



# Restrictive Trade Practices Act 1976

## 1976 CHAPTER 34

### PART IV

#### GENERAL

#### *Enforcement*

#### **35 Failure to register**

- (1) If particulars of an agreement which is subject to registration under this Act are not duly furnished within the time required by section 24 above, or within such further time as the Director may, upon application made within that time, allow—
  - (a) the agreement is void in respect of all restrictions accepted or information provisions made thereunder; and
  - (b) it is unlawful for any person party to the agreement who carries on business within the United Kingdom to give effect to, or enforce or purport to enforce, the agreement in respect of any such restrictions or information provisions.
- (2) No criminal proceedings lie against any person on account of a contravention of subsection (1)(b) above; but the obligation to comply with that paragraph is a duty owed to any person who may be affected by a contravention of it and any breach of that duty is actionable accordingly subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) Without prejudice to any right which any person may have by virtue of subsection (2) above to bring civil proceedings in respect of an agreement affected by subsection (1) (b), the Court may, upon the Director's application, make such order as appears to the Court to be proper for restraining all or any of those mentioned in subsection (4) below from giving effect to, or enforcing or purporting to enforce—
  - (a) the agreement in respect of any restrictions or information provisions;
  - (b) other agreements in contravention of subsection (1) above;and nothing in subsection (2) prevents the enforcement of any such order by appropriate proceedings.

---

*Status: This is the original version (as it was originally enacted).*

---

- (4) Those who may be restrained by an order of the Court under subsection (3) above are—
- (a) any person party to the agreement who carries on business within the United Kingdom ;
  - (b) a trade association or a services supply association of which any such person is a member ; or
  - (c) any person acting on behalf of any such association.
- (5) Where an order is made under subsection (3) against any party to an agreement and that party is a member of a trade association or a services supply association, the order may include provisions for restraining the association, and any person acting on its behalf, from procuring or assisting that party to do anything which would be a contravention of the order in its application to him.
- (6) In relation to an agreement for the constitution of a trade association or a services supply association which is subject to registration in consequence of the making of a recommendation to which—
- (a) subsection (2) or subsection (4) of section 8 above;
  - (b) subsection (3) or subsection (5) of section 16 above;
- applies, the Court's power under subsection (3) includes power to make such order as appears to the Court to be proper for restraining the association or any person acting on its behalf from making other such recommendations
- (7) Where any issue, whether of law or of fact or partly of law and partly of fact, has been finally determined on an application under subsection (3) above in respect of an agreement, then in any proceedings brought in respect of that agreement by virtue of subsection (2) above in which the same issue arises—
- (a) any finding of fact relevant to that issue which was made on the application shall be evidence (and in Scotland sufficient evidence) of that fact; and
  - (b) any decision on a question of law relevant to that issue which was given on the application shall be binding on the court in so far as the material facts found in those proceedings are the same as were found on the application.
- (8) Where an agreement which is subject to registration under this Act is varied so as to extend or add to the restrictions accepted or information provisions made under the agreement, the provisions of this section apply, with the necessary modifications, in relation to the variation as they apply in relation to an original agreement which is subject to registration under this Act.