

SCHEDULES

SCHEDULE 14

SUPERVISORY AND QUALIFYING BODIES: RESTRICTIVE PRACTICES

PART II

CONSEQUENTIAL EXEMPTIONS FROM COMPETITION LAW

Fair Trading Act 1973 (c. 41)

- 8 (1) For the purpose of determining whether a monopoly situation within the meaning of the Fair Trading Act 1973 exists by reason of the circumstances mentioned in section 7(1)(c) of that Act (supply of services by or for group of two or more persons), no account shall be taken of—
- (a) the rules of or guidance issued by a recognised supervisory or qualifying body, or
 - (b) conduct constituting such a practice as is mentioned in paragraph 3(4) above.
- (2) Where a recognition order is revoked there shall be disregarded for the purpose mentioned in sub-paragraph (1) any such conduct as is mentioned in that sub-paragraph which occurred while the order was in force.
- (3) Where on a monopoly reference under section 50 or 51 of the Fair Trading Act 1973 falling within section 49 of that Act (monopoly reference not limited to the facts) the Monopolies and Mergers Commission find that a monopoly situation within the meaning of that Act exists and—
- (a) that the person (or, if more than one, any of the persons) in whose favour it exists is—
 - (i) a recognised supervisory or qualifying body, or
 - (ii) a person of a description mentioned in paragraph 3(5) or (6) above, or
 - (b) that any such person's conduct in doing anything to which the rules of such a body relate is subject to guidance issued by the body,
- the Commission in making their report on that reference shall exclude from their consideration the question whether the rules or guidance of the body concerned, or the acts or omissions of that body in its capacity as such, operate or may be expected to operate against the public interest.

Restrictive Trade Practices Act 1976 (c. 34)

- 9 (1) The Restrictive Trade Practices Act 1976 does not apply to an agreement for the constitution of a recognised supervisory or qualifying body in so far as it relates to rules of or guidance issued by the body, and incidental matters connected therewith,

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including any term deemed to be contained in it by virtue of section 8(2) or 16(3) of that Act.

- (2) Nor does that Act apply to an agreement the parties to which consist of or include—
- (a) a recognised supervisory or qualifying body, or
 - (b) any such person as is mentioned in paragraph 3(5) or (6) above,
- by reason that it includes any terms the inclusion of which is required or contemplated by the rules or guidance of that body.
- (3) Where an agreement ceases by virtue of this paragraph to be subject to registration—
- (a) the Director shall remove from the register maintained by him under the Act of 1976 any particulars which are entered or filed in that register in respect of the agreement, and
 - (b) any proceedings in respect of the agreement which are pending before the Restrictive Practices Court shall be discontinued.
- (4) Where a recognition order is revoked, sub-paragraphs (1) and (2) above shall continue to apply for a period of six months beginning with the day on which the revocation takes effect, as if the order were still in force.
- (5) Where an agreement which has been exempt from registration by virtue of this paragraph ceases to be exempt in consequence of the revocation of a recognition order, the time within which particulars of the agreement are to be furnished in accordance with section 24 of and Schedule 2 to the Act of 1976 shall be the period of one month beginning with the day on which the agreement ceased to be exempt from registration.
- (6) Where in the case of an agreement registered under the 1976 Act a term ceases to fall within sub-paragraph (2) above in consequence of the revocation of a recognition order and particulars of that terms have not previously been furnished to the Director under section 24 of that Act, those particulars shall be furnished to him within the period of one month beginning with the day on which the term ceased to fall within that sub-paragraph.

Competition Act 1980 (c. 21)

- 10 (1) No course of conduct constituting any such practice as is mentioned in paragraph 3(4) above shall constitute an anti-competitive practice for the purposes of the Competition Act 1980.
- (2) Where a recognition order is revoked there shall not be treated as an anti-competitive practice for the purposes of that Act any such course of conduct as is mentioned in sub-paragraph (1) which occurred while the order was in force.