



Financial Services Act 1986

1986 CHAPTER 60

PART I

REGULATION OF INVESTMENT BUSINESS

CHAPTER XIV

PREVENTION OF RESTRICTIVE PRACTICES

Recognised professional bodies

127 Modification of Restrictive Trade Practices Act 1976 in relation to recognised professional bodies

- (1) This section applies to—
- (a) any agreement for the constitution of a recognised professional body, including any term deemed to be contained in it by virtue of section 16(3) of the Restrictive Trade Practices Act 1976 ; and
 - (b) any other agreement—
 - (i) the parties to which consist of or include such a body, a person certified by such a body or a member of such a body; and
 - (ii) to which that Act applies by virtue of any term the inclusion of which in the agreement is required or contemplated by rules or guidance of that body relating to the carrying on of investment business by persons certified by it.
- (2) If it appears to the Secretary of State that the restrictions in an agreement to which this section applies—
- (a) do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition ; or

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- (b) if all or any of them have, or are intended or likely to have, that effect to any significant extent, that the effect is not greater than is necessary for the protection of investors,

he may give a direction to the Director requiring him not to make an application to the Restrictive Practices Court under Part I of the said Act of 1976 in respect of the agreement.

- (3) If it appears to the Secretary of State that one or more (but not all) of the restrictions in an agreement to which this section applies—
 - (a) do not have, and are not intended or likely to have, to any significant extent the effect mentioned in subsection (2) above; or
 - (b) if they have, or are intended or likely to have, that effect to any significant extent that the effect is not greater than is necessary for the protection of investors,

he may make a declaration to that effect and give notice of it to the Director and the Restrictive Practices Court.

- (4) The Restrictive Practices Court shall not in any proceedings begun by an application made after notice has been given to it of a declaration under this section make any finding or exercise any power under Part I of the said Act of 1976 in relation to a restriction in respect of which the declaration has effect.
- (5) The Director shall not make any application to the Restrictive Practices Court under Part I of the said Act of 1976 in respect of any agreement to which this section applies unless—
 - (a) he has notified the Secretary of State of his intention to do so; and
 - (b) the Secretary of State has either notified him that he does not intend to give a direction or make a declaration under this section or has given him notice of a declaration in respect of it;

and where the Director proposes to make any such application he shall furnish the Secretary of State with particulars of the agreement and the restrictions by virtue of which the said Act of 1976 applies to it and such other information as he considers will assist the Secretary of State in deciding whether to exercise his powers under this section or as the Secretary of State may request.

- (6) The Secretary of State may—
 - (a) revoke a direction or declaration under this section;
 - (b) vary any such declaration; or
 - (c) give a direction or make a declaration notwithstanding a previous notification to the Director that he did not intend to give a direction or make a declaration, if he is satisfied that there has been a material change of circumstances such that the grounds for the direction or declaration have ceased to exist, that there are grounds for a different declaration or that there are grounds for giving a direction or making a declaration, as the case may be.
- (7) The Secretary of State shall give notice to the Director of the revocation of a direction and to the Director and the Restrictive Practices Court of the revocation or variation of a declaration ; and no such variation shall have effect so as to restrict the powers of the Court in any proceedings begun by an application already made by the Director.
- (8) A direction or declaration under this section shall cease to have effect if the agreement in question ceases to be one to which this section applies.

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(9) This section applies to information provisions as it applies to restrictions.