



Competition Act 1980

1980 CHAPTER 21

Control of anti-competitive practices

3 Preliminary investigation by Director of possible anticompetitive practice

- (1) If it appears to the Director that any person has been or is pursuing a course of conduct which may amount to an anti-competitive practice, the Director may in accordance with this section carry out an investigation with a view to establishing whether that person has been or is pursuing a course of conduct which does amount to such a practice.
- (2) Before carrying out an investigation under this section, the Director shall—
 - (a) give to the Secretary of State and the person or persons whose conduct is to be investigated notice of the proposed investigation, together with an indication of the matters to be investigated, the person or persons concerned and the goods or services to which the investigation is to relate; and
 - (b) arrange for notice of the proposed investigation, together with an indication of the matters to be investigated, the person or persons concerned and the goods or services to which the investigation is to relate, to be published in such manner as the Director considers most suitable for bringing the proposed investigation to the attention of any other persons who, in the opinion of the Director, would be affected by or be likely to have an interest in the investigation.
- (3) The Secretary of State may by regulations prescribe the manner in which any notice is to be given under subsection (2) above, and the evidence which is to be sufficient evidence of its having been given, and of its contents and authenticity.
- (4) Subject to the following provisions of this section, where notice of a proposed investigation has been given in accordance with paragraph (a) and published in accordance with paragraph (b) of subsection (2) above, the Director shall proceed with the investigation as expeditiously as possible.
- (5) If, before the end of the period of two weeks beginning with the day on which the Secretary of State receives notice of a proposed investigation under paragraph (a) of subsection (2) above, the Secretary of State directs the Director not to proceed with the

Status: This is the original version (as it was originally enacted).

investigation the Director shall take no further action under this section with respect to the matters referred to in the notice ; but nothing in this subsection shall prevent the Director from proceeding with a subsequent investigation, notwithstanding that it relates wholly or partly to the same matters.

- (6) Where the Secretary of State gives a direction under subsection (5) above, he shall—
- (a) give notice of the direction to the person or persons whose conduct was to be investigated; and
 - (b) arrange for the direction to be published in such manner as he considers most suitable for bringing it to the attention of any other person who, in his opinion, would have been affected by, or likely to have had an interest in, the direction.
- (7) For the purposes of an investigation under this section the Director may, by notice in writing signed by him—
- (a) require any person to produce, at a time and place specified in the notice, to the Director or to any person appointed by him for the purpose, any documents which are specified or described in the notice and which are documents in his custody or under his control and relating to any matter relevant to the investigation ; or
 - (b) require any person carrying on any business to furnish to the Director such estimates, returns or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such estimates, returns or information are to be furnished;
- but no person shall be compelled for the purpose of any such investigation to produce any document which he could not be compelled to produce in civil proceedings before the High Court or, in Scotland, the Court of Session or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.
- (8) Subsections (5) to (8) of section 85 of the Fair Trading Act 1973 (enforcement provisions relating to notices under subsection (1) of that section requiring production of documents etc.) shall apply in relation to a notice under subsection (7) above as they apply in relation to a notice under subsection (1) of that section.
- (9) At any time before the completion of an investigation under this section the Director may, with the consent of the Secretary of State, determine not to proceed with the investigation and, in that event, he shall—
- (a) give notice of his determination to the person or persons whose conduct was being investigated; and
 - (b) arrange for the determination to be published in such manner as he considers most suitable for bringing it to the attention of any other person who, in his opinion, would have been affected by, or likely to have had an interest in, the investigation.
- (10) As soon as practicable after the completion of an investigation under this section the Director shall, in such manner as he considers appropriate, publish a report stating, with reasons, whether in his opinion any course of conduct described in the report constituted or constitutes an anti-competitive practice and, if so—
- (a) specifying the person or persons concerned and the goods or services in question ; and
 - (b) stating, with reasons, whether he considers that it is appropriate for him to make a reference under section 5 below.