an order by statutory instrument includes power to revoke or vary that order by a subsequent order made under that provision.

#### Textual Amendments

- F24** Words in s. 42(1)(a) inserted (3.1.1995) by 1994 c. 40, **ss. 10(2), 82(2)(a)**(which s. 10 is prospectively repealed by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 19(1)(2), **Sch. 14 Pt. I**)

## 43 Interpretation and construction.

- (1) In this Act—
- “agreement” includes any agreement or arrangement, whether or not it is or is intended to be enforceable (apart from any provision of this Act) by legal proceedings, and references in this Act to restrictions accepted or information provisions made under an agreement shall be construed accordingly;
- “the Court” means the Restrictive Practices Court;
- “designated services” has the meaning given by section 13(1) above;
- “the Director” means the Director General of Fair Trading appointed under the <sup>M9</sup>Fair Trading Act 1973;
- “goods” includes ships and aircraft, minerals, substances and animals (including fish), and references to the production of goods include references to the getting of minerals and the taking of such animals;
- “information provision” includes a provision for or in relation to the furnishing of information;

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“interconnected bodies corporate” means bodies corporate which are members of the same group, and for the purposes of this definition “group” means a body corporate and all other bodies corporate which are its subsidiaries—

(a) within the meaning of [<sup>F25</sup>section 736 of the Companies Act 1985] (or for companies in Northern Ireland, [<sup>F26</sup>Article 4 of the Companies (Northern Ireland) Order 1986]); or

(b) in the case of an industrial and provident society, within the meaning of section 15 of the <sup>M10</sup>Friendly and Industrial and Provident Societies Act 1968 (or for industrial and provident societies in Northern Ireland, section 47 of the <sup>M11</sup>Industrial and Provident Societies Act (Northern Ireland) 1969);

[<sup>F27</sup>“non-notifiable agreement” has the meaning given by section 27A(1) above;]

“price” includes a charge of any description;

“restriction” includes a negative obligation, whether express or implied and whether absolute or not;

“services supply association” means such an association as is described in section 16(1) above;

“supply” includes supply by way of lease or hire, and “acquire” shall be construed accordingly;

“trade association” means a body of persons (whether incorporated or not) which is formed for the purpose of furthering the trade interests of its members, or of persons represented by its members.

(2) For the purposes of—

(a) sections 6 to 9 above, and Schedule 3 to this Act except for paragraph 5(4) to (8) of that Schedule;

(b) Part III of this Act except as is provided by section 19(2) above;

any two or more interconnected bodies corporate, or any two or more individuals carrying on business in partnership with each other, shall be treated as a single person.

(3) This Act applies to the construction or carrying out of buildings, structures and other works by contractors, as it applies to the supply of goods, and for the purposes of this Act any buildings, structures or other works so constructed or carried out shall be deemed to be delivered at the place where they are constructed or carried out.

(4) For the purposes of this Act a person shall not be deemed to carry on a business within the United Kingdom by reason only of the fact that he is represented for the purposes of that business by an agent within the United Kingdom.

(5) Any reference in this Act to any other enactment is a reference to that enactment as amended, or extended or applied by or under any other enactment, including this Act

#### Textual Amendments

**F25** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

**F26** Words substituted by [S.I. 1986/1035 \(N.I. 9\)](#), art. 23, [Sch. 1 Pt. II](#)

**F27** [S. 43\(1\)](#): definition of “non-notifiable agreement” inserted (3.1.1995) by [1994 c. 40, ss. 10\(3\), 82\(2\)](#) (a)(which s. 10 itself is prospectively repealed by [1998 c. 41, s. 74\(1\)\(3\)](#), [Sch. 12 para. 19\(1\)](#)), [Sch. 14 Pt. I](#))

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**Modifications etc. (not altering text)**

- C2** Definition of “trade association” restricted (*retrospectively*) by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34, SIF 2:1\)](#), [s. 45\(1\)](#)

**Marginal Citations**

- M9** 1973 c. 41.  
**M10** 1968 c. 55.  
**M11** 1969 c. 24 (N.I.)

**44 Consequential amendments, repeals and transitional provisions.**

The provisions of Schedule 4 to this Act have effect; and subject to the transitional provisions and savings contained in that Schedule—

- (a) the enactments specified in Schedule 5 to this Act have effect subject to the amendments (being amendments consequent on the provisions of this Act) specified in that Schedule, and
- (b) the enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule,

but nothing in this Act shall be taken as prejudicing the operation of [F28sections 16(1) and 17(2)(a) of the M12Interpretation Act 1978] (which [F28relate] to the operation of repeals).

**Textual Amendments**

- F28** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 25\(2\)](#)

**Marginal Citations**

- M12** 1978 c. 30.

**45 Short title, extent and commencement.**

- (1) This Act may be cited as the Restrictive Trade Practices Act 1976.
- (2) This Act extends to Northern Ireland.
- (3) This Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint.

**Modifications etc. (not altering text)**

- C3** 15.12.1976 appointed under s. 45(3) by [S.I. 1976/1877](#)

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**Changes to legislation:**

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